Newport City Council

Local Development Plan

Council Response to Matters Arising

Hearing Session 10: Environment and Heritage

LOCAL DEVELOPMENT PLAN

CYNLLUN DATBLYGU LLEOL

Newport CITY COUNCIL

CYNGOR DINAS Casnewydd

COUNCIL RESPONSE TO MATTERS ARISING

Hearing Session 10: Environment and Heritage

1. **Natural Heritage**

i. **Add wording to paragraph 2.56 based on NRW draft wording to include reference to impacts on the SSSI. Add references to SSSI impacts to commentaries on employment allocations at East of Queensway Meadows (para 6.9) and Solutia (para 6.12).**

1.1 See appendix 2 for reworded paragraph in line with NRW draft wording. Reference has been added to the supporting text of policy EM1 in relation to the Queensway Meadows and Solutia allocations.

ii. **Add list of all proposals/designations and constraints shown on the Proposals and Constraints Maps as an appendix to the Plan, to aid clarity.**

1.2 See appendix 3.

iii. **Council to survey sites drawn to its attention as meriting SINC status and add to SINC register as appropriate.**

1.3 The Council's Green Services will conduct surveys in the summer (2014) and add to the register if appropriate.

2. **Flood Risk**

i. **Delete H1(28) (Church Street – 16 units) from existing commitments (planning permission has lapsed and land is now zone C2 on DAM).**

2.1 The Council has agreed to remove the housing site at Church Street and will update all its housing figures and proposal plan accordingly.

ii. **The Council to provide an updated position and additional detail on each site allocation assessed in the April 2014 SFCA (H1(5), H(15), H(16), H(21), H(23), H(32). Include current planning position, site and development details, flood risk (based on 100 years lifetime of development and climate change allowance up to 2111 (Scenario 3 in the SFCA)) , available mitigation measures /design solution and the resulting conclusion as to viability and deliverability of development.**

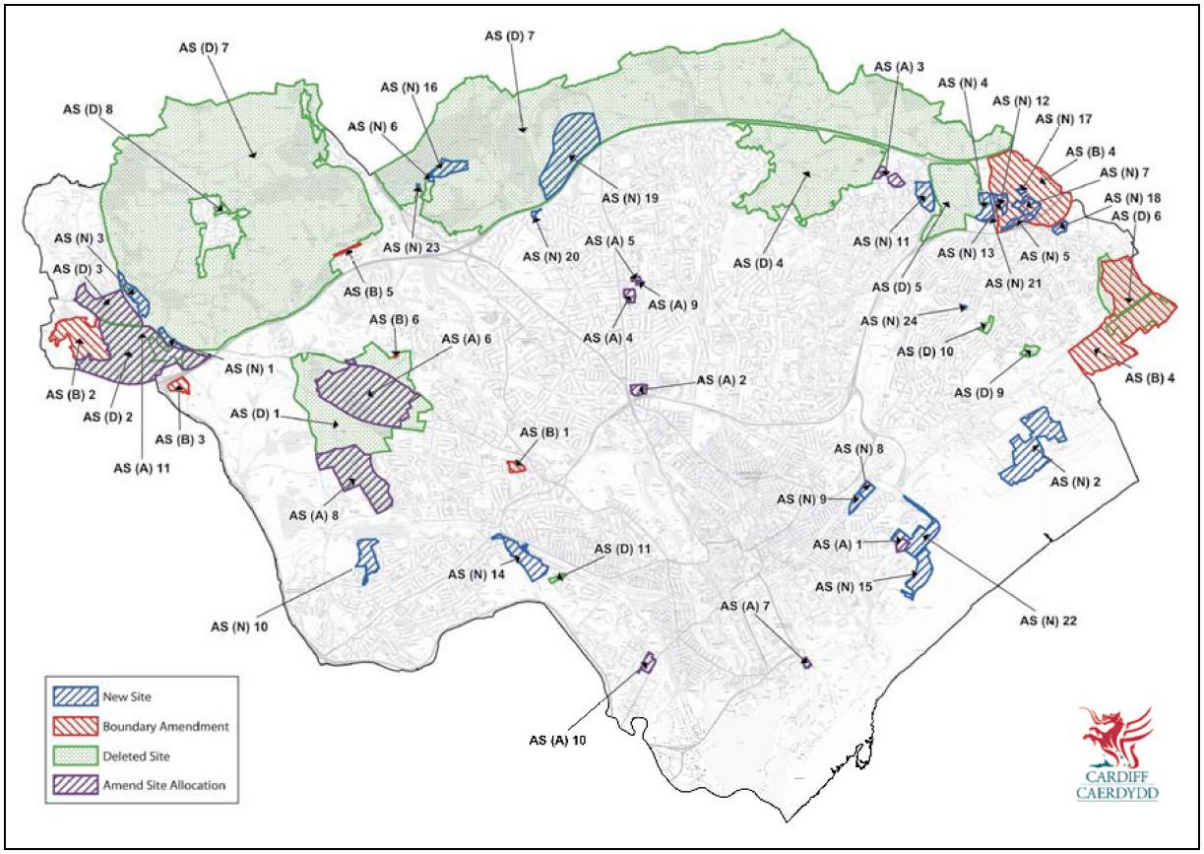
2.2 The Council has worked with NRW to create a joint response in regards to these sites. The response is attached in Appendix 1 of this paper.

3. Green Belt, green wedges.

i. Delete proposed extension to designated Green Belt, in light of requirement for a more strategic approach to Green Belt review. Council to consider whether alternative allocation as green wedge would be appropriate and, if so, provide reasoned justification.

3.1 The area originally proposed as extended Green Belt is considered to be under pressure from development which has the potential to impact the open character of the area. In light of the Inspector's comment in relation to the need for a regional approach to Green Belt allocation, it is proposed that the area be allocated as green wedge.

3.2 The rationale for the allocation as a green wedge is due to continued pressure to develop the area. Pressure includes internal pressure from within the authority and outside. The Cardiff City Council Preferred Strategy has indicated a strategic housing site (500+ units) and a strategic employment site in the north east of Cardiff's administrative area, near or adjacent the Newport green belt, adding additional development pressure to the area.



3.3 The plan above shows the alternative sites as part of the Cardiff LDP process. Four alternative sites are located in close proximity in the area of suggested green wedge (AS(N)7, AS (N)12, AS(N)13 and AS(N)17). All are for residential development. Considering Welsh Government has raised an objection noting that Cardiff's proposed level of housing is

approximately 4,300 units below that set out in their Preferred Strategy, there is a real possibility that many of these Alternative Sites could end up being allocated.

3.4 The strategic allocations in the LDP and the alternative sites provide evidence of the development pressure in Cardiff adjacent the area of proposed green wedge. In light of this pressure it is considered justified to allocate the area as green wedge. The allocation would serve to protect the open character of the area and avoid the coalescence of the distinct communities of Newport and Cardiff. The designation of the area as Green Wedge also serves to assist in safeguarding the countryside from encroachment.

ii. Consider deleting policy CE1, as it repeats national policy; if so, cross-reference national policy concerning inappropriate development in the Green Belt and green wedges in policies SP6 and SP7. Alternatively, if policy CE1 is retained, review wording to ensure consistency with national definition of inappropriate development. Include 30% volumetric increase limitation in text of policy as well as explanatory paragraph 4.1. Delete "within or conspicuous from them" from policy wording.

3.5 Policy CE1 is to remain within the plan, however it will be reframed as a general countryside policy (see the Council's response to matters arising from session 18 for further details). Supporting text of Policies SP6 and SP7 to be amended to cross reference national policy concerning inappropriate development as follows:

SP6 Green Belt

THE GREEN BELT IS MAINTAINED ALONG THE NEWPORT – CARDIFF BOUNDARY ~~AND EXTENDED NORTHWARDS TO THE M4 MOTORWAY~~. WITHIN THIS AREA DEVELOPMENT WHICH PREJUDICES THE OPEN NATURE OF THE LAND WILL NOT BE PERMITTED. AN INCREASE IN SIZE OF A DWELLING OF MORE THAN 30% OF THE VOLUME OF THE ORIGINAL SIZE OF THE DWELLING, OR AS EXISTED IN 1948, WILL NOT BE APPROVED.

2.1 The green belt that lies between Marshfield and Cardiff was designated, following regional discussions, by the Newport Unitary Development Plan 1996 – 2011 as the first green belt in Wales. Green belts are normally expected to have a life beyond that of one development plan[1], so the existing green belt is maintained. ~~and a small addition made to extend it northwards to the M4 motorway to provide a more logical and distinct boundary. The extension is also considered necessary to respond to development within the Local Authority area, and pressure for development within the neighbouring Local Authority of Cardiff nearest the Newport boundary~~.

2.2 The Newport – Cardiff gap, being only about 3 miles wide in places, and sitting between two of the only five cities of Wales, is crucial to the maintenance of urban form. There is no appetite for the cities to merge, and indeed much public support for the maintenance of this gap and the separate identity of the cities.

2.3 Planning Policy Wales (Paragraph 4.8.14 – 4.8.18) sets out what is considered inappropriate development within Green Belt allocations, and should be referred to for guidance.

[1] PPW (Edition 5, November 2012). Available at: http://wales.gov.uk/topics/planning/policy/ppw/?lang=en

2.4 Any application to increase the size of a dwelling by more than 30% is likely to have a negative impact on the openness of the Green Belt and will not be approved.

Relevant Objectives and Background Paper
Objectives: 5. Conservation and the Natural Environment

SP7 Green Wedges

GREEN WEDGES HAVE BEEN IDENTIFIED IN ORDER TO PREVENT COALESCENCE BETWEEN THE FOLLOWING SETTLEMENTS:

i) NEWPORT AND CARDIFF;
ii) ROGERSTONE AND RISCA;
iii) BETTWS, MALPAS AND CWMBRAN;
iv) CAERLEON AND CWMBRAN.

WITHIN THESE AREAS DEVELOPMENT WHICH PREJUDICES THE OPEN NATURE OF THE LAND WILL NOT BE PERMITTED. AN INCREASE IN SIZE OF A DWELLING OF MORE THAN 30% OF THE VOLUME OF THE ORIGINAL SIZE OF THE DWELLING, OR AS EXISTED IN 1948, WILL NOT BE APPROVED.

2.4 Green Wedges have been designated on a common basis with the other local planning authorities in South Wales. The prime purpose of Green Wedges is to prevent coalescence between urban areas. The designation is not made necessarily on the basis of the physical quality of the landscape, but rather to maintain their openness. The areas designated tend to have significant importance for their openness and for their role in maintaining the distinct identify of separate communities.

2.5 Planning Policy Wales (Paragraph 4.8.14 – 4.8.18) sets out what is considered inappropriate development within green wedge allocations, and should be referred to for guidance.

2.6 Any application to increase the size of a dwelling by more than 30% is likely to have a negative impact on the openness of the green wedge and will not be approved.

Relevant Objectives and Background Paper
Objectives: 5. Conservation and the Natural Environment

iii. Council also to consider the justification for a limitation to a 30% increase in the size of dwellings in the wider countryside (policy H13), and whether an element of flexibility would be desirable in circumstances where the strict application of the volume limit may not be appropriate. Council also to consider whether such a limitation is intended and justified in relation to dwellings in small settlements without village boundaries; and, if not whether further refinement of the policy is needed to address this.

3.6 The justification for the 30% increase in size of dwellings in the Green Belt and green wedge allocations relates to the potential impact of development upon the openness of those areas. With regards to the wider countryside allocation the intention of the 30% limit is to avoid excessive enlargement to the detriment of the character and appearance of the countryside. The 30% is considered a useful guide, however it is recognised that an element of flexibility is necessary in certain circumstances in the countryside where strict application of the limit may be inappropriate. It is therefore proposed that additional supporting text be added to clarify in Policies H12 and H13. The supporting text will read as follows:

While the 30% volume limit should be applied in principle, where it can be demonstrated that an increase above 30% will not have a detrimental impact upon the character and appearance of the surrounding area such development may be considered acceptable.

3.7 With regards to the application of the policy in small settlements without village boundaries, the supporting text above would apply and allow an element of flexibility where appropriate.

iv. The Council to consider the rationale for the north eastern boundary of the Rogerstone and Risca green wedge allocation. Consider whether the area east of Pontymason Lane is necessary, in light of the location of the corresponding Caerphilly green wedge. Does the current boundary follow a logical and defensible boundary? In light of these matters consider how the allocation may require revision.

3.8 The Rogerstone and Risca green wedge is to be amended to better reflect the corresponding allocation in the Caerphilly authority area. Pontymason Lane should form the eastern boundary of the green wedge. The Proposals Plan will be amended.

v. Bettws, Malpas and Cwmbran green wedge: Amend the allocation to remove the area to the west of Craig-y-Ceiliog Road in light of the urban form of Newport and the neighbouring areas in Cwmbran.

3.9 The Proposals Plan will be amended.

4. Historic Environment

i. Policy CE5. Text in policy and supporting paragraph 4.23 relating to register of Historic Battlefields in Wales to be review to ensure that it will remain relevant following potential changes in the forthcoming Heritage Bill.

4.1 Policy CE5 is to be amended to read:

SITES INCLUDED IN THE REGISTER OF LANDSCAPES, PARKS AND GARDENS OF SPECIAL HISTORIC INTEREST AND IDENTIFIED HISTORIC BATTLEFIELDS SHOULD BE PROTECTED, CONSERVED, ENHANCED AND WHERE APPROPRIATE RESTORED. ATTENTION WILL ALSO BE GIVEN TO THEIR SETTING.

4.2 Paragraph 4.23 is to be amended to read:

Historic Battlefields are a significant part of the historic landscape and their protection as cultural and heritage asset is supported. Their contribution to tourism, recreation and education is recognised and welcomed. Cadw should be contacted for information on the location and process of identification. There will be a presumption in favour of the conservation and enhancement of the site.

ii. Policy CE6. Reword paragraph 4.25 for clarity, in line with Council's suggested amended text.

4.3 Paragraph 4.25 is to be amended to read:

The locally listed status of a building or site would be a consideration at the planning application stage. Justification will be required for the loss or unsatisfactory alteration of such buildings or sites, and intervention will be sought to secure their conservation and enhancement.

iii. Policy CE8. Criterion i) to be reworded - delete "archaeological or historic" before "character" and insert "conservation" before "area".

4.4 Policy CE8 is to be amended to read:

DEVELOPMENT WITHIN OR ADJACENT TO CONSERVATION AREAS WILL BE REQUIRED TO:

i) BE DESIGNED TO PRESERVE OR ENHANCE THE CHARACTER OR APPEARANCE OF THE CONSERVATION AREA, HAVING REGARD TO THE CONSERVATION AREA APRAISAL WHERE APPROPRIATE.

ii) AVOID THE REMOVAL OF EXISTING HISTORIC FEATURES, INCLUDING TRADITIONAL SHOPFRONTS AND JOINERY.

iii) USE MATERIALS WHICH ARE TRADITIONAL, OR APPROPRIATE TO THEIR CONTEXT.

iv) COMPLEMENT OR REFLECT THE ARCHITECTURAL QUALITIES OF NEARBY BUILDINGS WHICH MAE A POSITIVE CONTRIBUTION TO THE CHARACTER OF THE AREA.

v) PAY SPECIAL ATTENTION TO THE SETTINGS OF BUILDINGS, AND AVOID THE LOSS OF ANY EXISITNG DOMESTIC GARDENS AND OPEN SPACES WHICH CONTRIBUTE TO THE CHARACTER OF THE AREA.

vi) **AVOID ADVERSE IMPACT ON ANY SIGNIFICANT VIEWS, WITHIN, TOWARDS AND OUTWARDS FROM THE CONSERVATION AREA.**

APPENDICIES

APPENDIX 1 – Joint Response to Hearing Session 10 between Newport City Council and Natural Resources Wales.

Newport City Council
Local Development Plan

Joint Response (NCC & NRW) to Flooding Issues

Hearing Session 10: Environment and Heritage

JOINT RESPONSE BETWEEN NCC & NRW

Hearing Session 10: Environment and Heritage

1. Background

1.1 During the Hearing Session it became apparent that there were 7 sites which NRW still maintained objection to. These objections are due to the level of flood risk associated with the residential use on the site and a lack of evidence on the viability of the level of mitigation required on each site.

1.2 This paper sets out the detail for each site and investigates the level of mitigation currently required by an agreed FCA. Investigation into the level of risk associated with scenario 3 of the SFCA and the subsequent level of mitigation has then been compared to the original application. There is a proviso that a detailed FCA will be required for each of these sites if a permission lapses. Where appropriate the officer report from the approved/previous planning permission has been appended to this Report.

1.3 The sites are listed below, alongside basic planning details and site information:

	Site Name	Planning Status	Site Proposal
1.	Traston Lane (H23)	Full Planning Permission	21 Houses
2.	Penmaen Wharf (H16)	Full Planning Permission	160 apartments, bottom two levels are for car parking only
3.	Frobisher Road (H9)	Outline Planning Permission	20 Apartments or 10 Houses
4.	Former Floors 2 Go (H21)	Full Planning Permission	10 Houses
5.	Victoria Wharf (H15)	Housing Proposal in LDP	130 Residential units, mix of apartments and houses anticipated
6.	Former Sainsbury's (H32)	Outline Planning Permission	140 Houses and Hotel use
7.	Herbert Road and Enterprise House (H50)[1]	Housing Proposal in LDP	65 Houses anticipated

[1] Please note Herbert Road and Enterprise House is currently being investigated further. The Council's consultant (URS) is currently undertaking a Flood Consequence Assessment. The results will be released in due course.

2. Site Investigation

Traston Lane (H23)

2.1 Planning History

The site has extant Full Planning Permission for 21 Houses, which following discussions with the site agent the Council is anticipating implementation in autumn 2014. The Section 106 was signed in August 2012. The legal agreement was agreed for a contribution for Newport International Sports Village of **£33,505** (Paid prior to occupation of 75% of the dwellings). The Section 106 totals **£33,505** (subject to indexation). Approx **£1,595 per dwelling**

2.2 Development Advice Map (2014)

The site lies entirely in Zone C1 as set out in the Development Advice Map (2014), as illustrated in figure 1 below. The red line outlines have been drawn by the Council to illustrate the location of the planning application.

Figure 1 : Traston Lane, DAM 2014

2.3 Flood Consequence Assessment

The flood risk mitigation measures have been conditioned and do not form part of the Section 106 agreement. The site has not discharged any of its conditions, of which two are associated with flood risk management, out of the total 20 (the decision notice is attached in appendix 1). The mitigation measures conditioned to this application are:

- Finished Floor Levels of 6.80m AOD.
- Surface water run-off restricted 'Greenfield' rate of run-off 3.5 l/s/hectare

2.4 The Flood Consequence Assessment of the site concluded that the floor levels of the development would need to be raised to 6.8m AOD. It goes on to note that there will be displacement of flood water as the flood risk is tidal. The assessment was undertaken on the basis of a 50year lifetime of development which has increased to 100years.

2.5 **Strategic Flood Consequence Assessment**

The Stage 3 SFCA (2014) concluded that the maximum depth of flooding on the site is 1.04m. Taking into account the site levels, noted as ranging from 6.0m to 6.2m across the site (FCA Arup 2009), the site would need to be raised to 7.04m AOD to 7.24m AOD. This is an increase of c0.5m compared to the assessment undertaken in 2006, but which would take into account a 100year lifetime of development and a climate change allowance up until 2111.

2.6 **Flood Risk to Surrounding Areas**

As for increasing flood risk to the surrounding areas the position as set out in the FCA is assumed to be maintained, i.e. that displacement of flood water will not happen as flood risk is tidal.

2.7 **Latest Development Position**

The agent has confirmed that the site is to be progressed later this year. It will follow the establishment of development at H1 McReadys.

2.8 **NRW Comments**

The view of Natural Resources Wales is that in order to satisfy the acceptability criterion of no flooding elsewhere given in TAN15 (A1.12), the effects of flooding elsewhere where the site is raised should be assessed. The residual effects of site raising has not been established. When assessed the impact may demonstrate positive or negative effects.

We understand that there is an extant permission for this site, which is likely to influence the deliverability of the site and we refer to the Council's comments in this regard.

Penmaen Wharf (H16)

2.9 **Planning History**

The site has extant Full Planning Permission for 160 apartments; the first two levels are set out for car parking. The site is anticipated to be implemented pre May 2016 (the expiry date of the current planning permission). The section 106 was signed May 2011. This legal agreement was for Education contribution = **£118,524** (Paid prior to commencement), Leisure Contribution = **£80,000** (Paid prior to occupation of 1st dwelling) and Affordable Housing = **£100,000** (Paid prior to commencement). The section 106 totals **£298,524** (subject to indexation) which is approx **£1,866 per dwelling**

2.10 **Development Advice Map (2014)**

The site lies entirely in Flood Zone C2 as set out in the Development Advice Map (2014), as illustrated in figure 2 below. The planning permission was permitted when the site was allocated in Flood Zone C1.

Figure 2: Penmaen Wharf, DAM 2014

2.11 **Flood Consequence Assessment**

The site has not discharged any of its conditions, of which one is associated with flood risk management out of the total 30 (the decision notice is attached in appendix 1). The mitigation measure conditioned to this application is:

- To re-level the site with finished ground levels (minimum of 8.87m Above Ordnance Datum), finished slab levels of buildings (minimum 9.1m AOD) and ground levels to be graded to existing ground levels along the perimeter of the site.

2.12 The Flood Consequence of the site concluded that the floor levels of the development would need to be raised to 9.1m AOD and access to 8.87m AOD. The assessment was undertaken on the basis of a 50year lifetime of development which has increased to 100years. The FCA notes that the raising of the site to above 0.5% probability tide level, will provide a land mass and flood protection to adjacent areas which lie at a lower level.

2.13 **Strategic Flood Consequence Assessment**

The Stage 3 SFCA (2014) concluded that the maximum depth of flooding on the site is 1.73m. Taking into account the site levels, noted as ranging from 7.70m to 9.2m across the site (FCA 2006) access is at 8.88m, the site would need to be raised to 9.73m AOD to 10.75m AOD. This is an increase of c.1.5m compared to the assessment undertaken in 2006, but which would take into account a 100year lifetime of development and a climate change allowance up until 2111.

2.14 Since the application was approved on the site the flood risk associated with the site has increased (from C1 to C2). It is considered that the Council only support the implementation of the original application in 2007, due to lapse in May 2016. The Council would not support an application for highly vulnerable development in zone C2.

2.15 **Flood Risk to Surrounding Areas**

It would be assumed that the previous FCA notes that the raising of the site to above 0.5% probability tide level, will provide flood protection to adjacent areas it is assumed that this would be maintained.

2.16 **Latest Development Position**

The development has not been implemented due to the economic recession. The section 106 agreement has been signed and the developer is confident in the market due to the increase in development in the area e.g. old town dock completion of housing sites and new public house. The site owner has been purchasing land adjacent to the site to enable him to provide a more comprehensive regeneration scheme.

2.17 **NRW Comments**

For LDP purposes, the SFCA assesses the allocation to be located in Zone C2 of the development advice maps. TAN15 recognises that highly vulnerable development in Zone C2 should not be permitted unless justified by a local planning authority.

The views of Natural Resources Wales is that the SFCA has assessed a flood depth of 1.73m on site under Scenario 3 (overtopping in 200 year plus 100 lifetime of development (2111)). The views of Natural Resources Wales is that given the results of the SFCA extensive raising of the site would be required (c.1.5m). Further, in order to satisfy the acceptability criterion of no flooding elsewhere given in TAN15 (A1.12), the effects of flooding elsewhere where the site is raised should be assessed. The residual effects in raising the site has not been established. When assessed the impact may demonstrate positive or negative effects.

We understand that there is an extant permission for this site, which is likely to influence the deliverability of the site and we refer to the Council's comments in this regard.

Frobisher Road (H9)

2.18 **Planning History**

The site has Outline Planning Permission for either 20 apartments or 10 houses. There is no commentary on flood risk in the approval documentation for the extant application and it is therefore assumed that the site was not in flood risk when the original application was assessed. The section 106 was signed July 2009. The legal agreement was for Education contribution = **£30,000** (Paid prior to occupation of 1st dwelling) and Public Open Space Contribution = **£5,000** (Paid prior to occupation of 1st dwelling). The section 106 totals **£35,000** (subject to indexation), which is approx **£3,500 per dwelling.**

2.19 **Development Advice Map (2014)**

The site lies partly in Flood Zone C1 as set out in the Development Advice Map (2014), as illustrated in figure 3 below:

Figure 3: Frobisher Road, DAM 2014

2.20 **Strategic Flood Consequence Assessment**

Since the application was approved on the site the flood risk associated with the site has increased (C1). Therefore the Council has undertaken a Stage 3 SFCA (2014). The flood modelling illustrates that the level of flood risk associated with the site lies with the access and a very small part of the site (figure 4.14 of SFCA 2014). The report also concludes in Table 5.1 that the escape and evacuation routes are within tolerable limits as set out by TAN 15.

2.21 **NRW Comments**

For LDP purposes, the view of Natural Resources Wales is that given the outcomes of the SFCA the flood risk constraints at this site could be overcome. Scenario 3 of the SFCA (overtopping in 200 year plus 100 lifetime of development (2111)) have been met. Any development should be directed away from the area being assessed at risk from flooding. Any new planning application should assess further the mitigation of residual risk and suitability of evacuation procedures.

We understand that there is an extant permission for this site, which is likely to influence the deliverability of the site and we refer to the Council's comments in this regard.

Former Floors 2 Go (H21)

2.22 **Planning History**

The site has extant Full Planning Permission for 10 Houses which is subject to a Section 106 agreement. The legal agreement for the site is yet to be agreed but is likely to require maintenance and provision of play facilities = **£42,455** (Paid prior to occupation of 1st dwelling). The total of the agreement would total **£42,455** (subject to indexation) which is approx **£4,346 per dwelling**

2.23 **Development Advice Note (2014)**

The site lies entirely in Flood Zone C1 as set out in the Development Advice Map (2014), as illustrated in figure 4 below:

Figure 4: Former Floors 2 Go, DAM 2014

2.24 **Flood Consequence Assessment**

The officer report for the original application noted that the East Bank landform will serve to manage the consequences of flooding in an extreme flood event (applying 50 years of climate change i.e. Years 2004 to 2054) and that no FCA was therefore required. The more recent application to amend the application from 12 to 10 units has no objections from NRW who noted their previous response.

2.25 Since the application was approved on the site the flood risk associated with the site has remained in C1. The application was however, assessed on the basis of a 50year lifetime of development which has increased to 100years. The Council is also aware that NRW were basing previous comments on the suitability of the flood protection from the East Bank

landform on the basis of a 50 year lifetime of development. Therefore the Council has undertaken a Stage 3 SFCA (2014).

2.26 **Strategic Flood Consequence Assessment**

The Stage 3 SFCA concluded that the maximum flood depth on the site is 1m. There is no FCA for this site however the protection afforded to the site from the East Bank Landform will provide the equivalent of protection for 50 year lifetime. This protection will need to be taken into account when considering the mitigation on the site, which will need to be a maximum of 1m.

2.27 **Latest Development Position**

The original application for 12 units was not implemented due to landownership issues. This application has overcome all constraints and is waiting for the signing of the section 106 agreement.

2.28 **NRW Comments**

For LDP purposes, the views of Natural Resources Wales is that given the outcomes of the SFCA substantial mitigation is required. Scenario 3 of the SFCA (overtopping in 200 year plus 100 lifetime of development (2111)) demonstrates 1m depth of flooding at the allocation site. In order to satisfy the acceptability criterion of no flooding elsewhere given in TAN15 (A1.12), the effects of flooding elsewhere should be assessed. The residual effects in raising the site has not been established. When assessed the impact may demonstrate positive or negative effects.

Any new application is required to be supported by a site specific flood consequence assessment, in accordance with TAN15.

We understand that there is an extant permission for this site, which is likely to influence the deliverability of the site and we refer to the Council's comments in this regard.

Victoria Wharf (H15)

2.29 **Planning History**

The planning permission for 229 apartments on the site has lapsed. The site has been allocated as a housing proposal in the plan for approximately 130 units. The site is likely to require a section 106 agreement, the previous agreement (lapsed permission) required Maintenance of the Newport Riverside Park = **£109,562** (Paid prior to occupation of 115th dwelling) and Provision of Recreation Open Space and Facilities = **£379,054** (Paid prior to occupation of 1st dwelling). This legal agreement totals **£488,616** (subject to indexation) which is approx **£3,194 per dwelling.**

2.30 **Development Advice Map (2014)**

The site lies entirely in Flood Zone C1 as set out in the Development Advice Map (2014), as illustrated in figure 5 below:

Figure 5: Victoria Wharf, DAM 2014

2.31 **Flood Consequence Assessment**

The Planning permission conditioned that the site required a minimum floor level of 9.47m AOD. This was agreed with NRW at the time but this did not take into account the 100years lifetime of development, climate change of 2111 and the River Usk Tidal Model of 2011. Therefore a SFCA was undertaken for the site.

2.32 **Strategic Flood Consequence Assessment**

The Stage 3 SFCA (2014) concluded that the maximum depth of flooding on the site is 1.1m. Taking into account the site levels, noted as ranging from 8.64 m to 9.05m across the site

(Topographic Information from a post remediation survey of the site), the site would need to be raised to 9.74m AOD to 10.15m AOD. This is an increase of c0.8m compared to the condition imposed by the planning application, but which would take into account a 100year lifetime of development and a climate change allowance up until 2111.

2.33 **Flood Risk to Surrounding Areas**

There was no mention of improvements to be made to protect the surrounding area, and no FCA undertaken for the site. It is therefore assumed that the site specific FCA required for the site will investigate this element and propose mitigation if required.

2.34 **Latest Development Position**

The site is still owned by a bank who are working with a housing developer to progress the site. The temporary car park is still in operation and so the site is not anticipated to be regenerated until the later stages of the plan. There are currently pre application discussions on the site for a residential development.

2.35 **NRW Comments**

For LDP Purposes, the views of Natural Resources Wales are that a flood depth of 1.1m is assessed under Scenario 3 of the SFCA (overtopping in 200 year plus 100 year lifetime of development (2111)). In consideration of existing topographical information site levels have increased c.0.8 metres with levels of 9.74mAOD to 10.15mAOD expected across the site. The residual effects of such raising will need to be established, which will need to include the effects of flooding elsewhere, an acceptability criterion under A1.12 of TAN15.

Former Sainsbury's (H32)

2.36 **Planning History**

The site has Outline Planning Permission for 140 houses and a hotel. The site has not submitted its reserved matters and has one condition associated with flood risk management out of the total 41 (the decision notice/officer report is attached in appendix 1). The mitigation measure conditioned to this application is:

- In relation to the levels the finished floor levels of the buildings shall be a minimum of 9.55m AOD and the accesses, car parking area and pedestrian walkways shall be a minimum of 9.26 m AOD. Details of how raised ground will be graded down to existing ground levels along the perimeter of the site. This is all to be detailed at the Reserved Matters stage.

The section 106 for the site has not yet been signed but the unilateral undertaken has been agreed. Based on indicative figures from the outline application contributions are likely to be, 30% Affordable Housing, Contribution for Leisure = **£384,684** (Paid prior to occupation of 1st dwelling), Highways contribution =£**5,000** (Paid prior to occupation of 1st dwelling), Landscaping contribution (to be agreed). The legal agreement would total **£389,684** (subject to indexation) which is approx **£2783 per dwelling.**

2.37 **Development Advice Map (2014)**

The site lies partly in Flood Zone C1 as set out in the Development Advice Map (2014), as illustrated in figure 6 below:

Figure 6: Former Sainsbury's, DAM 2014

2.38 **Flood Consequence Assessment**

The Flood Consequence of the site concluded that the floor levels of the development would need to be raised to 9.55m AOD and access to 9.26AOD. The assessment was undertaken on the basis of a 100year lifetime of development using sea levels for 2108, but did not have the 2011 River Usk Model as utilised by URS in the SFCA.

2.39 **Strategic Flood Consequence Assessment**

The Stage 3 SFCA (2014) concluded that the maximum depth of flooding on the site is 1.28m in the Eastern end of the site and 1.25m at the Western side of the site. Taking into account the site levels, noted as ranging from 6.8m to 8.8m across the site (WYG FCA 2008), the site would need to be raised to 8.08m AOD to 10.08m AOD. This is an increase of c.0.5m compared to the assessment undertaken in 2008, but which would take into account a 100year lifetime of development and a climate change allowance up until 2111.

2.40 **Flood Risk to Surrounding Areas**

The FCA undertaken by WYG in 2009 for the site notes the impact on flood risk elsewhere will need to be considered further once development proposals have been confirmed (application is currently outline more detail will be known at the Reserved Matters Stage-text added by NCC). There is potential for the way in which the development is protected from flooding to impact on other development in the area.

2.41 **Latest Development Position**

The Council is liaising with the land owner's agent to establish the intentions for this site. The site is an attractive development opportunity, adjacent to the city centre. The residential development would meet the plan's brownfield strategy and the constraints on the site are not considered to be insurmountable.

2.42 **NRW Comments**

For LDP purposes, the views of Natural Resources Wales is that given the outcomes of the SFCA substantial mitigation is required with an increase in levels of c.0.5m. Scenario 3 of the SFCA (overtopping in 200 year plus 100 lifetime of development (2111)) demonstrates 1.28m depth of flooding at the eastern region and ranges from 0.6m to 1.25m depth of flooding at the western region of the allocation site.

We understand that there is a planning permission for this site, which is likely to influence the deliverability of the site and we refer to the Council's comments in this regard.

APPENDICIES

APPENDIX 1 - Officer Report for Traston Lane, Penmaen Wharf

APPENDIX 2 – Officer Report for Penmaen Wharf

APPENDIX 3 – Officer Report for Victoria Wharf

APPENDIX 4 – Officer Report for Former Sainsbury's

APPENDIX 1 -Officer Report for Traston Lane, Penmaen Wharf

APPLICATION DETAILS

No: 05/0287 Ward: ***LLISWERRY***

Type: FULL

Expiry Date: 03/06/2005

Applicant: ***MARK SCARLIOLI - OCTAVIAN HOMES LTD***

Site: **LAND AT *TRASTON LANE NASH NEWPORT SOUTH WALES***

Proposal: ***RESIDENTIAL DEVELOPMENT COMPRISING 21NO. DWELLINGS WITH ASSOCIATED ROAD, SEWERAGE AND DRAINAGE WORKS (RESUBMISSION)***

1. INTRODUCTION

1.1 This application seeks full planning permission for the erection of 21No.dwellings with associated infastructure works on an area of undeveloped land that extends to some 0.90 hectares within the urban settlement boundary. The site is allocated for housing within the Newport Unitary Development Plan 1996-2011 (Adopted May 2006) and covered by Policy H1(8) which estimates the likely total number of units to be 24No.dwellings. This site has been the subject of previous applications for residential development, and whilst the site does not benefit from an extant planning permission, it should be noted that outline consent was granted in 1994 and that permission was renewed in 1997.

2. RELEVANT SITE HISTORY

93/0980	Development of land for residential purposes, roadworks and other associated works.	Granted with Conditions (4 February 1994)
97/0091	Variation of conditions (B) and (D) of planning permission 93/0980 (to allow renewal of permission for a further 3 years).	Granted with Conditions (22 October 1997)
99/0417	Erection of 27No.dwellings together with associated roadworks and culverting of reen.	Invalid
04/0316	Residential development comprising 24No.dwellings with associated works.	Withdrawn (13 August 2004)

3. POLICY CONTEXT

3.1 ***Planning Policy Wales (Edition 4) (February 2011)***

This document sets out the Welsh Government's land use planning objectives for sustainable development, natural heritage, supporting the economy, transport, housing, retailing, sport and recreation, infrastructure and services, and minimising and managing environmental risks and pollution.

3.2 ***Wales Spatial Plan: People, Places, Futures***

This Welsh Government document sets out a vision for the sustainable development of Wales, and develops a framework for collaborative working and decision making across administrative and functional boundaries.

3.3 ***Technical Advice Notes (TANs)***

TAN 2 Planning and Affordable Housing – This sets out guidance for ensuring that affordable housing is delivered and sustainable communities are created.

TAN 5 Nature Conservation and Planning – This provides advice to ensure the protection of designated nature conservation sites and conservation of the natural environment.

TAN 8 Renewable Energy – This provides advice on various renewable energy technologies including Community or District Heating using low carbon technologies. It considers that the standards established under the EcoHomes scheme for residential development and BREEAM scheme for non-residential development form a useful framework for energy efficiency consideration.

TAN 11 Noise – sets out the Welsh Government's core policy on noise. It seeks to ensure that sufficient consideration is paid to both noise sensitive developments and those developments which will generate noise. It introduces the concept of noise exposure categories for residential development and recommends appropriate levels for exposure to different sources of noise. Where appropriate, it also advises on the use of conditions to minimise the impact of noise.

TAN 12 Design – This provides advice on good design which achieves sustainable design solutions, sustaining or enhancing the character of the area, promoting innovative design, a successful relationship between public and private space, high quality in the public realm, ensuring ease of access for all, promoting legible development, designing for change by promoting adaptable

development, and promoting quality, choice and variety by way of mixed use and/or density of development.
TAN 15 Development and Flood Risk – advises on development and flood risk as this relates to sustainability principles and provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.
TAN 16 Sport and Recreation – this provides advice to Local Authorities on the minimum levels of sport and play space that should be provided.
TAN 18 Transport – This provides advice as to the role of the planning system in facilitating sustainable travel patterns, guiding the location of development, reducing the need to travel, and promoting transport choices which are less polluting.
TAN 21 Waste – This advice is intended to facilitate the introduction of a comprehensive, integrated and sustainable land use planning framework for waste management.
TAN 22 Sustainable Buildings – This provides new policy on sustainable building standards and promotes sustainable buildings.

3.4 ***Newport Unitary Development Plan 1996-2011 (Adopted May 2006)***

The proposal has been assessed with regard to the Newport Unitary Development Plan 1996-2011 Adopted Plan May 2006. The following policies are considered relevant:
Policy SP1 favours proposals which make a positive contribution to sustainable development.
Policy SP2 seeks high quality design in all development and new development should seek to enhance the site and surrounding area and provide benefit to the community as a whole.
Policy SP11 seeks to secure planning obligations where it is relevant, necessary and directly related in scale and kind to a development proposal.
Policy SP24 states that development, including the raising of land, which would result in an unacceptable risk of flooding, either on or off site, or which would adversely affect flood management or maintenance schemes, will not be permitted.
Policy SP27 refers to Flood Consequence Assessments and states that where flood risk is identified as a constraint, development will only be permitted where it is demonstrated that the risks and consequences of flooding can be acceptably managed.
Policy CE5 refers to development proposals which affect a European site or RAMSAR site.
(i) Where there would be an adverse effect, the development will only be permitted if it is directly necessary for the beneficial management of the site, or if there are imperative reasons of over-riding public interest for the development and there is no alternative solution.
(ii) Where the site also hosts a priority natural habitat or a priority species, development will only be permitted if it is directly necessary for human health, public safety or is directly connected with the beneficial management of the site.
Policy CE9 provides protection for species protected by European legislation.
Policy CE10 provides protection for species protected by United Kingdom legislation.
Policy CE13 states that permission will only be granted for development that would damage or destroy one or more protected trees where there is demonstrable environmental, economic or social need sufficient to outweigh the amenity and biodiversity value of the trees, and the trees can be replaced within the site boundary in a manner which ensures there is no unacceptably detrimental effect on character, visual amenity or biodiversity.
Policy CE26 relates to Archaeologically Sensitive Areas and requires details of all proposed ground works and services, along with a written assessment of the likely archaeological impact of the development.
Policy CE28 relates to development permitted on a site of archaeological interest and the measures to mitigate the effect on the remains.
Policy CE31 seeks the maintenance and improvement of environmental quality for residents in predominantly residential areas.
Policy CE38 states that good quality design will be sought in all forms of development and provides design principles to be addressed.
Policy CE39 requires proposals for new residential development to respect or complement existing surroundings and neighbouring buildings.
Policy CE44 requires adequate arrangements for securing an accessible environment for everyone.
Policy CE45 states that safety and security should be taken into account in the design of schemes.
Policy H1 outlines sites of 10 or more dwellings that are allocated for housing development within the City.
Policy H2 states that within settlement boundaries proposals for residential use will be permitted subject to:
(i) No unacceptable loss of open space important for amenity or conservation value;
(ii) No adverse effects on existing residents;
(iii) Acceptable residential amenity for future residents;
(iv) Adequate open space can be provided;
(v) No unacceptable highway implications;
(vi) Adequate services exist or can be readily provided;
(vii) Design and environment policies of the plan will not be compromised.

Policy T7 relates specifically to transport and new development and states that developments that have an unacceptable adverse effect on the transportation system will not be permitted. Where objections can be overcome by improvements to the transport system, a contribution will be sought from the developer under statutory provisions.
Policy U6 requires development which could increase the risk of flooding due to additional surface water run off to include appropriate and environmentally sympathetic mitigation measures.

3.5 ***Supplementary Planning Guidance – Planning Obligations***
This identifies what and when contributions will be expected from developers in terms of planning obligations in order to assist the Council in creating sustainable communities that provide social, economic and environmental benefits to the whole of Newport.

3.6 ***Supplementary Planning Guidance – Infill and Backland Development***
This guidance seeks to inform members of the public and developers of the Council's approach to infill and backland development in both urban and rural locations. The impact of this type of development can vary greatly depending upon the particular location.

4. CONSULTATIONS

4.1 ENVIRONMENT AGENCY: The site lies within zone C1 as defined by the Development Advice Map (DAM) referred to under TAN 15 Development and Flood Risk (July 2004). Residential development is proposed at the site, which is classed as highly vulnerable development. A Flood Consequences Assessment has been submitted and based upon the information contained therein, it is advised that the consequences of flooding can be managed in line with the guidance set out in TAN 15. As such, no objection is raised subject to the finished floor levels of the buildings being set no lower than 6.80m above ordnance datum. In addtion, discharges must be restricted to a greenfield run-off rate no greater than 3.5l/sec/ha.

4.2 HEALTH AND SAFETY EXECUTIVE: No objection. However, it is noted that the proposed development site is located within the Safeguarding Zone of a licensed explosive site.

4.3 DWR CYMRU - WELSH WATER: No objection provided foul water and surface water are discharged separately from the site and no surface water or land drainage run-off is allowed to connect to the public sewerage system.

4.4 CALDICOT AND WENTLOOGE LEVELS INLAND DRAINAGE BOARD: The proposal lies outside the IDB's boundary and therefore beyond their remit for comment. Advise to consult the Environment Agency and The Head of Engineering and Construction in respect of flood risk.

4.5 WALES AND WEST UTILITIES: No objection.

4.6 WESTERN POWER DISTRIBUTION: Advise of apparatus in the area and safe working procedures.

4.7 GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: The land that is the subject of the current application was part of a large medieval open field known as Broadmead. There appears to have been some form of medieval settlement to the southwest, however, archaeological watching briefs have been carried out during construction of the artificial playing pitch, the cricket practice area and the construction of the tennis centre. No further evidence of medieval occupation has been found. As such, no objection is raised.

4.8 HEDDLU GWENT POLICE: Traston Lane, Nash is in an area of Newport that experiences low crime levels beings a mixture of residential, commercial and other properties. No objection is raised, however, the following recommendations are made:
- the garage for Plot 2 has no natural surveillance from other properties;
- the road surface leading into the development should be treated to provide a defined perimeter;
- the boundary fencing should be 2m in height;
- any gated access to rear gardens should be fitted with suitable locking devices, and;
- advise of physical security recommendations.

4.9 COUNTRYSIDE COUNCIL FOR WALES: No objection, subject to the imposition of conditions.

5. INTERNAL COUNCIL ADVICE

5.1 HEAD OF STREETSCENE (HIGHWAYS): No objection, subject to conditions and the applicant entering into a Section 278 Agreement of the Highways Act 1980 if works are to be carried out to the adopted highway.

5.2 HEAD OF STREETSCENE (ECOLOGY OFFICER): The site lies within 1500m of the Gwent Levels SSSI and 1400m of the River Usk SAC & SSSI. The Extended Phase 1 Habitat Survey gives an

outline of the habitats on the site and makes recommendations for further survey requirements. No objection is raised in respect of the proposal subject to the attachment of conditions regarding proposed lighting during construction, requiring the submission of a Construction Environmental Management Plan, and the submission of a reptile mitigation strategy.

5.3 HEAD OF STREETSCENE (TREE OFFICER): No objection subject to the imposition of conditions.

5.4 HEAD OF CONTINUING LEARNING AND LEISURE: Owing to the surplus of formal play within the Lliswerry Ward the formal amount of provision required is deducted from the total. Also, owing to the close proximity to the Newport International Sports Village there will be no need for on-site provision. Consequently, a commuted sum of £69,009.40 is requested for the provision of off-site informal and equipped play at Newport International Sports Village.

5.5 HEAD OF RESOURCING AND PLANNING (EDUCATION): The development falls within the catchment area of Lliswerry High School and its associated primary feeder schools. Taking into account the scale and type of the development and the current pupil numbers/capacities, no planning obligation contribution is required.

6. REPRESENTATIONS

6.1 NEIGHBOURS: In addition to the consultations undertaken in 2005, when this application was first received, all properties within 50m of the application site were consulted in February 2011 (50 properties). A site notice was erected within the vicinty of the site on the 08/02/2011 and a press notice was advertised in the local press on the 19/02/2011.

9 letters/emails (5 letters/emails sent from two residents) have been received, together with a petition of 33 signatories, objecting to the proposal and raising the following concerns:
- the properties in the area have been flooded out in the past and have come very close a few times since. Given that the proposed development site will be raised this will worsen the situation for the existing properties;
- the existing drainage system for the area would be unable to cope with the additional demand placed upon it;
- the proposal would place extra stress on this narrow road with excess traffic. This would be a danger to children in the area;
- the trees on the borders of the site are protected by preservation orders;
- if the proposed properties have to connect to the mains drainage system then a private driveway will need to be dug up;
- concerns rasied by the Cricket Club regarding the fact that cricket balls are regularly hit into the site. As such, it is recommended that a very high and secure fence is erected to avoid accidents and also, to cordon off the corner of the cricket ground to the rear of the application site to prevent unauthorised access.

6.2 COUNCILLOR CRITCHLEY: Has objected to the proposal on the grounds that the application has changed little from the previous application. The area also suffers from a high water table with recent modifications to drainage failing to eradicate surface water ponding or to improve malevolent smells emitting from drainage to homes in the area.

7. ASSESSMENT

7.1 The application site covers an area of land that lies to the south and west of Traston Lane. The site is located between the cricket ground to the south, Traston Lane to the northeast, the rear gardens of the properties that front Traston Close to the north and an area of open grassland to the west between Newport Stadium and the Velodrome. The site is covered by existing scrub vegetation and a number of reens run along its northern and southern lengths. The site is also subject to a number of Tree Preservation Orders which seek to protect the line of trees along the southwestern and northwestern boundaries, together with a number of individual trees within the confines of the site.

7.2 The site lies within the urban settlement boundary and abuts a relatively large housing estate to the north and east, which consists of a mixture of terraced, semi-detached and detached dwellings with modest front and rear gardens. The site is allocated within the Newport Unitary Development Plan 1996-2011 (Adopted May 2006) for housing under Policy H1(8). Whilst the site does not constitute previously developed land as defined by Planning Policy Wales Edition 4 (February 2011), it falls in close proximity to built development and has been the subject of historic planning permission for residential development. Given the site's location, allocation within adopted planning policy, and previous planning history the principle of residential development has been established.

7.3 Aside from Policy H1(8) which refers to the housing allocation for the site, the principal policy considerations associated with this proposal are Policies H2 and CE39 of the UDP. In particular, Policy H2 advises that housing sites within settlement boundaries will be permitted subject to no

unacceptable loss of space important for its amenity value; no significant adverse effect on the amenities of the existing residents; the development would provide adequate amenity for future residents; no unacceptable highway implications; adequate services are readily available or reasonably accessible; and the design and environmental policies of this plan not being compromised. Policy CE39 refers to proposals for new residential development and states that schemes should respect or complement existing surroundings or neighbouring buildings in terms of scale, design, materials, siting, density and layout.

7.4 In addition, Policy CE38 refers to quality of design, and states that a good quality of design will be sought in all forms of development; Policies CE9 and CE10 seek to protect species under European and UK legislation; Policy CE13 seeks to protect the interests of significant and protected trees; and SP24 refers to the development of land that falls within a flood risk area.

Proposal

7.5 It is proposed to extend Traston Road to the south and create a new road into the proposed estate which would run the full length through the middle of the site and parallel to Traston Lane. The existing set of bollards that prevent Traston Road from being a through road are proposed to be relocated. A raised brick speed table would be installed on the bend between Traston Road and the proposed estate. A turning head would terminate the new road at the western edge of the site.

7.6 The development scheme would incorporate a total of 21No. dwellings with a mix of 15No. detached and 6No. semi-detached dwellings. The houses would be arranged in a linear formation fronting onto the new estate road being set back from highway allowing the provision of front gardens and driveways. Plot 1 of the scheme would occupy a corner position at the entrance to the estate fronting onto Traston Road. The proposed layout has shown consideration for the trees protected by Tree Preservation Orders (TPOs) and the reen that runs along the periphery of the site.

7.7 Taking into account the relevant planning policy, having conducted a site inspection and in view of the consultations and representations received, it is considered that there are eight main issues associated with the development proposal, namely:
- the impact of the proposal on the character of the area;
- the impact of the proposed development on the amenities of the neighbouring properties;
- the impact of the proposal upon archaeological resource;
- the impact of the proposal on protected trees and landscaping in the area;
- the impact of the proposal upon drainage infrastructure and the potential for increased flood risk;
- the impact of the proposal on European and UK protected species;
- implications for highway safety; and
- planning obligations.

Impact on the Character of the Area

7.8 In respect of design, the closest neighbouring properties consist of two rows of terraced dwellings that face southwest towards the application site. As a whole, the two rows do not share any particular design features. The dwellings differ in height and width, are finished in a mixture of stone, render and painted brickwork. To the east of these is a single storey detached double garage and a detached house set further back from Traston Lane. The remaining housing in the vicinity appears to consist of post-war semi-detached dwellings that would not be read in conjunction with the application site.

7.9 Policies SP2 and CE38 of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) refer to quality of development and seek to create a safe, attractive and convenient environment. Policy CE38 in particular states that all development should be sensitive to the unique qualities of the site and respond to the spirit and quality of the area. The SPG relating to infill and backland development is also a key consideration.

7.10 Given the variety in the form and design of the nearby dwellings, it is considered that the general arrangement and design of the dwellings proposed under this application would not appear out of character with the area. The proposed dwellings would be set back from the highway from which they would be served and would accommodate front and rear gardens with off-street parking. Concerns were initially raised in respect of the garden sizes for a number of the plots proposed. Following discussions with the applicant, amended plans have been submitted which have sought to increase the garden depths where necessary and provide more useable space. On balance, the garden areas are now considered to be sufficient to serve the proposed dwellings.

Impact upon Residential Amenity

7.11 The proposed scheme incorporates a mix of three and four bedroom semi-detached and detached houses arranged in a predominantly linear format fronting onto the proposed new highway that would run centrally through the site. All of the proposed dwellings would benefit from their own front and rear gardens, also having private driveways. Following initial concerns regarding the size of the

gardens, overall parking provision for the site and separation distance between Plots 19 & 20, amended plans have been submitted. These plans have suitably addressed Officers' concerns and it is considered that the scheme now offers an acceptable level of amenity for all of the proposed dwellings.

7.12 The closest neighbouring properties consist of Nos.1-10 Traston Lane which (in the main) face into the site, and Nos.5-23 (odd numbers) Traston Close which share their rear boundaries with the application site. The rear garden of the properties on Traston Close vary in depth, however, at their shortest measure 20m. This coupled with the depths of the rear garden of the proposed dwellings would ensure overall separation distances of approximately 28m. This is considered to be suitable in this urban context and would avoid any harm cause to the residential amenity of existing or future occupiers. The dwellings located on Traston Lane that face into the site would maintain access via their Traston Lane, which would terminate at the boundary of Plot 21 of the proposed scheme. It is considered that there would be sufficient separation distance between the front elevations of these existing dwellings and the proposed dwellings, which would be in excess of 21m.

Archaeology

7.13 The application site is located on the Caldicot Levels where archaeological investigation has in places located important archaeological features. The land that is subject of this application was part of a large medieval open field known as Broadmead. There appears to have been a medieval settlement to the southwest of the site. However, archaeological watching briefs have been carried out during the construction of the nearby playing pitches, cricket practice area and tennis centre finding no significant specimens. As such, Glamorgan Gwent Archaeological Trust has raised no objection to this proposal.

Protected Trees

7.14 A number of significant trees protected by Tree Preservation Orders line the north-western and south-western boundaries of the site. In addition, there is a large protected tree on the northern boundary and two trees located opposite the existing terrace that face into the site. The majority of these trees are proposed to be retained. However, a number of trees have been identified by the Tree Survey as being in poor condition or dead. In view of this, they have been proposed to be felled and replaced with similar species. The Head of Streetscene has been consulted on the application and has raised no objection to the proposal following the submission of the Tree Survey, Tree Schedule, the Arboricultural Assessment, Pre-Construction Methodology, and Maintenance Schedule. It is, however, advised that conditions are imposed on any permission granted requiring the submission of further information to secure the health of the trees.

Flood Risk & Drainage

7.15 The application site lies entirely within flood zone C1. Technical Advice Note (TAN) 15 and Policy SP27 requires development in flood risk areas to be justified. As part of the justification the applicant has submitted a flood consequence assessment (FCA) in order to assess the risks associated with flooding. This indicates that the area is served by significant infrastructure, including flood defences. The Levels generally lie below the predicted extreme high tide level but are protected from inundation by the sea defence structures which have been strengthened in places to protect against extreme tides. The Levels are also criss-crossed by numerous reens which provide storage during tide locked periods. Current guidance recommends the effects of climate change to be taken into account for 50 years. The Environment Agency has been consulted on the application proposal and has reviewed the FCA. Based upon the information submitted the Environment Agency has advised that the risks and consequences of flooding can be managed in line with the guidance set out in TAN 15. This is on the basis that a condition is imposed on any permission to ensure that the finished floor levels of the dwellings are set no lower than 6.80m AOD. In order to achieve this level the site would need to be raised by varying amounts ranging from between 250mm to 1.16m. The ground increase would be only a modest 250mm at the entrance to the site, 350mm at the opposite end of the site, with a small area at the centre of the site along the rear boundary with the cricket ground (furthest away from existing properties) being raised by approximately 1m. In view of this, it is considered that the development would not appear out of character with the streetscene or result in an unacceptable impact on the amenities of neighbouring residents given the separation distances.

7.16 The impact of the proposal must also be considered in relation to its potential impacts regarding drainage and flood risk for the existing surrounding forms of development. The applicant intends for surface water to enter to the reen at the north-western boundary. The foul water would go to the existing mains drainage system restricted via a hydra-brake system; the connection point would be via an inspection chamber located to the rear of No.10 Traston Lane. Dwr Cymru has been consulted on the proposal and has provided no objection to the proposal provided surface and foul water are drained separately from the site and no surface water is allowed to flow into the public sewerage system. These requirements are satisfied. It is advised that a condition is attached to any permission to ensure that a comprehensive drainage system for the site is submitted for approval. In addition, the Environment Agency advise that proposed discharges from the site are restricted to a

Greenfield run-off rate no greater than 3.5l/sec/ha. The applicant has confirmed that this can be achieved.

7.17 Concerns have been raised by neighbours and Councillor Critchley regarding the ability of the existing reen system to cope with further demands being placed upon it. The FCA has considered the impact of additional surface water discharge, which it confirms would enter the existing system. It is noted that any additional surface water would be attenuated to a Greenfield run-off rate of 3.5 l/s/Ha, which the Environment Agency consider to be suitable. It should be noted that the reens that stretch along the southern and western boundaries of the site are maintained by the Head of Continuing Learning and Leisure. The reen running along the cycle path to the southwest of the site is maintained by the Head of Streetscene. The Leisure section has confirmed that the reens managed by them in this vicinity were cleared in September 2010, at which time the pond on the NISV site was also cleared and the attenuation pond adjacent to the Velodrome was enlarged. The reen managed by Streetscene was last cleared in Oct 2010 to reduce the potential for flood risk.

Ecology

7.18 The site lies within 1500m of the Gwent Levels, Nash and Goldcliffe SSSI, and approximately 1400m of the River Usk SAC and SSSI. There are also a number of significant trees present on the site which is also bordered on two sides by a reen network. In view of this, the site has potential for attracting European and UK protected species.

7.19 Policy CE5 relates to proposals which would affect a European site. It aims to give the highest protection to priority habitat types or priority species designated in European legislation. Within the City of Newport examples of priority species are the Allis and Twaite Shad and Otters. If it appears that a proposal would create an adverse affect upon protected sites, the Council is not able to grant permission under Policy CE5. Policy CE6 offers similar protection to sites of National importance for nature conservation.

7.20 Bats and Barn Owls are European protected species classified under the Conservation (Natural Habitats, &c.) Regulations 2010 and continue to experience significant population declines. The welfare of European protected species is a material consideration in the determination of planning applications. Breeding birds are protected by the Wildlife and Countryside Act 1981 so it is illegal to intentionally kill, injure or take any wild bird, take or damage a nest whilst in use or being built, or take or destroy eggs.

7.21 The applicant has submitted an Extended Phase 1 Habitat Survey which was undertaken in June 2010 following clearance of the site. The Head of Streetscene (Ecology Officer) and the Countryside Council for Wales have reviewed this document and offer no objection to the proposed scheme. However, the remaining (protected) trees on the site have the potential to support bat roosts. It is therefore advised that conditions are attached to any permission to ensure that further works are carried out in accordance with the recommendations of the Habitat Survey; a scheme for the retention of mature trees that offer roosting potential is submitted and agreed; a construction environmental management plan is submitted; and further survey work is undertaken in respect of reptiles, and a mitigation strategy is submitted.

Highway Safety

7.22 In respect of highway safety, the applicant has undertaken a sustainability assessment which suggests that the site scores 8 points. The Head of Streetscene advises that the sustainability score should be 7 points given that access to the schools should be classed as one point rather than two. It is considered that the level of car ownership in this area is quite high. As such, only a minimal reduction in spaces would be acceptable. The proposed layout indicates a reduction in parking for plots 3 & 4 to two spaces each, which is considered to be suitable. The remainder of the plots would retain three spaces in accordance with the CSS Wales Parking Standards 2008.

7.23 It is proposed to construct a new road into the site creating an extension to Traston Road running parallel to Traston Lane. The road would run the full length of the proposed estate having a turning head adjacent to the north-western boundary of the site. The existing bollards located on Traston Road would be relocated at the edge of the proposed speed table to prevent vehicular access to the cycle path. The Head of Streetscene considers the proposals to be acceptable, however, has advised that conditions should be attached to any permission requiring the submission of a construction management plan, and full engineering drawings for the proposed new highway. In addition, it should be noted that the applicant intends for the full 150m length of the new highway, together with footpaths and street lighting to be adopted by the Council. A condition would ensure that the new highway is constructed to adoptable standards.

7.24 The applicant has also submitted a track test drawing to show how a domestic refuse collection vehicle would access and egress the site. The Head of Streetscene has confirmed that the turning

head movements are acceptable. However, a further drawing is required to show how a refuse vehicle and car can pass each other on the bends. This can be controlled by way of condition.

7.25 As a further matter, given that the applicant intends to undertake works to the public highway which fall outside of their ownership, it would be necessary to enter into a Section 278 Legal Agreement with the Highway Authority. This would be applied as a note to any permission granted and would be a requirement of the Section 106 Agreement.

Planning Obligations

7.26 The proposal comprises the erection of 21 [No] dwellings (i.e. 9 four bed houses and 12 three bed houses), triggering a requirement for planning obligations to mitigate its impact and thereby provide a sustainable development.

7.27 Given that the proposal falls beneath the threshold for providing affordable housing, there is no requirement for this. However, the development exceeds the thresholds for providing leisure and education contributions. The development falls within the catchment area for Lliswerry High school and its associated primary feeder schools. Taking into account the scale and type of development and the current pupil numbers/capacities, no education contribution is required. In terms of leisure, owing to the close proximity of the site to the Newport International Sports Village (NISV) there will be no need for on-site provision. As such, based upon the scale and type of dwellings proposed and in accordance with the NPFA standards, £69,009.40 is requested for provision of off-site informal and equipped play at NISV.

7.28 A monitoring fee of £792 (15% of the planinng application fee) will be required to cover the Council's costs incurred in entering into early negotiations and ongoing monitoring of the planning obligations.

Neighbour Representations

7.29 Five letters/emails have been received from local residents raising concerns in respect of flooding, drainage problems in the area, highway safety concerns associated with additional traffic on the local highway network, the proposal affecting the protected trees on the site, and danger from cricket balls entering the site from the adjacent cricket field. The concerns regarding flooding, drainage, traffic and trees are considered to have been dealt with in the above assessment.

7.30 The dangers associated with cricket balls is a health and safety concern and in order to combat this issue, an on-site meeting with the applicant, representatives of the Cricket Club and the Leisure Manager was held and it has been agreed that a 9m high mesh fence should replace the existing fence that is located on the cricket club land. It is considered that a 9m high fence would provide sufficient protection to future residents from cricket balls. The fence would be considerably higher than the existing fence, and as a result would be more visible. However, such a structure would not be dissimilar in appearance to a fence at a golf driving range and would be viewed in the context of the Sports Village site, where such structures are typical. Moreover, there is plentiful screening to lessen the visual impact of the fence. Monies to facilitate this can be secured via the Section 106 procedure, which can then be used to employ a Council approved contractor to erect the fence. Given that the Cricket Club have recently signed a 25 year lease from the Council for the ground, they will need to be a signitory to the legal agreement.

7.31 Overall, this site represents vacant, urban land in a sustainable location that is allocated within the current adopted Development Plan for housing purposes. In such locations development is encouraged and supported by local and national planning policies. None of the concerns raised lead the Authority to consider this development unacceptable.

8. OTHER CONSIDERATIONS

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

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

8.2 ***Equality Act 2010***

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

8.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;

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

8.4 The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

9. CONCLUSION

9.1 It has been demonstrated that the proposed development is acceptable from a highways, tree, drainage, flood risk, and archaeological perspective. The design and layout of the development is considered to be acceptable and it is not considered that there will be any material loss of privacy to existing residents. On this basis, it is recommended that planning permission be granted subject to the following conditions and a Section 106 Legal Agreement.

10. RECOMMENDATION

GRANTED WITH CONDITIONS AND SUBJECT TO A SECTION 106 LEGAL AGREEMENT

01 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings.

02 Prior to the commencement of construction work on any dwelling, details of the proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the approved details, prior to the first occupation of the dwelling to which they relate and then maintained in the approved state thereafter.
Reason: To ensure the development is completed in a satisfactory manner.

03 No development shall commence until full details of the surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented fully in accordance with the approved scheme prior to the first occupation of any dwelling.
Reason: To ensure adequate drainage is provided.

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

05 No development shall commence until a Tree Protection Plan (in accordance with BS 5837:2005) has been submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall contain full details of the following:-
(a) Trees and hedges to be retained/felled clearly identified and marked on a plan;
(b) Trees and hedges requiring surgery;
(c) The root protection areas to be identified on plan for retained trees and hedges;
(d) The type and detail of the barrier fencing to be used to safeguard the root protection areas;
(e) The precise location of the barrier fencing, to be shown on plan.
The development shall be carried out in accordance with the approved Tree Protection Plan.
Reason: To protect important landscape features within the site.

06 No operations of any description (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection with the development until the Root Protection Barrier fencing has been installed in accordance with the approved Tree Protection Plan. No excavation for services, storage of materials or machinery, parking of vehicles, deposits or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within the Root

Protection Area. The fencing shall be retained for the full duration of the development, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
Reason: To protect important landscape features within the site.

07 No operations of any description, (this includes all forms of development, tree felling, tree pruning, temporary construction access, soil moving and operations involving the use of motorised vehicles or construction machinery), shall commence on site in connection within the development, until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. (The Arboricultural Method Statement shall contain full details of the following:
(a) Timing and phasing of arboricultural works in relation to the approved development;
(b) Construction exclusion zones;
(c) Protective barrier fencing;
(d) Ground protection;
(e) Service positions;
(f) Special engineering requirements including 'no dig construction';
(g) Pre construction tree works;
(h) Approved tree removals;
(i) Access facilitation pruning;
(j) Landscaping;
(k) Name, qualifications and contact details of the Arboricultural Contractor(s) and/or Consultant(s) who will be implementing the above are to be supplied to the Councils Tree Officer.
The development shall be carried out in full compliance with the Arboricultural Method Statement unless otherwise first agreed in writing by the Local Planning Authority.
Reason: To protect important landscape features within the site.

08 No development shall commence until an Arboriculturalist has been appointed, as first agreed in writing by the Local Planning Authority, to oversee the project (to perform a Watching Brief) for the duration of the development and who shall be responsible for -
(a) Supervision and monitoring of the approved Tree Protection Plan;
(b) Supervision and monitoring of the approved tree felling and pruning works;
(c) Supervision of the alteration or temporary removal of any Barrier Fencing;
(d) Oversee working within any Root Protection Area;
(e) Reporting to the Local Planning Authority;
(f) The Arboricultural Consultant will provide site progress reports to the Council's Tree Officer at intervals to be agreed by the Councils Tree Officer.
Reason: To protect important landscape features within the site.

09 No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP 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;
- wheel washing details;
- details of contractor parking areas and site set up;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.
- pollution prevention and contingency measures.
Development works shall be implemented in accordance with the approved CEMP.
Reason: To protect the amenities of nearby residents and in the interests of ecology including European protected species and in the interest of safeguarding the features of the Severn Estuary European sites and SSSI and the River Usk SAC and SSSI.

10 No development shall commence until full engineering drawings of the layout, widths, gradients and means of construction of the new carriageways and footpaths, and details of means of access from existing roads has been submitted to and approved in writing by the Local Planning Authority. With the exception of the final wearing course, the development shall be completed in accordance with the details as approved prior to the first occupation of any building. The final wearing course shall be completed prior to the first occupation of the last building.
Reason: To ensure that the roads shall be constructed and sited to the satisfaction of the Council so far as to provide a proper means of access for traffic.

11 Prior to the commencement of the development a scheme detailing measures to ensure retention of mature trees that offer potential for roosting opportunities to bats shall be submitted to and agreed

in writing by the Local Planning Authority. The development scheme shall thereafter be implemented strictly in accordance with the agreed scheme.
Reason: In the interests of ecology including European protected species.

12 Prior to the commencement of development detailed track testing drawings, to show that a domestic refuse vehicle and car can pass on bends leading into the site, shall be submitted to and agreed in writing by the Local Planning Authority. The new carriageway shall be constructed in accordance with the approved details.
Reason: In the interests of highway safety.

13 Prior to the commencement of development a detailed reptile survey shall be submitted to and agreed in writing by the Local Planning Authority as recommended in the Extended Phase 1 Habitat Survey prepared by Hawkeswood Ecology. Appropriate mitigation measures shall thereafter be agreed (as required) with the Local Planning Authority and implemented accordingly.
Reason: In the interests of nature conservation.

14 Prior to the occupation of any unit, space for the parking of vehicles shall be provided within the curtilage of the site in accordance with the details shown on Drawing 253/02D. Thereafter, the parking spaces (including garages) shall be kept available for such use at all times.
Reason: To ensure that adequate off-street parking provision is made in the interests of highway safety.

15 The works shall be carried out in accordance with the Extended Phase 1 Habitat Survey (prepared by Hawkeswood Ecology – June 2011)
Reason: In the interests of nature conservation.

16 The Finished Floor Levels at ground floor level of the dwellings hereby approved shall be constructed in accordance with the levels shown on the plan labeled (Figure 4), contained within the correspondence dated 24th October 2011).
Reason: To reduce the risk of flooding.

17 No window or door openings (other than those shown on the approved plan) shall be formed at first floor level in the side elevations of Plots 5, 15, 20 & 21 of the dwellings hereby approved without the prior written permission of the Local Planning Authority.
Reason: To protect the privacy of adjoining residents.

18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), Schedule 2, Part 1, no development within Classes A, B, or E shall be carried out without the prior written permission of the Local Planning Authority.
Reason: To ensure that a satisfactory form of development takes place, to protect the amenities of occupiers of adjoining properties, and to protect the health of the protected trees.

19 The garages hereby permitted for Plots 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20 & 21 shall only be used for the parking of private motor vehicles and for no other purpose, including any other purpose incidental to the enjoyment of the dwelling house.
Reason: To ensure that adequate on-site parking is retained in the interest of highway safety and residential amenity.

20 Surface water run-off to the reen system shall be restricted to a 'Greenfield' rate of run-off 3.5 l/s/hectare.
Reason: In order to reduce the risk of flooding.

NOTE TO APPLICANT

01 This decision relates to plan Nos.253/01, 02D, 03B, 04B, 05, 06B, 07B, 08B, 09A, 10A, 11A, 12, 13, 15A, 20, 30B, 31B, 32B, 33B, 40B, 41B, 42B, 43B, 50B, 51B, 52B, 53B, 54B, 60B, 61B, 62B, 63B, 64B, 100B, 101B, 102B, 103B, 110B, 111B, 112B, 113B, 160B, 161B, 162B, 163B, TS/253, 253/16 (Sections Through Gardens), Highways Auto Tracking Drawing (received 25/01/2011), Flood Consequence Assessment (dated July 2009), Landscape Maintenance Schedule, Tree Survey (dated January 2011), Arboricultural Report (dated January 2011), & Extended Phase 1 Habitat Survey (dated June 2011).

02 The development plan for Newport is the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006). Policies SP1, SP2, SP11, CE5, CE9, CE10, CE13, CE26, CE28, CE31, CE38, CE39, CE44, CE45, H1, H2, SP24, SP27 and T7 were relevant to the determination of this application.

03 The developer is advised to observe the following periods for construction activity:
(i) No construction work which involves piling should be carried out on site other than between the hours of 0800 and 1700 hours Mondays to Fridays and no construction work involving piling should be carried out on Saturdays, Sundays or Bank Holidays;
(ii) Any construction work which does not involve piling shall not be carried out other than between the hours of 0800 and 1800 hours Monday to Friday and between the hours of 0800 and 1300 hours on Saturdays. The prior approval of the Head of Public Protection and Environmental Services

04 Techincal Advice Note 15 (Development and Flood Risk) (2004) was relevant to the determination of this application.

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

06 Prior to the commencement of the development hereby approved, the developer should contact the Council's Spatial Data Unit on [01633 233263] regarding street naming and numbering.

07 This decision relates to a Section 106 Legal Agreement dated …

08 The developer is advised that any culverting or works affecting the flow of a watercourse requires the prior written consent of the Inland Drainage Board under the terms of the Land Drainage Act 1991.

09 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.

10 The developer is advised to contact the Head of Streetscene in order enter into a Section.278 Legal Agreement to carry out works to the public highway.

11 The amended Wildlife and Countryside Act 1981 protects bird species whilst nesting in the UK, this protection extends to a bird, its nest eggs and young until such times as the young have fledged. Works that affect vegetation, should proceed outside of the peak bird-breeding season (generally considered March through to August inclusive) or within the breeding season only if a pre-works survey shows no breeding birds to be present, nesting or commencing nesting within vegetation or structure to be affected.

12 The Council’s Supplementary Planning Guidance for Infill and Backland Development (Adopted September 2009) was relevant to the determination of this application.

APPENDIX 2 – Officer Report for Penmaen Wharf

APPLICATION DETAILS

No: 07/0031 Ward: ***PILLGWENLLY***

Type: FULL

Expiry Date: 12/03/2007

Applicant: ***COLLINGBOURNE PROPERTIES***

Site: ***PENMAEN WHARF CHURCH STREET NEWPORT SOUTH WALES NP20 2BY***

Proposal: ***ERECTION OF APARTMENT BLOCK COMPRISING 160 APARTMENTS, BOOKING OFFICE ASSOCIATED WITH PLEASURE BOAT LANDING FACILITIES, CAFETERIA, CREATION OF PUBLIC OPEN SPACE AND ASSOCIATED CAR PARKING AFFECTING PUBLIC RIGHT OF WAY ST38NW-13 FOOTPATH NEWPORT 403-1***

CONSULTATIONS

HEAD OF ENGINEERING AND CONSTRUCTION: Raise objection to the application on the grounds that traffic signalled controlled pedestrian crossing on Usk Way is deemed as unacceptable due to safety and capacity concerns. This site is divorced from the nearest local centre of Pillgwenlly by a 50 miles per hour dual carriageway with substandard pedestrian crossing. The site also has poor pedestrian access to the City Centre and will not benefit from public transport. This development cannot be deemed as sustainable and does not comply with Welsh Assembly Government Planning Policy. Notwithstanding this objection the on site proposals are acceptable from a highways point of view. A residential travel plan will be required to be submitted.

HEAD OF EDUCATION SERVICES RESOURCES AND PLANNING: A financial contribution towards local Primary school education infrastructure (Pillgwenlly Primary School) is requested.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES:
Contamination: As the land is located on potentially contaminated land conditions to ensure investigation of potential contamination together with any necessary mitigation are required.
Construction Environmental Management Plan: A scoping document for the proposed CEMP has been submitted and as well as the issues listed details of air quality monitoring will be needed; construction hours will need to be secured; and it is recommended that an Environmental Liaison Officer be appointed to monitor the demolition/construction work and be a source of contact for the local authority officers and public.
Noise: Noise standards will need to be achieved to protect the proposed residential units.
Lighting: Details of external lighting to meet required standards would need to be submitted.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (BIODIVERSITY OFFICER): An Appropriate Assessment is required to be undertaken if there is potential for the development to adversely affect the River Usk SAC. The main potential impacts relate to disturbance of shad by piling operations, disturbance to otters during the construction process and potential for contamination of the River Usk. The Biodiversity Officer is satisfied with the ecological information submitted with the application as it identifies the main impacts associated with the proposed development and appropriate mitigation. If Planning Permission is granted then a number of conditions are recommended to ensure the protection of the SAC.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (PUBLIC RIGHTS OF WAY OFFICER): The proposed diversion of a public right of way along the proposed route shown on the plans is supported.

HEAD OF CONTINUING LEARNING AND LEISURE: A financial contribution towards local off-site play space is requested.

HEAD OF HOUSING (AFFORDABLE HOUSING): No affordable housing is proposed on this application site but in lieu of this the applicant proposes to provide affordable housing on another site nearby in Church Street for which a separate planning application has been submitted and appears on this same Planning Committee agenda. It would therefore be required to link the two sites to ensure that the affordable housing land is transferred to the Housing Association which would be secured through a S106 legal agreement. The affordable housing site would provide 16 1 and 2 bed units which would amount to 10% of the number of units for this Penmaen Wharf application. The applicant has also agreed to make an additional financial contribution of £100,000 towards other affordable housing in the area. The combination of the 16 units and the financial contribution is considered to adequately meet the affordable housing requirements for this proposed development.

POLICE ARCHITECTURAL LIAISON OFFICER: Because the proposal will be introducing residential use to this area it will provide an opportunity for reported crime due to an increase in residential properties and vehicles. It is not clear what security measures are proposed for the proposed car parking. Entrance doors to the lobby areas would need to be carefully managed and fitted with appropriate security. Installation of a monitored alarm system for the stand-alone cafeteria together with staff panic button facility is recommended. Appropriate lighting is required for the whole development to offer maximum opportunity for natural surveillance and provide optimum coverage for any CCTV coverage. Other general advice for security measures is also listed.

NEWPORT UNLIMITED: Generally supportive of the proposed development as it will contribute to the wider regeneration of the City Centre as outlined in the City Centre Master Plan, as well as specifically contributing to the enhancement and regeneration of the adjacent Old Town Docks area, as set out in the Old Town Dock Development Brief. Whilst this Development Brief identifies the site for possible park uses, Newport Unlimited accept that residential use is an appropriate use particularly given the contribution the proposed landing stage would make to the viability of the park along with the pedestrian/cycle links, cafeteria, public open space. There are some concerns about the design of the development as given its gateway location this needs to be reflected in the design quality and in particular careful attention needs to be given to the use of robust materials in the marine environment. The highest eco homes rating should be encouraged in the development.

DWR CYMRU – WELSH WATER: Recommend conditions relating foul and surface water discharge in order protect the integrity of the publoc sewerage system.

WALES AND WEST UTILITIES: No objections raised.

WESTERN POWER DISTRIBUTION: No objections raised.

COUNTRYSIDE COUNCIL FOR WALES: Objects to the application pending the completion of an Appropriate Assessment relating to the impact of the development on the River Usk Special Area of Conservation (SAC). Prior to an appropriate assessment CCW are unable to state that the development would not be likely to have a significant effect on the River Usk SAC. Specific concerns relate to possible pollution to the River Usk through surface water drainage; disturbance to otter and migratory fish species from construction including piling and in-channel works; and potential disturbance to the river and bank from pleasure boat operations. *Comments from CCWon the appropriate assessment will be reported verbally at your meeting.*

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: An initial archaeological evaluation of the site was undertaken to ascertain whether or not a piece of timber located during geotechnical work was part of a structure or if it was a piece of drift wood. The trial pit did not appear to have located the specific piece of wood but other timbers were found and identified as drfitwood. As such it is unlikely that the original timber was part of a structure. However, as it may be possible that other archaeological features are present elsewhere on the site a

condition is recommended to secure a programme of archaeological work should planning permission be granted.

ENVIRONMENT AGENCY: The site lies partially within zones C2, C1 and B as defined by the development advice map referred to under TAN15 (Development and Flood Risk – July 2004). The TAN states that a highly vulnerable development such as this should not be permitted within zone C2 (*Note: The area of C2 is only around the edge of the wharf and not where the residential development is proposed)*. Notwithstanding this, the EA are satisfied that the flood conmsequences assessment (FCA) submitted demonstrates that the risks and consequences of flooding can be acceptably managed and so recommend a condition to ensure minimum slab and site levels in the event that planning permission is granted contrary to TAN15. The site levels vary from 8.0m to 9.2m above ordnance datum (AOD) and the proposals involve raising the site. As the flooding would be tidal, the floor slabs of the dwellings should be above the 1:1000 year flood tidal level of 9.10m AOD with the roads and parking areas being above the 1:200 year tidal prediction of 8.87m AOD both allowing for climate change over the next 50 years. In relation to contamination, conditions are recommended to require investigation and any necessary remediation works. Construction waste is required to be disposed of satisfactorily. An appropriate Assessment is required to be carried out to assess the impacts on the River Usk SAC. The site contains Japanese Knotweed which needs to be prevented from spreading. The EA support the recommendations of the Ecological Appraisal Report submitted.

RELEVANT SITE HISTORY

97/0074	Certificate of lawfulness for existing use for the processing, sorting and storage of waste and salvageable material and the storage of skips.	Granted June 1998
93/0228	Certificate of lawfulness for existing use as transfer station for waste materials – processing of ferrous and non-ferrous metals.	Refused December 1994
90/0221	Construction of two storey workshop building.	Granted with Conditions June 1990
05/1525	Change of use to car sales, erection of fence and lighting and provision of portacabin affecting footpath 403/1.	Refused May 2005.
05/0391	Change of use to car sales.	Refused May 2005.
06/0389	Retention of change of use to car storage and valetting and retention of security fencing up to 4.00mm high.	Undetermined.
06/0525	Installation of fenders for use of wharf by shipping.	Granted with Conditions September 2006

POLICY CONTEXT

Newport Unitary Development Plan 1996-2011 (Adopted May 2006)

Policy ED2 encourages appropriate redevelopment schemes in specific locations. These locations include Old Town Dock. The supporting text states that the redevelopment of this site was a priority of the Newport Development Board.

Policy CE5 seeks to protect European sites or Ramsar sites from harmful effects of development.

Policy CE6 seeks to protect nationally designated sites.

Policy CE30 encourages urban regeneration schemes particularly those which will result in the protection or enhancement of the built environment especially in the Usk riverfront corridor, Pillgwenlly, other older inner areas, the City Centre, district centres and major route corridors; results in the reuse of vacant and derelict land provided that the design policies of the UDP are met; and will result in a reduction in the adverse effects of road traffic.

Policy CE38 encourages good quality design in all forms of development.

Policy CE39 requires proposals for new residential development to respect or complement existing surroundings and neighbouring buildings.

Policy H5 requires new housing development on a substantial scale to contain a mix of house types and sizes capable of meeting a range of housing needs. The Council will in particular seek to negotiate appropriate elements of affordable housing.
Policy SP1 favours proposals which make a positive contribution to sustainable development.
Policy SP2 requires high quality of design in all development proposals. New development should seek to enhance the site and the surrounding area and to provide benefit to the community as a whole.
Policy SP10 requires sufficient land to be made available for new housing. The land will be provided primarily on previously developed land.
Policy SP24 and U6 require development which could increase the risk of flooding due to additional surface water run off to include appropriate and environmentally sympathetic mitigation measures.
Policy T14 encourages recreational and sustainable transport initiatives, including safe walking and cycle routes.

ASSESSMENT

The site and surrounding area

The application site comprises of approximately 0.46 hectares of land to the south and east of Usk Way at the point that this road changes direction at the bend in the River Usk. The River Usk to the south of the site is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). There is a wharf at the southern end of the site which has been recently upgraded with the provision of fenders to allow the reintroduction of mooring for the pleasure steamers Waverley and Balmoral. The site is located beyond the western end of the proposed Riverside Park. On the opposite side of Usk Way to the north is a factory unit whilst to the north-west is the residential area of Pillgwenlly.

Proposed development

Application is made for the erection of 160 apartments in one building with three split height sections the lowest being 10 storey (approximately 31m excluding plant enclosures which would add an additional 2m) at the western end, the middle section being 12 storey (approximately 37m excluding plant) and the eastern section being 14 storey (approximately 43m excluding plant). The bottom two levels would be given over to car parking with vehicular access via an access onto Usk Way at the eastern end of the site. 160 parking spaces are proposed for the apartments. The proposed apartments would consist of a mix of 1 and 2 bedroom units (61 (No) 1-bed and 99 (No) 2-bed). The application also involves the provision of a booking office and waiting area to serve the pleasure boat use of the wharf together with a cafeteria and public realm area. 36 parking spaces are proposed in addition to the 160 for the apartments to serve the customers of the leisure boats as well as for visitors of the apartments given that the pleasure boat only operates on an occasional basis. It is also proposed to provide a footway alongside the river, partially cantilevered over the river bank along the south western site boundary linking to Usk Way west of the site via a footbridge. The footway would involve a diversion of an existing public right of way which runs through the existing industrial site and would therefore enable the provision of a more coherent riverside path. At the ground floor wharf level there is proposed to be an open landscaped area which would be publicly accessible from the wharf and riverside path as well as from the apartments. At the second floor level, which would be the first level of apartments, there is also proposed to be a landscaped rooftop garden on the roof of part of the car park which would be private space solely for occupiers of the apartments.

Principle of development

The proposed development would provide partial regeneration of this area which is in accordance with Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) Policy CE30. The proposal, with enhanced facilities to serve the use of the wharf for pleasure boat users together with provision for a cafeteria, enhanced riverside path and publicly accessible open space, is also considered to form an appropriate development at the end of the Old Town Dock development area. From an economic development point of view it is considered that the development would bring new investment into a fairly derelict and run down part of Newport on the riverbank which is consistent with the Council's Regeneration Strategy.

Design

The height and scale of the residential development is considered appropriate in this gateway location. The proposed materials would consist of white-coated aluminium rain screen cladding, with dark grey aluminium framed windows and doors glazed with green tinted solar glass where appropriate. The proposed glazed balconies would contain similar glass to the windows together with stainless steel handrails whilst the screens between balconies would consist of dense treated timber panels. The proposed materials are considered acceptable in principle although further details and samples can be secured by condition should the application be approved. The proposed cafeteria and booking office/waiting area would be a single storey building on the wharf area. The design of this building is considered appropriate for the use and proportionate to the space it occupies. No details of materials have been submitted for this building but such details can be secured by condition should the application be granted planning permission.

The proposal also includes provision for a significant amount of soft landscaping including tree planting along the northern Usk Way frontage and alongside the proposed access road into the site. Further details can be secured by condition should the application be approved.

Highways
The proposed level of parking and provision for servicing on the site is considered acceptable. The Head of Engineering and Construction is concerned about the sustainability of the location for residential use given that it is not possible to create a direct link to the existing residential area of Pill, with its existing public transport network, via a new pedestrian crossing over Usk Way. However, in terms of accessibility to public transport there is proposed to be an improved bus service to serve the new Redrow Homes development currently under construction on the former Black Clawson site which would only be approximately 400-500m away from the application site. This would be accessible via the signal controlled junction at the point at which Usk Way bears north-south and the SDR bridge continues to the east. This route would be further enhanced once the southern section of the Old Town Development Brief area is developed alongside the river immediately to the east of the application site. The application does also include provision for cycle parking for the prospective residents further details of which can be secured by condition should the application be approved. It is therefore considered that whilst access to public transport is not ideal this does not represent sufficient reason for refusing the application.

Impact on the River Usk SAC and SSSI
The Countryside Council for Wales object to the proposal as they are unable to state that the scheme would not have a significant impact on the River Usk SAC and Site of Special Scientific Interest. They recommend that an Appropriate Assessment be undertaken to assess whether the proposal would adversely affect the integrity of the SAC or SSSI. Such an assessment is set out below.

Appropriate Assessment and ecological impact
The river has been designated because the following species are special features to the River Usk:-

Allis Shad;
Twaite Shad;
Bullhead;
River Lamprey;
Brook Lamprey;
Sea Lamprey;
Atlantic Salmon;
Otter;
Water Crowfoot.

The conservation objectives of the SAC include:-

- to maintain the availability of current spawning sites and lamprey nurseries;
- to maintain suitable flows, water quality and sediment loads to sustain the population of shad, lamprey and nurseries;

- to maintain riparian habitats to ensure optimum conditions for shad lamprey and bullhead;
- to identify all linking factors on the population of shad, lamprey and bullhead and to seek to remove or minimise their effects;
- protection of otter breeding sites and resting places.

The Usk is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter.

The application site is located with its southern boundary adjacent to the SAC boundary but not within it. However, works to improve the wharf site to allow for the development are proposed close to the SAC boundary and there is also proposed to be a walkway along the southern edge of the site and a footbridge linking the footway to Usk Way across a storm water outfall to Pillgwenily at the western edge of the site. The proposed footway is proposed to be a cantilevered construction as is the bridge over the outfall where unmanaged vegetation merges with adjacent riparian vegetation.

The ecological appraisal submitted suggests that whilst the nature of the site in terms of habitat and use is unlikely to encourage otters to shelter and breed in the vicinity of the site, there has been evidence of otters within the adjacent mud flats of the river suggesting that they do use the habitat as cover for moving along the river corridor. In terms of otter habitat there would not be any loss of existing habitat resulting from the development with the only riverside vegetation on the site comprising an area of saltmarsh on the eastern side of the wharf which would be retained. Vegetation beneath the proposed bridge would also be retained as the proposed bridge is proposed to be cantilevered over it. There is also riparian vegetation consisting of saltmarsh and buddleja on the western side of the wharf but outside the site boundary. There is therefore potential for a degree of impact on otter habitat from construction works for the proposed apartments, cafeteria, footway and bridge and works to the wharf (including restructuring works). Works relating to the wharf, footway and bridge may also involve a degree of operation from the strandline/mud bank of the River Usk SAC, and so it would be necessary for such works to be controlled through the proposed Construction Environmental Management Plan (Condition 11). The only in channel works would involve the installation of a new surface water drainage outfall into the river. Such works would be of a localised minor nature but nevertheless could have an impact on the SAC and as such would also need to be controlled through the CEMP (condition 11).

As well as condition 11, in order to safeguard the SAC and to protect otters and their habitat from contaminants, noise, light and vibration resulting from the development as a whole a number of other conditions are required to secure this (Conditions 1-12 and 14). Proposed measures in the form of fencing to prevent otters entering the application site during construction can also be secured by condition (Condition 13). The works proposed to the wharf are also intended to ensure clear passage for otters beneath the wharf during and after construction which can also be secured by condition (Condition 17). Landscape proposals for the edges of the site adjacent to the site should also be appropriate to support existing habitat detail of which can be secured by condition (Condition 16). Such landscaping details would need to include measures to control Japanese knotweed within the site. With such controls in place it is considered that there would not be any adverse impact to the SAC and in particular the otters.

Disturbance to otters from the use of the wharf for pleasure boat operations for example in terms of noise from people embarking/disembarking and lighting levels was a matter previously considered in relation to planning application (No 06/0525) for installation of fenders for use of the wharf by shipping. As noted in the appropriate assessment for that application the proposed use is only intended to take place five times per year, arriving and departing on the top of the spring tide. The intertidal habitat is entirely covered by water at the time of the spring high tide. The ships would not be moored for any length of time and would not occupy any mud berth between the two high tides. The proposed use would therefore be very low key and due to the particular conditions of the river, it is considered that there would

not be any adverse impact on otters. In terms of embarking and disembarking procedures, the limited space available on the wharf, plus the Health and Safety requirements of the operation, mean that only the two or three people involved in the mooring of the ship will be on the wharf at the time when the ship arrives. All embarking passengers will be held back on land until arriving passengers have left the ship and have made their way to shore. The impact of people moving will therefore be completely hidden from the River by the bulk of the ship itself. In terms of vehicle movements associated with the use the proposed car parking for visitors to the wharf and its facilities are proposed to be beneath the apartment building and well away from the river bank. The planning permission 06/0525 secured by condition details of embarking and disembarking procedures. It is therefore not considered necessary to repeat this condition as this is covered by the permission already granted for the fenders which facilitate the use of the wharf. With such a condition in place along with details of lighting secured by condition (condition 12) it is considered that use of the wharf in this way would not cause adverse impact on the SAC.

There is the potential for significant effect on the migratory fish features of the River Usk SAC. The specific concerns relate to: how surface water would be disposed of during construction and operation; how potential contamination of groundwater on the site will be addressed; what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction and operation phases of the development; and the effects of any vibration generated during the construction process. It is therefore recommended that conditions are imposed on any consent granted to provide suitable protection (Conditions 1-11, and 15). CCW raised concern about the potential of pollution arising from flooding of the site however, it is proposed that the site would be raised to prevent flooding such that building slab levels would be a minimum of 9.1 meters Above Ordnance Datum (AOD) with the external areas being a minimum of 8.87m AOD in accordance with Environment Agency requirements.

The current and previous uses of the site raises the question of contamination. It is therefore recommended that conditions be imposed to ensure that a full investigation of contamination on the site is carried out and any contamination which is found is remediated in accordance with an approved remedial strategy (Conditions1-4).

It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.

In terms of in combination effects of the development when considered alongside other developments in the area, it is considered that with the imposition of appropriate conditions referred to above, the proposed development would not combine with other developments to have a significant adverse effect on the River Usk SAC and SSSI. It is considered that the issues relevant to this application (contamination and disturbance from construction works) would be equally dealt with by similar conditions for these other developments and so it is not considered that there are any in-combination implications.

With the inclusion of appropriate conditions it is considered that any adverse effects associated with the development can be satisfactorily avoided.

Security
Issues raised by the Gwent Police Architectural Liaison Officer concerning security control measures can be secured by condition should the application be approved.

Sustainability
The applicant has stated that if feasible the development would be built to meet Eco-homes excellent status on the basis that the rating will be monitored and evaluated as the detail design evolves.

Flooding

The site levels are currently in the range of 8.0 to 9.2m above ordnance datum (AOD). It is proposed that the site levels would be adjusted such that the external service areas and access roads would be set at a mi8.87m AOD whilst the finished floor levels of the proposed ground floor slab levels would be set at a minimum of 9.1m AOD in compliance with Environment Agency requirements.

Archaeology
As there is a likelihood that there would be archaeological remains at this site a condition requiring a programme of archaeological work would be imposed should the application be approved.

Section 106 Contributions
The application was lodged at the beginning of 2007 and there have been several meetings with the applicant and agent to negotiate the Heads of Terms for planning contributions. The application site also includes the provision of public open space and surfacing improvements to Penmaen Wharf itself, which was used last year for the Waverley excursions. Carrying out this additional work has a significant cost to the applicant and this has been taken into account in negotiations.

Education
The applicant has agreed to provide a financial contribution of £118,524 to be used towards the provision of Primary Education within the locality. This is based upon the potential generation of 7 pupils over the existing capacity of Pillgwenlly Primary School.

Leisure
The application was submitted prior to the adoption of the Outdoor Play Space Supplementary Planning Guidance (SPG) on 15 February 2007. In light of the provision of Paragraph 9.7 of the SPG, it is not appropriate to apply the current formula and costs to this application given its historic status and the old formula of £500 per dwelling should be used instead. Therefore, £500 multiplied by 160 units equals a leisure contribution of £80,000. It is also considered appropriate to secure a condition (if consent is granted) to ensure that the public open space identified on the submitted plans is provided and remains open and available for public use.

Affordable Housing
In light of the large costs associated with the scheme and the potential impact on the scheme's viability significant negotiations have taken place regarding the provision of affordable housing. The large blocks of flats would create some difficulty for a Registered Social Landlord in managing affordable housing units as they may be dispersed over a number of floors. In addition, given the proposed finish and maintenance charges (to also cover the ongoing maintenance of the open space around the buildings), it may prove difficult to ensure that the running costs of on-site affordable units can be affordable in perpetuity. Consequently, it has been agreed with colleagues in Housing and the applicant to follow the Council's cascade approach for the provision of affordable housing to another site. The applicant has identified a site on Church Street (Application No 07/0821 on this Agenda) which is located less than 100m away to the north west of this site. This Church Street site could accommodate 16 affordable 1 and 2 bed flats (10% of the Penmaen Wharf site) and the applicant is prepared to transfer the freehold interest of this land (following planning consent for affordable housing) to the Council's nominated Registered Social Landlord. In addition, the applicant will provide a financial contribution of £100,000 towards the construction costs of these affordable housing units on the Church Street site.

Conclusion
The proposed development is considered appropriate for this location in terms of the regeneration benefits, the scale, height and design of the buildings, the amenities of prospective residents of the development, and parking provision. It is also considered that with appropriate conditions in place the development would not have an adverse impact on the River Usk SAC. The proposal is therefore considered to comply with the relevant Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) policies and so it is recommended that the application be granted planning permission subject to a Section 106

legal agreement to secure the hand over of the affordable housing site relating to planning application 07/0821.

RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO COMPLETION OF A SECTION 106 AGREEMENT

01 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, the capacity and design of which shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The interceptor shall be retained thereafter.
Reason: To safeguard the conservation objectives to the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

02 No development approved by this permission shall be commenced until:
(a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses, and other relevant information. Using this information a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall been produced; and
(b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations (Conceptual Model). This shall be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable: a risk assessment to be undertaken relating to groundwater and surface waters on and off the site that may be affected; and refinement of the Conceptual Model; and the development of a Method Statement detailing the remediation requirements; and
(c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken; and
(d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the site investigation, has been submitted to and agreed in writing by the Local Planning Authority prior to that remediation being carried out on the site and the agreed remediation has been carried out (unless an alternative timetable for remediation has been agreed in writing by the Local Planning Authority).
Reason: To ensure that the proposed site investigations and remediation will not cause pollution of controlled waters and in the interests of safeguarding the River Usk SAC and SSSI, and in the interests of residential amenities and human health.

03 If during development works any contamination is encountered which was not previously identified and is derived from a different source and/or a different type to those included in previous reporting, or is in an area previously expected to be clean, then revised remediation proposals shall be submitted to and agreed in writing by the Local Planning Authority and all subsequent remediation carried out in accordance with the revised proposals prior to first occupation of the development.
Reason: To prevent pollution of the aquatic environment in the interests of safeguarding the River Usk SAC and SSSI and in the interests of residential amenities and human health.

04 Upon completion of the remediation detailed in the Method Statement and prior to commencement of development (unless an alternative timetable has been agreed in writing by the Local Planning Authority) a report shall be submitted to the Local Planning Authority that provides verification that the works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
Reason: To prevent pollution of the water environment and in the interests of safeguarding the River Usk SAC and SSSI and in the interests of residential amenities and human health.

05 No development shall commence until details of the foul and surface water drainage and storage system for the site including means of discharge into the drainage network, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
Reason: To ensure the protection of the River Usk SSSI and the River Usk SAC.

06 Nothing other than uncontaminated excavated natural materials shall be tipped on the site. Prior to first occupation of any unit, evidence that any material imported to the site is uncontaminated shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI and in the interests of residential amenities and human health.

07 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways during either the construction or operational phases of development.
Reason: To prevent pollution of the water environment and to safeguard the conservation objectives of the River Usk SAC and SSSI.

08 Soakaways shall only be used in areas on the site where they do not present a risk to groundwater. Prior to the installation of any soakaways their location must firstly be approved in writing by the Local Planning Authority.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

09 No development shall be commenced until the method for piling foundation has been approved in writing by the Local Planning Authority. The development shall be carried out using the approved method.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

10 Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by imperious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
Reason: To prevent pollution of the water environment.

11 No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall also include measures for providing an Environmental Liaison Officer. The development shall be implemented in accordance with the approved details.
Reason: to safeguard the conservation objectives of the River Usk SAC and SSSI.

12 Prior to installation of any external lighting, details of such lighting (design of columns and how the lamp would be designed to demonstrate that there would be no light spillage across the River Usk SAC/SSSI) shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved details and thereafter maintained as such.
Reason: to safeguard the conservation objectives of the River Usk SAC and SSSI and in the interests of the visual appearance of the area.

13 No development shall commence until details of fencing to prevent otters getting onto the site during construction and details of a 7m buffer strip (including measures to protect this buffer to ensure exclusion of construction activities with details of working corridors for any

works within the buffer strip) have been submitted to and approved in writing by the Local Planning Authority. The otter prevention fencing and buffer strip protection measures shall be implemented in accordance with the approved details prior to commencement of development and maintained as such for the duration of the construction of the development and any works carried out within the buffer strip implemented in accordance with the approved details.
Reason: to safeguard the conservation objectives of the River Usk SAC and SSSI.

14 Notwithstanding the restricted hours of construction contained within condition 17 above, no work of excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between sunset and sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure no disturbance is caused to otters migrating up or down the river during the periods of darkness in the interests of protecting the integrity of the River Usk SAC.

15 No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.
Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC.

16 Before the development is commenced, approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating inter alia grass mixtures and the number, species, heights on planting and positions of all trees and shrubs) and a management plan detailing future maintenance. Such scheme as approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years (or as agreed in the management plan) from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

17 Before the development is commenced, details of measures to ensure that there are no obstacles to otter movement along the River Usk corridor in the vicinity of the site both during construction and post-construction. The measures shall be implemented in accordance with the approved details and retained in place as such thereafter.
Reason: to safeguard the conservation objectives of the River Usk SAC and SSSI.

18 No development approved by this permission shall be commenced until a full noise assessment (including details of any necessary mitigation methods) has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the following noise levels to the proposed dwellings from external noise sources would not be exceeded: for internal living areas Laeq (16 hours) 40dB daytime and Laeq (8 hours) 35dB night time with the levels being achieved assuming a partially opened window (where these levels cannot be achieved alternative means of rapid ventilation will need to be considered). The noise assessment shall also take into account external living areas demonstrating that noise levels would not exceed 50db Laeq. Any mitigation measures identified shall be implemented in accordance with the approved details prior to first occupation of any dwelling to which the measures apply.
Reason: in the interests of residential amenity.

19 The site shall be relevelled and developed in accordance with a comprehensive set of cross sectional drawings that shall first be submitted to and approved in writing by the Local Planning Authority. These drawings shall clearly show finished ground levels (minimum of 8.87m Above Ordnance Datum), finished slab levels of buildings (minimum 9.1m AOD), and the manner in which raised ground will be graded to existing ground levels along the perimeter of the site.
Reason: To safeguard against flooding and protect the amenities of future users of the site and neighbouring residents.

20 No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.
Reason: To identify and record any features of archaeological interest discovered during the works in order to mitigate the impact of the works on the archaeological resource.

21 No construction work (including any land raising) shall be carried out other than between the hours of 0800 and 1900 hours Monday to Friday, and 0800 to 1800 hours on Saturday with no works or construction traffic movements being carried out on a Sunday or Bank Holiday unless otherwise agreed in writing by the Local Planning Authority.
Reason: To minimise the disturbance associated with construction works upon residential amenities.

22 The development shall not commence until dust suppression measures and suitable plant and wheelwash facilities (including details of drainage facilities) have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The details as approved shall remain in operation for the duration of the construction of the development.
Reason: In the interests of highway safety, in terms of preventing deposit of material from the site on the public highway, and the amenities of surrounding occupiers.

23 No dwelling unit shall be occupied until the parking spaces hereby approved have been constructed and marked out. The parking spaces shall thereafter be retained for the parking of domestic vehicles, visitors and customers of the leisure boat facility as allocated on the approved plans only and for no other purposes. Reason: To ensure that the development is carried out in a proper and coordinated manner and to ensure the retention of adequate parking in the interest of highway safety.

24 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the agreed materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings.

25 Before the development is commenced, approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (indicating inter alia grass mixtures and the number, species, heights on planting and positions of all trees and shrubs) and a management plan detailing future maintenance. Such scheme as approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years (or as agreed in the management plan) from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition, a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

26 Full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The details shall be implemented fully in accordance with the approved scheme prior to first occupation of the dwellings hereby approved and maintained as such thereafter.
Reason: To ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.

27 Prior to first occupation of any dwelling hereby approved, security measures for the proposed car park areas shall be implemented in accordance with details which shall firstly be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be retained in accordance with the approved details.
Reason: In the interests of the security of the site.

28 Prior to the first use of the cafeteria unit hereby approved any kitchen extract equipment required for the unit shall be implemented in accordance with details which shall firstly have been submitted to and approved in writing by the Local Planning Authority. The extract equipment shall thereafter be maintained in accordance with the approved details.
Reason: in the interests of the amenities of prospective residents of the development.

29 The hours of operation of the A3 unit shall be restricted to 0800 to 2200 Monday to Saturday, and 0800 to 1800 on Sundays and Bank Holidays and there shall be no deliveries or waste despatched from the site outside those hours.
Reason: In the interests of the amenities of prospective residents of the development.

30 Details of pedestrian walkway and bridge to be submitted which shall be implemented in accordance with the approved details prior to first occupation of the development.

31 Residential Travel Plan to be submitted.

32 Details of proposed cycle parking to be submitted.

33 The wharf area and adjacent landscaped area shown on the Level 1 plan shall be retained as space accessible to the public.
Reason: in the interest of the visual amenity and character of the area.

NOTE TO APPLICANT

01 This decision relates to plan Nos: DP-WY-21C, DP-WY-22B; DP-WY-24; DP-WY-25, DP-WY-11A (elevations only); DP-WY-26; DP-WY-27; DP-WY-28; 1211/01 rev.D.

02 The development plan relating to Newport is the Newport Unitary Development Plan 1996-2011 (Adopted May 2006). Policies ED2, CE5, CE6, CE30, CE38, CE39, H5, SP1, SP2, SP10, SP24, U6, T14 were relevant to the determination of the application.

03 This permission is subject to an Agreement under Section 106 of the Town and Country Planning Act 1990.

APPENDIX 3 – Officer Report for Victoria Wharf

APPLICATION DETAILS

No: 07/0539 Ward: ***PILLGWENLLY***

Type: FULL

Expiry Date: 12/07/2007

Applicant: ***EDWARD WARE HOMES (JACKS PILL) LTD***

Site: ***LAND TO THE NORTH EAST OF BRADBURY HOUSE, USK WAY, NEWPORT, SOUTH WALES***

Proposal: ***ERECTION OF 227 RESIDENTIAL UNITS WITH ASSOCIATED PARKING, LANDSCAPING AND HIGHWAY WORKS AND 3 RETAIL/B1 COMMERCIAL UNITS***

CONSULTATIONS

HEAD OF ENGINEERING AND CONSTRUCTION: Is satisfied with the level of parking because of the nature and location of the development, subject to a no car agreement for the 35 studios, and the area for public parking being made available to the general public utilising the riverside park.

HEAD OF EDUCATION SERVICES RESOURCES AND PLANNING: Does not require an education contribution.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES:
Dust: No objection subject to the imposition of a condition in respect of details of dust supression measures during construction/demolition.
Construction/Demolition Noise and Vibration: No objection subject to the imposition of a condition in respect of noise and vibration mitigation and monitoring during demolition and construction.
External Plants: Condtion required in respect of details of any external plants associated with the building.
Internal Noise: Due to the close proximity to a major road network, a condition should be imposed requiring the applicant to submit a Noise Assessment. The Noise Assessment shall demonstrate levels of 40dB(A) Leq (16 hours) in the daytime and 35dB(A) Leq (8 hours) in the nightime shall be achieved, assuming a partially opened window. The assessment should take account the need for protection against the noise in external areas, measured against the guidelines set out by the World Health Organisation (Guidelines for Community Noise 1999).
Light: Condition required in respect of the submission of a lighting scheme for the development.

HEAD OF CONTINUING LEARNING AND LEISURE: Requests a financial contribution of £709,562 towards the maintenance of the riverside park and equipped and formal play provision in the locaility.

HEAD OF HOUSING (AFFORDABLE HOUSING): Does not require a contribution towards affordable housing.

POLICE ARCHITECTURAL LIAISON OFFICE: Provides advice in respect of Secured by Design standards.

NEWPORT UNLIMITED: Supports application.

DWR CYMRU - WELSH WATER: No objection subject to the imposition of conditions in respect of water discharges, surface water and land drainage run-off.

WALES AND WEST UTILITIES - PLANT PROTECTION: Provides information on location of equipment.

WESTERN POWER DISTRIBUTION: Provides information on location of equipment.

COUNTRYSIDE COUNCIL FOR WALES: Has two main concerns namely the implications for otter habitat and possible contamination entering the Usk during and post construction. Requires that an appropriate assessment be carried out to ascertain whether or not the integrity of the European site would be adversely affected.
(Comments from CCW on the appropriate assessment to be reported verbally at Planning Committee)

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: Requests the imposition of a condition in relation to a programme of archaeological work.

ENVIRONMENT AGENCY: Does not object to the application subject to the imposition of conditions with regard contaminated land, flood prevention and the protection of biodiversity.

CADW: No concern.

DESIGN COMMISSION FOR WALES: Considers the use to be suitable for the location. Concern about lack of active frontage adjacent to the riverside park. Issues were also raised about the integrated approach of public art within the scheme, the orientation of the tower and the microclimatic information which explored the effects of the development at ground level for pedestrians. It was also reported to the Commission that the EcoHomes rating was 'Excellent' and the developer committed to a post construction assessment.

REPRESENTATIONS

None received.

SITE HISTORY

00/0788	Mixed commercial and leisure development.	Granted with Conditions.
05/0316	Programme of land remediation.	Granted with Conditions
06/0546	Creation of riverside park including viewing decks, seating terraces, earth work sculpture, local play area, footpaths/cycleways, kick-about area, reed bed, pedestrian bridge and parking facilities (affecting Public Right of Way 403/1 Pillgwenlly).	Not yet determined.
89/0907	Use of land as a transfer station for the disposal of waste material.	Refused.
90/1326	Erection and display of 7x48 sheet advertising panels with attendant fencing.	Granted with Conditions.
95/0707	Retention of reclaimed land adjacent river usk and use of the land as waste transfer station/skip hire operation.	Refused.
96/0033	Use of transport offices as hackney carriage operators.	Refused.
96/1088	Use of transport offices as hackney carriage operators - resubmission following refusal of 96/0033/F.	Refused.

POLICY CONTEXT

Newport Unitary Development Plan 1996-2011 (Adopted May 2006)

Policy ED2 encourages appropriate redevelopment schemes in specific locations. These locations include Old Town Dock. The supporting text states that the redevelopment of this site was a priority of the Newport Development Board.
Policy CE5 seeks to protect European sites or Ramsar sites from harmful effects of development.
Policy CE6 seeks to protect nationally designated sites.

Policy CE30 encourages urban regeneration schemes particularly those which will result in the protection or enhancement of the built environment especially in the Usk corridor, results in the reuse of derelict land and a reduction in the adverse effects of road traffic.
Policy CE38 encourages good quality design in all forms of development.
Policy CE39 requires proposals for new residential development to respect or complement existing surroundings and neighbouring buildings.
Policy CE44 requires that adequate arrangements be made for securing an accessible environment for everyone in new developments.
Policy CE45 states that safety and security should be taken into account in the design of schemes, including access and lighting provision.
Policy CE46 requires that development be carried out in accordance with any relevant supplementary planning guidance.
Policy H5 requires new housing development on a substantial scale to contain a mix of house types and sizes capable of meeting a range of housing needs. The Council will in particular seek to negotiate appropriate elements of affordable housing.
Policy SP1 favours proposals which make a positive contribution to sustainable development.
Policy SP2 requires high quality of design in all development proposals. New development should seek to enhance the site and the surrounding area and to provide benefit to the community as a whole.
Policy SP10 requires sufficient land to be made available for new housing. The land will be provided primarily on previously developed land.
Policy SP24 and U6 require development which could increase the risk of flooding due to additional surface water run off to include appropriate and environmentally sympathetic mitigation measures.
Policy T14 encourages recreational and sustainable transport initiatives, including safe walking and cycle routes.
There is also a Development Brief for this site dated December 2005 (Newport Old Town Dock) setting out guidelines for new housing on this part of the Brief site.

ASSESSMENT

The application seeks planning permission for the construction of 227 residential units with associated parking, landscaping and highways works and 3 retail/B1 commercial units on land to the north east of Bradbury House, Usk Way, Newport. The 227 residential units consist of 35 studios, 60 one-bed apartments, 105 two-bed apartments, 12 duplexes and 15 penthouses. The retail/B1 commercial units constitute a 132m^2 cafe and 2 (No) 35 m^2 commercial units. The site area is 6,544m^2.

The Site

The application site is a roughly rectangular plot of land adjacent to Usk Way to the south west, Jacks Pill to the south east, the Opal student residence development to the north west and the River Usk to the north east.

The site was formally used as a car scrap yard but has since been cleared and re-mediated (under Application No 05/0316) and is currently used as a compound for adjacent construction work.

A detailed design brief entitled Newport Old Town Dock Development Brief has been prepared and approved which sets out guidance for development within this area of land. This is approved Supplementary Planning Guidance. It contains guidance on design and building heights as well as other issues, including car parking.

The site is adjacent to the River Usk Special Area of Conservation (SAC) and the River Usk Site of Special Scientific Interest (SSSI). The site lies within Zone B as identified within TAN 15 (Development and Flood Risk). The site is identified on the Newport Unitary Development Plan 1996-2011 (Adopted May 2006) Proposals Map as an Urban Regeneration Site.

Policy ED2 of the Newport Unitary Development Plan 1996-2011 (Adopted May 2006) identifies the site as being within an area appropriate for a “combination of B1 and other commercial, leisure and residential uses”. Newport Old Town Dock Development Brief SPG identifies the site for ”Residential with Food and Drink (A3) and offices (B1)” including “44

student flats". It is considered, therefore, that the principle of the development of the site for residential development with retail/B1 commercial units is acceptable.

Design
The proposed building would provide a total of 227 residential units. It consists of 3 blocks built around a central semi-private residential courtyard. All three blocks and the courtyard are raised one storey from ground floor level across the entire site. All the on-site car parking and cycle parking would be located within the courtyard space beneath the blocks and courtyard at ground floor level. The cafe and 2 commercial units will be on the ground floor level.

The two lower blocks would be 7 storeys in height to Usk Way, with the top floor of each block set back to create a balcony parapet. The tower block would be 17 storeys high directly above the cafe at ground floor level. The buildings would be of contemporary design, finished in render and brick and containing substantial glazed areas. Two main colour tones would be used; a russet colour to delineate the exterior faces of the blocks and an ochre colour facing into the internal courtyard. The lobbies at the ground floor level would provide access to the blocks and also to the raised courtyard. Timber screening is used at the ground floor level around the perimeter of the car park, and between the cafe, commercial units, and lobby entrances. The timber screening is made up of staggered vertical elements in two planes, allowing natural ventilation to the car park.

An amended roof design was submitted on 9 August 2007 as a reaction to Councillors' concerns over the 'box-like' feel that was created with the flat roofs. The seven storey blocks will have butterfly roofs on a shallow pitch. The roofs should help to reinforce the contemporary design of the building.

Illustrations and Computer Generated Images (CGI) have been provided showing the proposed development in the context of the numerous other proposed developments in the vicinity of the site (including the approved Opal student accommodation development and the Westmark residential scheme which Planning Committee has resolved to grant subject to the developer entering into a Section 106 Agreement).

Whilst, at 7 storeys with a 17 high tower, the height of proposed scheme is higher than the 4 storey development envisaged for this location in the Newport Old Town Dock Development Brief SPG, it is acknowledged that other schemes in the vicinity have also exceeded these guidelines and it is considered that the illustrations and CGI's show that the scale and contemporary design of the proposed building would be in keeping with the proposed surrounding development. The tower should act as a landmark for the area and helps to emphasise a sense of place, and although located on the edge of this application, it sits central when considered as part of the wider development of this part of the riverfront, with the Opal student accommodation development to the north west and the Westmark development to the south east.

Design Commission for Wales
The developers have taken on board the issues and concerns raised by the DCfW. In terms of the concerns relating to the extent of active frontages, the developer believes the café will help to create activity in the vicinity of the building. The timber screening which has been chosen for the ground floor level will help to create 'nuanced depth' to the ground floor elevations; this should be more apparent on the CGI's. The timber panels used in the screen are set in such a way to allow light to permeate through the spaces and will give the screen an element of depth, as opposed to be being a blank façade.

The applicant is committed to the inclusion of public art in the development, and intends to use artwork to enliven the public realm along the riverside elevation of the development. This will also help to create activity at the ground floor level which will help alleviate the concerns about active frontages.

With regard the DCfW's concerns in respect of rethinking the orientation of the building, it is not considered that the rotating the building through 90 degrees would have many benefits. It would make little difference to the overshadowing of Block C, and would present a more

imposing elevation to the river and the residents of the east bank of the Usk, and the applicant believes it would give proximity issues with Block C in relation to privacy.

With regards DCfW's concerns in respect of the microclimatic issues, the developer is hopeful that the designed overhangs above the cafe and the entrance to the tower will be sufficient to mitigate the downdraughts on the public sides. However the developer has agreed to carry out a wind mitigation study at Stage E of the development. Such a study can be required by a condition.

Highways
The proposed building would be served by 192 car parking spaces, one per apartment excluding studios and 37 cycle parking spaces (although there is an aspiration on the developer's part to increase the provision to 60 spaces). The developers have made efforts to minimise the distance between parking spaces and the lobbies of the individual blocks. The Head of Engineering and Construction has no objection to the level of car parking given the nature and location of the development. A management scheme can be used to ensure that the studio owners do not bring cars to the development and therefore the development does not give rise to parking issues in the vicinity of the site.

Additionally the Head of Engineering and Construction has requested that the 20 visitor parking spaces be made available to the general public, utilising the riverside park.

The developer has confirmed that the café and commercial units will be serviced via the car park. The frequency of deliveries is expected to be low, and the delivery vehicles are anticipated to be no larger than a transit van which can manoeuvre efficiently within the car park.

Landscaping
The submitted plans show a proposed indicative landscaping scheme outside of the boundary of the site to Usk Way. This would be in line with the tree lined boulevard which is envisaged in the SPG and can be secured via the imposition of a Grampian condition.

Biodiversity
The Head of Public Protection and Environmental Services have offered no objection to the application, and does not object to the removal of 8 trees adjacent to Usk Way.

Impact on River Usk SAC
The Countryside Council for Wales has objected to the application on the grounds of possible discharge of contaminated surface water into the River Usk and recommended that an Appropriate Assessment be undertaken. Such an assessment is set out below. The CCW's comments on the Appropriate Assessment will be verbally reported at the Committee meeting.

Section 106 Legal Agreements
Affordable Housing: Since this planning application was lodged a strategy has been progressed between the Council's Housing and Estates sections looking at a more comprehensive way of delivering appropriate affordable housing within the Old Town Dock development area in lieu of each future development providing an element within their scheme. The proposed strategy is to transfer two parcels of land to a Registered Social Landlord to deliver a mix of apartments and houses totalling approximately 160 units. The provision of affordable housing in this way will provide greater certainty that the appropriate number and type of units can be provided, and that they can be delivered independently of any private developer build programme. Colleagues in Housing have identified that the implementation of this strategy will allow up to 800 open market dwellings to be built before further negotiations with individual developers will be necessary. A formal decision on this strategy will be taken by Cabinet Member for Resources on the 3 September 2007, and a verbal update of the outcome of this meeting will be reported to Planning Committee on the 5 September 2007.

In light of the support for the proposed affordable housing strategy from the Council's Housing Department it is suggested that this development of 227 units should form part of the 800 open market units that can come forward as part of the Old Town Dock Affordable Housing strategy. It is suggested that if this planning application is approved by Committee a note be formally made in the minutes that the remaining balance of open market units that can be considered as planning applications under the Old Town Dock Affordable Housing strategy will be 573 units.

In light of the above it is recommended that no affordable housing contribution should be required from this development.

Education: The School Organisation Manager has confirmed on behalf of the Head of Education Services that there is no impact on schools by this planning proposal and does not wish to lodge any requirement for further consultation. Consequently it is considered that no financial contribution towards education provision can be requested.

Leisure: The Head of Continuing Learning and Leisure has requested a contribution of £109,562 towards the ongoing future maintenance of the linear park. It should be noted that this linear park has not yet been provided. However the applicant will be providing elements of this scheme in kind as part of their development and transferring this to the Council for the ongoing maintenance.

A sum of £600,000 has also been requested to be used for upgrading equipped play provision and formal space improvement. In respect of the calculation for equipped play provision it would appear that colleagues in Leisure have not taken into account that the 95 units (comprising the studios and 1 bed units) will not generate children. Consequently the contribution for equipped designated play space provision should only be £188,372 and not the £287,241 that has been identified in the memorandum from Leisure dated 29 May 2007. Leisure have identified in respect of Formal Play that if this were to be provided on site then a space of 0.67 hectares would be required. The Outdoor Play Space Supplementary Planning Guidance identifies in Appendix 3 that a football pitch would be 0.78 hectares in size and have a total cost (implementation and 20 years maintenance) of £222,309. Therefore, if this total cost were to be divided by the area, it would equate to £28.46sqm. If this sum is taken and multiplied by the 0.67 hectare (6,700sqm) requirement then a financial contribution sum of £190,682 would appear to be justified in this instance. It is suggested that in order to meet the tests (i.e. reasonable in scale and kind) for seeking a planning obligation set out in Circular 13/97 the financial contribution towards equipped and designated play and formal play should in this instance be a total of £379,054 and not the £600,000 originally requested.

In total a financial contribution of £488,616 should be requested for leisure.

Highways: A request was originally made for a contribution towards half the cost of a bus layby in proximity of the development site. However, the neighbouring Opal development is required to provide through a Section 278 Agreement the whole of the bus layby and therefore it would be not be reasonable for Edward Ware to also be required to provide the same bus layby. In respect to the request for public parking on site the visitor spaces identified within the development have been proposed to provide parking facilities for people visiting residents of the development and are not intended to be for general public use. Under the requirements for imposing planning obligations it would be difficult to require that the developer provides public parking within their scheme as they are only required to mitigate the impacts of their development and not address any existing deficiencies in public parking provision. The under provision of residential parking spaces (ie 192 spaces for 227 units) does mean that a travel management plan should be provided by the developer to demonstrate how those residents without dedicated parking spaces will be controlled from parking on site and what measures will be introduced to encourage use of alternative modes of transport (eg cycling, bus etc).

Given the nature of Section 106 contributions being requested the developer has proposed to offer an Unilateral Undertaking to make these provisions rather than entering into a formal Section 106 Agreement. The Council does have some land ownership interest in part of the

site and consequently a Unilateral Undertaking would in this instance be appropriate as a formal Section 106 Agreement cannot be entered into by the Council.

Appropriate Assessment
The river has been designated as a SAC because the following species are special features to the River Usk:-
Allis Shad
Twaite Shad
Bullhead
River Lamprey
Brook Lamprey
Sea Lamprey
Atlantic Salmon
Otter
Water Crowfoot.

The conservation objectives of the SAC include:-
- to maintain the availability of current spawning sites and lamprey nurseries;
- to maintain suitable flows, water quality and sediment loads to sustain the population of shad, lamprey and nurseries;
- to maintain riparian habitats to ensure optimum conditions for shad lamprey and bullhead;
- to identify all linking factors on the population of shad, lamprey and bullhead and to seek to remove or minimise their effects;
- to maintain otter habitat.

The Usk is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter.

Surface and Ground Water
There is concern in relation to the contamination of the River Usk SAC from surface and ground water discharge. The specific concerns relate to: how surface water will be disposed of during construction and operation; how potential contamination of groundwater on the site will be addressed; what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction and operation phases of the proposals; and the location of any new discharge structures during construction and operation.

The current and previous uses of the site give rise to the potential for the run-off to be contaminated with suspended sediments or spilled oils, lubricants, sealants etc. Whilst the anticipated low level of suspended sediment can cause subtle changes in habitat characteristic, given the low sensitivity of the invertebrate fauna particular to the Usk, it is not anticipated that such a change would occur in this instance. The risk of the release of other substances into the River Usk could be mitigated by good site management practice and the use of bunds. It is therefore recommended that conditions be imposed to ensure that a full investigation of contamination on the site is carried out and any contamination which is found is remediated in accordance with an approved remedial strategy (Conditions 2-4) and to require the submission of an acceptable construction environmental management plan (Condition 10).

The surface water from the completed development would run directly to the River Usk via newly formed outfall to Jack's Pill (approved under Application No 04/0702). It is therefore recommended that conditions are imposed on any consent granted to provide suitable protection (Conditions 1, 5-8).

It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.

Foul Water
It is proposed that foul water would be drained from the site either via a 30m deep foul sewer which is under construction (approved under Application No 04/0702) or to an existing large diameter sewer. Whilst it is considered unlikely that either of these options would give rise to any concerns in respect of the pollution of the River Usk SAC clarity in this respect is required and can be ensured via the imposition of a condition (Condition 5).

Piling
There is potential for piling activity to disturb the varieties of shad and lamprey found in the River Usk. However it is considered that, provided the piling activities are restricted to avoid the March to June shad migration period; the impact of these activities would be minimal (Condition 15).

Otters
A small area of the SAC/SSSI will be lost as a result of the proposed development. Adverse impacts on the SAC/SSSI should be able to be avoided by good design and good practice. Otters are a European protected species and one of the reasons for the designation of the SAC. Good quality otter habitat will not be affected, although there is potential for disturbance during construction works.

Any disturbance to otters during construction can be controlled by conditions restricting the hours of construction (Condition 16) and ensuring that a buffer zone is provided between the River Usk SAC and any construction activity (Condition 10). Proposed measures in the form of fencing to prevent otters entering the application site during construction can also be secured by condition (Condition 10).

Biodiversity
The scheme will be located entirely within remediated land and therefore would give rise to no biodiversity issues.

Loss of part of the River Usk SAC/SSSI
As stated above in the otters section, a small area of the SAC/SSSI will be lost as a result of the development, although it is considered that the loss of this area will have little impact on the rest of the SAC/SSSI. The design of the scheme coupled with appropriate conditions as part of an approval should avoid any adverse impacts.

Combination Effects
In terms of in combination effects of the development when considered alongside other developments in the area, it is considered that with the imposition of appropriate conditions referred to above, the proposed development would not combine with other developments to have a significant adverse effect on the River Usk SAC and SSSI. It is considered that the issues relevant to this application (contamination and disturbance from construction works) would be equally dealt with by similar conditions for these other developments and so it is not considered that there are any in-combination implications.

With the inclusion of appropriate conditions it is considered that any adverse effects associated with the development can be satisfactorily avoided.

It is, therefore, recommended that planning permission be granted subject to a legal agreement to secure the leisure contribution of £488,616 and the following conditions.

RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 AGREEMENT

01 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, the capacity and design of which must be submitted to and approved in writing

by the Local Planning Authority prior to its installation. The interceptor shall be retained thereafter.
Reason: To safeguard the conservation objectives to the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

02 No development approved by this permission shall be commenced until a Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the site investigation (approved under Application No 04/0702), has been submitted to and agreed in writing by the Local Planning Authority prior to that remediation being carried out on the site and the agreed remediation has been carried out (unless an alternative timetable for remediation is agreed in writing by the Local Planning Authority).
Reason: To ensure that the proposed site investigations and remediation will not cause pollution of controlled waters. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

03 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 Method Statement detailing how this unsuspected contamination shall be dealt with.
Reason: To prevent pollution of the aquatic environment in the interests of safeguarding the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

04 Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
Reason: To prevent pollution of the water environment and in the interests of safeguarding the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

05 No development shall commence until details of the foul and surface water drainage and storage system for the site including means of discharge into the drainage network, have been submitted to and approved by the Local Planning Authority. Foul water shall not be drained into the River Usk.
Reason: To ensure the protection of the River Usk SSSI and the River Usk SAC. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

06 Nothing other than uncontaminated excavated natural materials shall be tipped on the site.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

07 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways during either the construction or operational phases of development.
Reason: To prevent pollution of the water environment and to safeguard the conservation objectives of the River Usk Special Area of Conservation. And to ensure that the site is

comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

08 Soakaways shall only be used in areas on the site where they do not present a risk to groundwater. Prior to the installation of any soakaways their location must firstly be approved in writing by the Local Planning Authority.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

09 Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by imperious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
Reason: To prevent pollution of the water environment. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

10 No development shall take place until a Construction Management Plan has been submitted to and approved by the Local Planning Authority. The plan should include details of fencing to prevent otters entering the site during construction and details of a buffer zone of at least 8m between the bank of the River Usk and any areas in which construction activities will take place. The development shall be carried out in accordance with the approved plan.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

11 Prior to the commencement of development, details of dust suppression measures shall be submitted to and approved in writing by the Local Planning Authority. All demolition works shall be undertaken in accordance with the approved scheme.
Reason: In the interest of local amenity.

12 No development shall take place until details of lighting of the site during construction have been submitted to and approved by the Local Planning Authority.
Reason: To prevent light pollution of the River Usk in order to protect otters.

13 Full details of external illumination and floodlighting shall be submitted to the Local Planning Authority prior to the erection or installation of any external lighting on site, and the lighting shall then be installed fully in accordance with the details as approved. No other external lighting shall be installed without the prior consent in writing of the Local Planning Authority.
Reason: In the interests of public amenity.

14 Notwithstanding the restricted hours of construction contained within conditions 16 and 17, no work of excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between sunset and sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure no disturbance is caused to otters migrating up or down the river at the periods of darkness.

15 No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.
Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC.

16 No construction work (including land raising if required) shall be carried out other than between the hours of 0800 and 1800 hours Monday to Friday, and 0800 to 1300 hours on

Saturday with no works or construction traffic movements being carried out on a Sunday or Bank Holiday unless otherwise agreed in writing by the Local Planning Authority.
Reason: To minimise the disturbance associated with construction works upon residential amenities.

17 No construction work involving piling shall be carried out other than between the hours of 0800 and 1700 hours Monday to Friday with no works involving piling being carried out on a Saturday, Sunday or Bank Holiday.
Reason: To minimise the disturbance associated with construction works upon residential amenities.

18 Notwithstanding the information already provided, no work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the agreed materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings.

19 Notwithstanding the information already provided, no development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

20 Notwithstanding the details already submitted, before the development is commenced, approval of the Local Planning Authority is required to a scheme of landscaping (including hard surfaces) and tree planting for the site and the verges outside of the site boundary adjacent to the south-west site boundary (indicating inter alia the number, species, heights on planting and positions of all trees and shrubs). Such scheme as approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. The landscaping details submitted shall also include measures for the long term management of all of the un-adopted landscaped areas which shall then be managed in accordance with the approved details. For the purposes of this condition, a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

21 Full details of all boundary treatments shall be submitted to and approved by the Local Planning Authority prior to the development commencing. The details shall be implemented fully in accordance with the approved scheme prior to first occupation of the dwellings hereby approved and maintained as such thereafter.
Reason: To ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.

22 Details of any external plant associated with the building (eg Extraction systems, Compressors, etc.) should be provided in writing to the Local Planning Authority for approval prior to installation. The information should include the sound power output [dB(A)] and octave band levels of the equipment (to be provided in 1/3rd octave bands for extraction equipment. The hours of operation of any external plant should be provided. The information should also include an assessment of the impact of the noise from any external plant on the nearest residential premises (taking account of both day and night time noise levels).
Reason: To protect the amenities of nearby residential occupiers.

23 The car and cycle parking spaces shown on the approved plan shall be provided prior to the beneficial occupation of the building and shall be thereafter retained.

Reason: To ensure the efficient functioning of the site and to avoid the need for vehicles to be parked on the highway.

24 A parking management scheme will be submitted to and approved by the Local Planning Authority prior to the first occupation of the development.
Reason: To ensure the efficient functioning of the site and to avoid the need for vehicles to be parked on the highway.

25 Floor levels must be constructed at a level of at least 9.47m Above Ordnance Datum.
Reason: To reduce the risk of flooding.

26 A Noise Assessment shall be carried out prior to the beneficial occupation of the building The Noise Assessment shall demonstrate levels of 40dB(A) Leq (16 hours) in the daytime and 35dB(A) Leq (8 hours) in the nightime shall be achieved, assuming a partially opened window. The assessment should take account the need for protection against the noise in external areas, measured against the guidelines set out by the World Health Organisation (Guidelines for Community Noise 1999).
Reason: In the interest of residential ammenity.

27 A wind mitigation study will be submitted to and approved by the Local Planning Authority prior to the first occupation of the development.
Reason: In the interest of residential ammenity.

NOTE TO APPLICANT

01 This decision relates to plan Nos: 7602 P(0) 1004, 7602 P(0)1005 rev A, 7602 P(0)1010 rev A, 7602 P(0)1011 rev C, 7602 P(0)1012 rev C, 7602 P(0)1013 rev C, 7602 P(0)1014 rev C, 7602 P(0)1015 rev C, 7602 P(0)1016 rev C, 7602 P(0)1028, 7602 P(0)1029, 7602 P(0)1200 rev C, 7602 P(0)1201 rev C, 7602 P(0)1202 rev A, 7602 P(0)1203 rev A, 7602 P(0)1204 rev A, 7602 P(0)1300 rev C, 7602 P(0)1301 rev C, 7602 P(0)1302 rev C, 7602 P(0)1303 rev C, 7602 P(0)1400 rev A, 863-008, 863-009, 863-010, 863-011, 863-012, 863-013, 863-014, 863-016, 863-019, 863-020.

02 The development plan relating to Newport is the Newport Unitary Development Plan 1996-2011 (Adopted May 2006). Policies ED2, CE5, CE6, CE30, CE38, CE39, CE44, CE45, CE46, H5, SP1, SP2, SP10, SP24, U6 and T14 were relevant to the determination of this application.

03 The Council's Supplementary Planning Guidance, The Newport Old Town Dock Development Brief dated December 2005, was relevant to the consideration of this application.

04 Regard should be had to BS 5228: Noise and Vibration Control on Construction and Open Sites and BS 5228-4 Code of Practice for Noise and Vibration Control Applicable to Piling Operations.

RECOMMENDATION

Granted with Conditions

(1) Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, the capacity and design of which must be submitted to and approved in writing by the Local Planning Authority prior to its installation. The interceptor shall be retained thereafter.
Reason: To safeguard the conservation objectives to the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). And to ensure that the site

is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(2) No development approved by this permission shall be commenced until a Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the site investigation (approved under Application No 04/0702), has been submitted to and agreed in writing by the Local Planning Authority prior to that remediation being carried out on the site and the agreed remediation has been carried out (unless an alternative timetable for remediation is agreed in writing by the Local Planning Authority).
Reason: To ensure that the proposed site investigations and remediation will not cause pollution of controlled waters. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(3) 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 Method Statement detailing how this unsuspected contamination shall be dealt with.
Reason: To prevent pollution of the aquatic environment in the interests of safeguarding the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(4) Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
Reason: To prevent pollution of the water environment and in the interests of safeguarding the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(5) No development shall commence until details of the foul and surface water drainage and storage system for the site including means of discharge into the drainage network, have been submitted to and approved by the Local Planning Authority. Foul water shall not be drained into the River Usk.
Reason: To ensure the protection of the River Usk SSSI and the River Usk SAC. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(6) Nothing other than uncontaminated excavated natural materials shall be tipped on the site.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(7) There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways during either the construction or operational phases of development.

Reason: To prevent pollution of the water environment and to safeguard the conservation objectives of the River Usk Special Area of Conservation. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(8) Soakaways shall only be used in areas on the site where they do not present a risk to groundwater. Prior to the installation of any soakaways their location must firstly be approved in writing by the Local Planning Authority.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

(9) Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by imperious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
Reason: To prevent pollution of the water environment. And to ensure that the site is comprehensively investigated, the presence of contamination clearly identified and its impacts appropriately mitigated in the interests of residential amenities and human health.

(10) No development shall take place until a Construction Management Plan has been submitted to and approved by the Local Planning Authority. The plan should include details of fencing to prevent otters entering the site during construction and details of a buffer zone of at least 10m between the bank of the River Usk and any areas in which construction activities will take place. The development shall be carried out in accordance with the approved plan.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

(11) Prior to the commencement of development, details of dust suppression measures shall be submitted to and approved in writing by the Local Planning Authority. All demolition works shall be undertaken in accordance with the approved scheme.
Reason: In the interest of local amenity.

(12) No development shall take place until details of lighting of the site during construction have been submitted to and approved by the Local Planning Authority.
Reason: To prevent light pollution of the River Usk in order to protect otters.

(13) Full details of external illumination and floodlighting shall be submitted to the Local Planning Authority prior to the erection or installation of any external lighting on site, and the lighting shall then be installed fully in accordance with the details as approved. No other external lighting shall be installed without the prior consent in writing of the Local Planning Authority.
Reason: In the interests of public amenity.

(14) Notwithstanding the restricted hours of construction contained within conditions 16 and 17, no work of excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between sunset and sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure no disturbance is caused to otters migrating up or down the river at the periods of darkness.

(15) No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.
Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC.

(16) No construction work (including land raising if required) shall be carried out other than between the hours of 0800 and 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturday with no works or construction traffic movements being carried out on a Sunday or Bank Holiday unless otherwise agreed in writing by the Local Planning Authority.
Reason: To minimise the disturbance associated with construction works upon residential amenities.

(17) No construction work involving piling shall be carried out other than between the hours of 0800 and 1700 hours Monday to Friday with no works involving piling being carried out on a Saturday, Sunday or Bank Holiday.
Reason: To minimise the disturbance associated with construction works upon residential amenities.

(18) Notwithstanding the information already provided, no work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the agreed materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings.

(19) Notwithstanding the information already provided, no development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

(20) Notwithstanding the details already submitted, before the development is commenced, approval of the Local Planning Authority is required to a scheme of landscaping (including hard surfaces) and tree planting for the site and the verges outside of the site boundary adjacent to the south-west site boundary (indicating inter alia the number, species, heights on planting and positions of all trees and shrubs). Such scheme as approved shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of that development. Thereafter, the trees and shrubs shall be adequately maintained for a period of 5 years from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. The landscaping details submitted shall also include measures for the long term management of all of the un-adopted landscaped areas which shall then be managed in accordance with the approved details. For the purposes of this condition, a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects and to ensure that the site is landscaped in a satisfactory manner.

(21) Full details of all boundary treatments shall be submitted to and approved by the Local Planning Authority prior to the development commencing. The details shall be implemented

fully in accordance with the approved scheme prior to first occupation of the dwellings hereby approved and maintained as such thereafter.
Reason: To ensure adequate security and privacy and that the scheme is completed in a compatible manner to its surroundings.

(22) Details of any external plant associated with the building (e.g. Extraction systems, Compressors, etc.) should be provided in writing to the Local Planning Authority for approval prior to installation. The information should include the sound power output [dB(A)] and octave band levels of the equipment (to be provided in 1/3rd octave bands for extraction equipment. The hours of operation of any external plant should be provided. The information should also include an assessment of the impact of the noise from any external plant on the nearest residential premises (taking account of both day and night time noise levels).
Reason: To protect the amenities of nearby residential occupiers.

(23) The car and cycle parking spaces shown on the approved plan shall be provided prior to the beneficial occupation of the building and shall be thereafter retained.
Reason: To ensure the efficient functioning of the site and to avoid the need for vehicles to be parked on the highway.

(24) A parking management scheme will be submitted to and approved by the lLocal Planning Authority prior to the first occupation of the development and shall be implemented prior to the first occupation of any unit and maintained thereafter.
Reason: To ensure the efficient functioning of the site and to avoid the need for vehicles to be parked on the highway.

(25) Floor levels must be constructed at a level of at least 9.075m Above Ordnance Datum
Reason: To reduce the risk of flooding.

(26) A Noise Assessment shall be carried out prior to the beneficial occupation of the building The Noise Assessment shall demonstrate levels of 40dB(A) Leq (16 hours) in the daytime and 35dB(A) Leq (8 hours) in the nightime shall be achieved, assuming a partially opened window. The assessment should take account the need for protection against the noise in external areas, measured against the guidelines set out by the World Health Organisation (Guidelines for Community Noise 1999).
Reason: In the interest of residential amenity.

(27) A wind mitigation study will be submitted to and approved by the lLocal Planning Authority prior to the first occupation of the development and any measures required by the approved mitigation study prior to first occupation of any unit.
Reason: In the interest of residential amenity.

NOTE TO APPLICANT

(1) This decision relates to plan Nos: 7602 P(0) 1004, 7602 P(0)1005 rev A, 7602 P(0)1010 rev A, 7602 P(0)1011 rev C, 7602 P(0)1012 rev C, 7602 P(0)1013 rev C, 7602 P(0)1014 rev C, 7602 P(0)1015 rev C, 7602 P(0)1016 rev C, 7602 P(0)1028, 7602 P(0)1029, 7602 P(0)1200 rev C, 7602 P(0)1201 rev C, 7602 P(0)1202 rev A, 7602 P(0)1203 rev A, 7602 P(0)1204 rev A, 7602 P(0)1300 rev C, 7602 P(0)1301 rev C, 7602 P(0)1302 rev C, 7602 P(0)1303 rev C, 7602 P(0)1400 rev A, 863-008, 863-009, 863-010, 863-011, 863-012, 863-013, 863-014, 863-016, 863-019, 863-020.

(2) The development plan relating to Newport is the Newport Unitary Development Plan 1996-2011 (Adopted May 2006). Policies ED2, CE5, CE6, CE30, CE38, CE39, CE44, CE45, CE46, H5, SP1, SP2, SP10, SP24, U6 and T14 were relevant to the determination of this application.

(3) The Council's Supplementary Planning Guidance, The Newport Old Town Dock Development Brief dated December 2005, was relevant to the consideration of this application.

(4) Regard should be had to BS 5228: Noise and Vibration Control on Construction and Open Sites and BS 5228-4 Code of Practice for Noise and Vibration Control Applicable to Piling Operations.

APPENDIX 4 – Officer Report for Former Sainsbury’s

APPLICATION DETAILS

No: 09/0733 Ward: ***SHAFTESBURY***

Type: OUTLINE

Expiry Date: 14/10/2009

Applicant: ***SAINSBURY'S SUPERMARKET LTD***

Site: ***J SAINSBURY PLC SHAFTESBURY STREET NEWPORT SOUTH WALES NP20 5YA***

Proposal: ***REDEVELOPMENT OF EXISTING SUPERMARKET FOR RESIDENTIAL AND HOTEL DEVELOPMENT (OUTLINE)***

CONSULTATIONS

HEAD OF ENGINEERING AND CONSTRUCTION: No objections. Neither of the access roads are prospectively adoptable and will remain private requiring a Management Company. The applicant should reinstate/repair the footpath along the Pugsley Street frontage of the site and extend it to the adjacent MUGA play area to the north-east of the site. No build-outs are required at the access onto Pugsley Street as the visibility splays are acceptable without them subject to monitoring of the situation with cars parking close to this junction and the potential need for a future Road Traffic Order should it prove necessary within a five year period from first occupation of the development to which the applicant has agreed to contribute.

HEAD OF EDUCATION SERVICES RESOURCES AND PLANNING: The proposal as shown indicatively under this outline application and with the current pupil numbers/capacities indicates that no financial contribution would be sought although this would need to be subject to confirmation once the final layout and scale/type of development is known at the reserved matters stage.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (TREES OFFICER): The majority of trees around the boundaries of the site are of high visual amenity value. The amended indicative layout shows that most of these can be retained with the exception with lower quality trees required to be removed to allow for new vehicular access. Concerned about the potential impact on trees from land raising to mitigate flood risk and how this will be achieved without damaging tree roots. No objection is raised subject to conditions to secure details as to how the land would be raised to ensure the protection of existing trees.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES:
Contaminated Land: No objection subject to the imposition of conditions in respect of contaminated land.
Noise: No objections subject to appropriate conditions to ensure proposed development is protected from undue noise disturbance and that noise disturbance from construction activity is limited by restricting hours of working and piling activity.
Air: No objections subject to appropriate conditions to control dust during the demolition and construction process.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (RIGHTS OF WAY OFFICER): No objection but observes that the riverside path should be a minimum 3 metres width.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (LANDSCAPING): Soft landscaping along the riverfront is important in order to enhance the landscape and visual amenity of the river corridor. No objection raised subject to details needed to ensure links between the riverside cycleway and footpath at the points where the pedestrian routes through the site meet the riverside cycleway and subject to measures to prevent cyclists colliding with pedestrians at these junctions.

HEAD OF PUBLIC PROTECTION AND ENVIRONMENTAL SERVICES (BIODIVERSITY): The following points are made although it is noted that most can be addressed at reserved matters stage:
- as mentioned in the Ecological report, the mature/semi-mature trees on site should be retained where possible. Any trees which do need to be removed should be assessed for bat potential (and surveyed for bats if necessary);
- removal of any vegetation should be undertaken outside of the bird breeding season (March - August);
- lighting (especially along the riverbank) should be kept to minimum during construction and operation;
- the buildings on site have limited potential to support roosting bats; however, due to the suitable adjacent habitat and nearby bat records, a precautionary approach should be taken. If the buildings are to be demolished, a soft demolition approach should be used;
- a plan for the removal of Japanese Knotweed should be submitted with the reserved matters application;
- opportunities for biodiversity enhancement on site should be sought, this may include soft landscaping, green roofs/walls, installation of bird and bat boxes, etc;
- CCW will lead on issues relating to the River Usk SAC, however, it is likely that an Appropriate Assessment will need to be carried out.

HEAD OF CONTINUING LEARNING AND LEISURE: Requests a financial contribution towards off-site formal, informal and equipped/designated play space to mitigate the additional demand on local facilities in lieu of the on-site provision of open space.

HEDDLU GWENT POLICE ARCHITECTURAL LIAISON OFFICER: No objection subject to being involved in the Secured By Design of the affordable housing element of the development. Also makes general observations and advice concerning security of the proposed development.

DWR CYMRU - WELSH WATER: No objection but request the imposition of conditions in respect of foul and surface water and land drainage run-off. Also make comments about the location of the development in relation to existing public sewerage assets and the inclusion of advisory notes.

WALES AND WEST UTILITIES - PLANT PROTECTION: No objection. Provide information and advice regaring the location of apparatus.

WESTERN POWER DISTRIBUTION: Provide information and advice regaring the location of apparatus.

COUNTRYSIDE COUNCIL FOR WALES: Agree with the content and conclusion of the appropriate assessment and associated conditions so raise no objection in relation to the impact of development on the River Usk SAC and SSSI. In relation to bats CCW are satisfied that as long as only the trees identified for removal are lost then these younger trees are not likely to have potential for bat roosts.

GLAMORGAN GWENT ARCHAEOLOGICAL TRUST: There is a possibility that because of its location where a pill joins the river, there is potential for archaeological features or finds to be located during any ground disturbing works. No objection is raised subject to the imposition of a condition requiring a programme of archaeological work.

ENVIRONMENT AGENCY: Does not object to the application subject to imposition of conditions with regard the protection of controlled waters from pollution. The flood consequences assessment submitted ensures that the development is compliant with TAN 15. The intended levels of the proposed development (including car parking and access) are proposed to be set in excess of the 0.1% tidal flood level for the area (including an allowance for climate change for the next 50 years). As the risk of flooding to the site and surrounding area is tidal in nature, raising the development site will not have an adverse impact on flood risk to third parties. The EA also confirm that at present they do not intend to construct any new flood defences in the area. However, the regeneration of the area will result in many areas being raised by developers in order to comply with the requirements of TAN15. Once the regeneration of the area has been completed the Environment Agency may seek to 'plug the gaps' between the raised land resulting from the new developments in order to protect the existing properties from flooding. This would be something that may be discussed further in the future.

SOUTH WALES FIRE OFFICER: The developer should consider the need for the provision of adequate water supplies on the site for firefighting purposes and access for emergency firefighting appliances.

REPRESENTATIONS

NEIGHBOURS: A petition of 128 signatures was submitted in response to the original scheme raising the following objections:
- reduced privacy;
- flood risks and refusal of insurance with flooding issues;
- increased traffic;
- reduced parking for existing residents;
- boundary wall of proposed buildings and position of trees;
- extra housing overwhelming existing storm/sewerage system;
- the effects of the value of the existing properties (*note: this is not a planning consideration in itself);*
- volume and weight of the construction vehicles and disruption of works affecting the residents (parking, access, noise, dust, unsociable working hours).

Four individual letters also received objecting to the original plans on the following grounds:
- concern about the impact of the new development on the flood risk of the surrounding streets especially as it is an area of known flood risk;
- increased traffic into and out of Pugsley Street (existing access is from the A4042) impacting on road safety and noise pollution;
- overbearing impact of proposed buildings on houses opposite causing loss of light and loss of privacy for existing residents;
- concern about potential for increased crime in the area;
- concern about the development contradicting the zoning of the current site;
- concern about disruption and inconvenience caused by development which would be noisy and detrimental to health;

- new roads or road widening could be potentially dangerous for existing residents;
- the site would be better suited for supermarket use;
- reduced street parking due to new properties having forecourts and access to them, and new access roads off Pugsley Street onto the site;
- increased flood risk if the existing brick wall is removed;
- affect on value of property (*note: this is not a planning consideration in itself);*
- concern as to whether the existing storm water and sewerage system will cope with the increase in properties;
- the proposed properties are not in keeping with the existing properties;
- question as to whether all the properties would be private dwellings;
- erosion of the footpath/cycle path along the river bank;
- question as to whether the unadopted ground will be adopted by the Council;
- concern about the scale of development and seeking 2 storey terrace houses along Pugsley Street to be in keeping with existing properties;
- the site would be better as a green area.

A public meeting was also held on 17 September 2009 when all of the above issues were discussed with Council officers and representatives of the applicant. An additional concern raised by residents at the public meeting about was with regard to the suitability of the site for building upon in terms of the structure of the ground. Whilst this is a matter for any future developer of the site when designing the foundations and any necessary piling, it is not a planning consideration.

The above objections were received in relation to the consultation on the original plans and details. Since then neighbouring residents were re-consulted on amended plans submitted and no additional comments were received following this re-consultation.

RELEVANT SITE HISTORY

99/1159	Relocation of existing recycling centre.	Granted with Conditions
99/1317	Extension to existing petrol filling station kiosk, extension to existing canopy, pump island extension with additional pump and alteration to existing kerbline.	Granted with Conditions
95/0385	External alterations to entrance and lobby construction of new customer toilets and extension of sales area into existing sub-let unit.	Granted with Conditions
95/0520	Construction of new coffee shop and restaurant.	Granted with Conditions
95/0597	Alterations to arrangement of vehicle access and exit lanes.	Granted with Conditions
93/0544	Creation and lighting of foot/cycle path.	Granted with Conditions
90/0675	Construction of petrol filling station.	Refused

POLICY CONTEXT

Newport Unitary Development Plan 1996-2011 (Adopted May 2006)

Housing

Policy H2 permits residential development within the settlement boundary subject to no loss of open space, no adverse impact on existing residential amenities, provision of acceptable residential amenity for future residents, provision of adequate open space, no unacceptable highway implications, provision of adequate services, and that design and environment policies of the plan would not be compromised.

Policy H5 seeks a mix of house types and sizes including affordable housing.

Design of Development

Policy CE38 this is concerned with achieving a good quality of design, which takes on board a number of principals, which aim to create a safe, attractive and convenient environment.

Policy CE39 proposals for new residential development should respect or complement existing surroundings or neighbouring buildings in terms of scale, design, materials, siting, density and layout.

Policy CE44 adequate arrangements for securing an accessible environment for everyone will be required in the development proposals, especially where the public would reasonably require having access.

Policy CE45 safety and security should be taken into account when designing a scheme, particularly in relation to building location, design and location of parking, open spaces and landscaping, access provision and lighting arrangements.

Nature Conservation

Policy CE5 this seeks to protect internationally important sites from adverse affects of development.

Transport

Policy T14 encourages the creation of safe cycleways and walkways including access to and along the riverbanks, watercourses and coasts where practicable.

Policy T16 states that any Public Right of Way affected by development will require retention or the provision of a suitable alternative.

Urban Regeneration

Policy ED15 Tourism related development would be encouraged through appropriate urban regeneration schemes and initiatives including construction of continuous riverside promenades and cycleways along both banks of the Usk.

Recreation, Education and Community Facilities
Policy CF4 Open Space Standards – provision of open space at a minimum standard of 2.4 hectares per 1,000 population will be sought on all new housing developments.
Policy CF6 Public access along both east and west riverfronts will be encouraged where practicable. Joint use by pedestrians and cyclists will be implemented through appropriate design and legislation.
Flood Risk
Policies U6 and SP27 relate to flood risk areas.
Residential Amenity
Policy CE31 seeks to protect existing residential amenity and any new non-residential uses should not cause significant adverse effect on this amenity
Tourism
Policy ED13 relates to new tourism related development including hotels
Energy Conservation
Policy U8 seeks conservation of energy in new development
Contaminated land
Policy U13 requires contaminated sites to be fully assessed and mitigated.

ASSESSMENT

Site and Surrounding Area
The site is currently occupied by a Sainsbury supermarket and petrol filling station with the buildings located in the southern corner of the site the remaining area being for customer car parking. Vehicular access to the site is currently via a separate access and egress directly onto Shaftesbury Street with only pedestrian access onto Wyndham Street. The site is surrounded on all boundaries, with the exception of a section fronting Shaftesbury Street, by mature and semi-mature trees together with a few trees more within the site. The majority of these trees are protected by a Tree Preservation Order (TPO). To the north-west of the site on the opposite side of Wyndham Street and Pugsley Street is an existing residential area. To the south-east of the site is the River Usk with existing footpath running alongside the site boundary separated by a row of mature and semi-mature trees. To the west of the site is Shaftesbury Street and Usk Way whilst to the south approximately 33 metres from the site at its nearest point is the mainline railway.

Proposed Development
This is an outline planning application with access details for detailed consideration. Other matters of appearance, landscaping, layout and scale are reserved for future consideration. Nevertheless the application is supported by a Design and Access Statement and indicative layout drawings setting out how the site could be developed and thereby establishing principles of development in terms of the opportunities and constraints of the site.

The proposal is for a mix of residential dwellings comprising apartments and houses. The indicative layout plan submitted shows a 109 bed 5-storey hotel in the western corner of the site with ancillary car parking; a block of apartments ranging from 6 to 8 storeys in height surrounding a courtyard podium on three sides with green roof and undercroft parking; and a row of semi-detached and terraced houses extending through the narrower part of the site fronting Pugsley Street but with parking areas in between. The apartments are shown indicatively to comprise 72 (No) 1-bed flats and 48 (No) 2-bed flats whilst the houses are indicatively shown to 20 3-bed houses and 6 4-bed houses. It is also proposed to upgrade the riverside walkway as well as adding a separate cycleway running parallel to the walkway but on the site side of the existing row of trees running alongside the existing walkway.

Principle of Development
Whilst the site is not allocated for any specific development in the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) , it is recognised in the supporting text of Policy ED2 that Crindau provides the opportunity to relocate the existing Sainsbury store to a less constrained site. Consequently there is recent resolution to grant full planning permission for a new supermarket and petrol filling station on the former Crindau Gasworks site which will include a Section 106 legal agreement to ensure the existing Sainsbury site is not used for retail use once the new store is operational. As such the principle of redevelopment of the site for a primarily residential use is considered appropriate in a residential area. In relation to the hotel the Council's Tourism Officer supports the principle of this to create jobs and in bound expenditure. Although there has been recent investment in the City Centre with the upgrading of the new Queen's Hotel and the new Travel Lodge, other City Centre proposals have not transpired.

Design and Layout
The layout is constrained to a large extent by the narrowness of the north-eastern part of the site together with the existence of good quality mature and semi-mature trees bordering the site. As such it is not considered possible to achieve frontages onto both Pugsley Street and the river as was originally shown indicatively on the submitted plans which have since been amended. Whilst the proposed houses are shown to back onto the river, this is considered acceptable in principle provided the design of the rear of these houses is of a suitable quality given that they would be visible from the railway and to some extent from the riverside walkway and cycleway. The design of the rear boundary of the gardens which would run parallel to the proposed new cycleway is also crucial both in terms of providing a durable and visually acceptable

enclosure as well as allowing a degree of natural surveillance. The appearance of the boundary treatment would also need to be softened with the use of soft landscaping which is shown indicatively on the site layout plan. Such details would be considered carefully at the reserved matters stage should planning permission be granted.

The scale of buildings is proposed to increase towards the southern end of the site closest to Shaftesbury Street and the railway which is considered appropriate in principle as this would result in a landmark building in a prominent 'gateway' location adjacent to Shaftesbury Street, Usk Way and the mainline railway.

The proposed development includes provision for upgrading the existing riverside walkway including creation of a separate cycleway divided from the footway by the existing line of riverside trees. This is considered to be an appropriate solution to provide improved pedestrian and cycling facilities, which would benefit the prospective occupiers in terms of encouraging non-car use as well as the general public, whilst retaining an important and good quality line of trees from a visual quality point of view.

Highways Issues
Whilst the site layout is indicative at this outline stage, the vehicular access points are for detailed consideration and dictate to a significant extent the layout of the site. The indicative layout has been designed to show a segregation of the parking for the houses and the rest of the development which is a principle that would be expected to be preserved at the reserved matters stage in order to minimise additional traffic on Pugsley Street and Wyndham Street from a highway safety point of view as well as avoiding undue additional pressure on the Harlequin Roundabout via Evans Street. All traffic associated with the hotel and apartments would therefore access the site directly onto Shaftesbury Street. This arrangement is considered acceptable and is a further reason for encouraging a lower density of development at north-eastern end of the site. Furthermore, only one access point is needed to serve the proposed houses which would minimise the loss of any existing on-street parking utilised by nearby existing residents.

Visibility splays for the proposed two vehicle accesses are considered acceptable. With the access onto Shaftesbury Street this would remain similar to existing which is acceptable on the basis that the traffic flows would be likely to be less for the proposed development compared with existing retail customer traffic. The Pugsley Street access point access is also considered acceptable subject to monitoring over a five year period as to whether a road traffic order is required to prevent on-street parking in the immediate vicinity of the access.

The riverside cycleway is shown indicatively on the site side of existing riverside trees and so there would need to be links through to the riverside footpath at the points where the pedestrian routes through the site meet the cycleway. Measures to prevent cyclists colliding with pedestrians at these junctions would also be required. Such details can be secured by condition should the application be granted planning permission.

In terms of parking provision, the indicative site layout shows provision for 280 parking spaces which breaks down as 100 spaces for the 109 bed hotel, 125 spaces for the 120 apartments, and 55 spaces for the 26 houses. This forms the basis for calculating pro-rata the parking provision for any detailed proposal submitted at the reserved matters stage which could include a different amount and mix of accommodation. This is considered acceptable in this sustainable location close to the city centre.

Trees and Landscaping
The indicative site layout has demonstrated the principle of a development that would minimise the loss of trees with the only trees needing to be removed for the purpose of creating access into the site being of lower quality. Furthermore, the indicative layout plan shows opportunities for planting new trees within the site to supplement existing trees around the site.

The parking and turning areas shown on the indicative layout plan are generally shown to be outside of the root protection zones of trees. Nevertheless due to the need to raise site levels to mitigate flood risk this could impact on the tree roots and so a detailed method statement for the raising of the levels would be required to ensure such roots are protected. Such details can be secured should planning permission be granted.

Also related to loss of trees is the potential impact on bats if they have roosts in the trees concerned. A tree assessment has been carried out by the applicant which demonstrates that the trees that would be removed due to the vehicles access to the site or as a result of the indicative site layout would be of negligible potential for bat roosts given their relative young age.

Flood Mitigation
In order to protect the site from flooding to meet the requirements of TAN 15 (Flooding) the applicant proposes to ensure that finished floor levels and car park levels would be raised to a minimum height of 9.55 metres above ordnance datum (AOD) and 9.26 metres AOD respectively. Furthermore, it is considered that any pedestrian links through the site, as shown indicatively on the submitted layout plan, would also need to be raised to at least 9.26 metres AOD. As such the site would be raised to a level which would also have the

effect of protecting existing residential properties to the north of the site from flooding in a 1:1000 year event (including an allowance for climate change for the next 50 years) when combined with any future flood defences beyond the application site.

Residential Amenity
The indicative site layout submitted shows the proposed residential element of the development pulled well away from the existing street boundaries. The proposed houses are shown indicatively to be at least 35 metres away from existing houses opposite in Pugsley Street whilst the proposed flats are shown to be at least 70 metres away. Whilst the proposed hotel is shown indicatively approximately 5 metres from the Wyndham Street site boundary, this layout shows the hotel side on to Wyndham Street and set close to the Shaftesbury Street site frontage. The hotel would therefore not be directly opposite existing residential properties backing onto Wyndham Street. As such it is considered that a hotel in this location would not have an overbearing effect or cause undue loss of privacy from overlooking. Furthermore, a shadow study undertaken demonstrates that there would not be undue overshadowing of Wyndham Street properties caused by such a hotel. Although this is an outline application and the siting and scale is reserved for future consideration the indicative layout nevertheless demonstrates that development of the site can be achieved without causing undue loss of privacy or overshadowing to existing residential properties in the area.

In terms of the amenities of prospective residents, all houses are shown indicatively to include private garden areas and the proposed flats include provision for a communal courtyard area. The flats would be closest to Shaftesbury Street, Usk Way and the railway line in terms of potential noise disturbance and so whilst this does not make the principle of such development unacceptable, further details to mitigate the noise would need to be secured by condition should planning permission be granted.

In terms of comparing the proposed site levels with existing levels for the purposes of assessing the potential impact on the height of development the existing site levels range from approximately 8.4 metres above ordnance datum (AOD) in the vicinity of the Pugsley Street frontage of the site to approximately 8.9 metres AOD in the vicinity of the Wyndham Street frontage. As such it is considered that whilst the proposed buildings, car park/access road areas and pedestrian links would be raised it would not be by such a significant amount as to result in undue additional massing effect particularly as the proposed residential buildings are proposed to be set well away from the Pugsley Street and Wyndham Street site frontages. In the case of the proposed hotel this part of the site is already at a relatively high level so would not require as much land raising and in any case the hotel would not need to be located directly opposite existing residential properties backing onto Wyndham Street.

Sustainability
The applicant has confirmed that the development would meet the required Code for Sustainable Homes (in the case of the residential elements) and BREEAM (in the case of the hotel). Measures proposed to achieve this include a south-east orientation for the houses and a large number of the flats, retention to protect existing species habitat, use of green roofs on apartment blocks to provide opportunity for additional habitat creation, highly insulated buildings, use of low energy lighting, low or zero carbon technologies where appropriate, and recycling of surface water. Further details in relation to any future detailed proposal submitted under reserved matters can be secured by condition should planning permission be granted.

Impact on the River Usk SAC and SSSI
The Countryside Council for Wales raise no objection to the proposal on the basis that conditions recommended through the following Appropriate Assessment are secured and implemented so as to avoid an adverse impact on the integrity of the River Usk SAC and Site of Special Scientific Interest.

Appropriate Assessment
The river has been designated because the following species are special features to the River Usk:-
Allis Shad;
Twaite Shad;
Bullhead;
River Lamprey;
Brook Lamprey;
Sea Lamprey;
Atlantic Salmon;
Otter;
Water Crowfoot.

The conservation objectives of the SAC are attached as an Appendix to this report (see ***Appendix A***).

The Usk is considered one of the best examples of a near natural river system in England and Wales. The range of plants and animals reflects a transition from nutrient poor to naturally rich. It was notified to protect a wide range of habitats and features. It also acts as an important wildlife corridor, an essential migration route and a key breeding area for nationally and internationally important species, including otter.

The concerns regarding the potential for impact on the River Usk SAC are:
- the possible discharge of contaminated water and/or groundwater to the River Usk, with the potential resultant impacts on the fish and otter features of the SAC;
- potential disturbance to otter from construction and operation;
- potential disturbance to migratory fish species from construction including piling;
- loss and/or obstruction of otter habitat/movement corridors.

The application site is located with its south-eastern boundary adjacent to the SAC boundary but not within it. Currently running along the top of the river bank is a riverside walkway which is within the site boundary and is proposed to be upgraded as part of the proposed development. However the upgraded pathway/cycleway would remain outside of the SAC boundary with no encroachment beyond the line of the existing pathway.

The ecological survey work undertaken by the applicant identified that there are records of otter on the River Usk next to the site boundary but that there is no habitat within the application site suitable for otters. There is however habitat on the banks of the river adjacent to the site and so it is important that any potential disturbance to otters as a result of the proposed development is prevented.

Notwithstanding the footway/cycleway works the rest of the development is proposed to be set back from the banks beyond the footway/cycleway thereby providing a buffer between the main development and the river bank. Based on the indicative site layout such a buffer would generally be at least 8 metres to the nearest buildings/boundary walls as the walkway and cycleway is proposed to pass either side of the existing line of trees/shrubs which line the site side of the existing footway. Such a buffer is considered sufficient to avoid undue disturbance to otters as a result of the construction and future occupation of the proposed development. Details of measures to ensure that this buffer zone is maintained during construction can be secured by condition along with temporary otter fencing to prevent otters accessing the construction site (Condition 13). Works within the buffer comprising the walkway/cycleway can also be secured by condition to ensure special care is taken to avoid adverse impact on otters and their habitat including measures set out in a Construction Environmental Management Plan (CEMP) (Conditions 11 and 14). Furthermore any works within 20m of the river bank can be controlled to be carried out within daylight hours to further prevent disturbance of otters (Condition 15). Whilst the proposed riverside walkway/cycleway would abut the top of bank this reflects the existing situation and so it is considered that once operational it would not have any additional impact beyond that which currently exists. Further details of the design of the path and any railings can be secured by condition (Condition 14). Any lighting along the edge of the proposed walkway would be expected to be designed to avoid excessive light falling on the river and river bank to the detriment of otters and this too can be controlled through condition (Conditions 12 and 14). Landscape proposals for the edges of the site should also be appropriate to support existing habitat detail of which can be secured by condition (Condition 17). Such landscaping details would need to include measures to control Japanese knotweed within the site. In terms of potential impact of drainage (surface and foul water) in causing pollution of the River Usk to the detriment of otters, details to ensure such pollution would not occur can be secured by condition (Conditions 6 and 8). With such controls in place it is considered that there would not be any adverse impact to the SAC in relation to otters.

In terms of the potential for significant effect on the migratory fish features of the River Usk SAC the specific concerns relate to: how surface water would be disposed of during construction and operation; how foul water drainage would be disposed of; how potential contamination of groundwater on the site will be addressed; what measures will be in place to prevent potentially contaminated run-off entering the River Usk during both construction and operation phases of the development; and the effects of any vibration generated during the construction process. It is therefore recommended that conditions are imposed on any consent granted to provide suitable protection (Conditions 1-12 and 16).

The current and previous uses of the site raise the question of contamination. It is therefore recommended that conditions be imposed to ensure that a full investigation of contamination on the site is carried out and any contamination which is found is remediated in accordance with an approved remedial strategy (Conditions 2-5).

It is considered that with the imposition of suitable conditions to ensure that contamination of the River Usk SAC and SSSI is avoided and that remediation measures are implemented, there would be little likelihood of contaminated material entering the water system, and the proposal would not have a significant adverse effect on the River Usk SAC.

In terms of in combination effects of the development when considered alongside other developments along the edges of the River Usk through Newport, it is considered that with the imposition of appropriate conditions referred to above, the proposed development would not combine with other developments to have a significant adverse effect on the River Usk SAC and SSSI. It is considered that the issues relevant to this application (otter habitat, contamination and disturbance from construction works) would be equally dealt with by similar conditions for these other developments and so it is not considered that there are any in-combination implications.

With the inclusion of appropriate conditions it is considered that any adverse effects associated with the development can be satisfactorily avoided.

Section 106 planning obligations

Introduction

The Section 106 obligations requested reflect the need to mitigate the direct impact of the development and thereby provide a sustainable development. As such, the current proposal has been considered on its individual merits in accordance with Policy SP11 of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006) and the associated Planning Obligations Supplementary Planning Guidance (December 2007). The applicant has agreed to the heads of terms set out below.

Please note that all planning obligations quoted below are only indicative, because they are based upon indicative numbers and types of dwellings, as identified in the outline planning application (ie 2 one bed flats; 48 two bed flats; 20 three bed houses; and 6 four bed houses). As such, finalised planning obligations would be based upon the scale and type of dwellings identified in any future related approved Reserved Matters planning approval.

Affordable Housing

There is a clear need for affordable housing in the area, which has been difficult to address due to limited site availability. As such, 30% affordable housing provision is required in accordance with Council policy and in accord with the Local Housing Market Assessment. Units would need to be transferred to a Registered Social Landlord, zoned for Newport by the Welsh Assembly Government, at a cost of 58% of ACG.

Based on the indicative layout this provisionally represents 43 units with 15% of each type/size of accommodation. This number and mix would clearly change with any different layout, scale and type of development incorporated in any future related Reserved Matters planning application.

Education

The development falls into the catchment areas of Crindau Primary School and Newport (Bettws) High School. Taking into account the indicative scale and type of development and the current pupil numbers/capacities, no education contribution is currently requested.

Please note that the actual education contribution would be based upon the scale and type of residential development identified in any future related approved Reserved Matters planning approval. This would be calculated through the formula set out in the Planning Obligations SPG (2007).

Leisure

There is a 'Play Space' deficit within the Shaftesbury Ward of -2.58Ha. From the plans provided (Drawing 7746 P(0)100 rev.D), there appears to be no 'Public' Outdoor Play Space Provision as it is assumed that the Landscaped Courtyard would be for residents only. Fields in Trust's (FIT) definition of Outdoor Playing Space is: *'space that is accessible and available to the general public and of a suitable size and nature, for sport, active recreation and play'.*

The actual leisure contribution would be based upon the scale and type of residential development identified in any future related approved Reserved Matters planning approval. This would be calculated through the formula set out in the Planning Obligations SPG (2007) and in accordance with NPFA standards. This would be used for off-site provision/improvements within the ward and most likely for the upgrade of Shaftesbury Park which is close to this development.

Highways

The existing footway on Pugsley Street adjacent to the site needs to be resurfaced and extended to provide adequate pedestrian access to the adjacent play area. Furthermore, a financial contribution of £5000 is required in relation to the possible need for a Road Traffic Order adjacent to the proposed Pugsley Street access should it prove necessary within a 5 year period from first occupation of the development to restrict on-street parking in the immediate vicinity of this junction.

Monitoring Fees

A Monitoring Fee of £1,138 (ie 15% of the planning application fee) would be required to cover the Council's cost incurred in entering into early negotiations and ongoing monitoring of the planning obligations. The applicant would be expected to contractually agree within the legal agreement to make this payment prior to the commencement of development.

Conclusion

Recommend approval of the indicative planning obligations outlined above, based upon the scale and type of development identified in the outline planning application. Any future related Reserved Matters planning application will be re-assessed against the Planning Obligations SPG (2007).

Please note that any future 'Renewal' or new 'Full' planning application for this site, will result in the Section 106 Planning Contributions being re-appraised in accordance with the most up-to-date national and local policy at the time that new application is registered.

Conclusion
The proposed development is considered acceptable in principle based on the indicative site layout submitted and the detailed access positions for approval at this outline stage. The indicative development is considered to demonstrate that residential and hotel development can be designed to reflect the context of the site including neighbouring existing residential development, the river front, existing trees around the site and the adjacent major transport routes. As such it is recommended that planning permission is granted subject to conditions and a Section 106 Agreement and on the basis that any reserved matters application would need to reflect the principles established at this outline stage.

RECOMMENDATION

GRANTED WITH CONDITIONS SUBJECT TO A SECTION 106 AGREEMENT

Appropriate Assessment Conditions
01 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, the capacity and design of which shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The interceptor shall be retained thereafter.
Reason: To safeguard the conservation objectives to the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI).

02 Prior to the commencement of development (or at such other date or stage in development or for such specified activities or works as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
(1) A preliminary risk assessment which has identified:
(a) all previous uses;
(b) potential contaminants associated with those uses;
(c) a conceptual model of the site indicating sources, pathways and receptors;
(d) potentially unacceptable risks arising from contamination at the site.
(2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
(3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
Any changes to these components require the express consent of the Local Planning Authority.
Reason: To ensure that the proposed site investigations and remediation will not cause pollution of controlled waters and in the interests of safeguarding the River Usk SAC and SSSI, and in the interests of residential amenities and human health.

03 Prior to the commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
Reason: To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site and in the interests of safeguarding the River Usk SAC and SSSI, and in the interests of residential amenities and human health.

04 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long- term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site and in the interests of safeguarding the River Usk SAC and SSSI, and in the interests of residential amenities and human health.

05 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 historic complexity 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 and in the interests of safeguarding the River Usk SAC and SSSI, and in the interests of residential amenities and human health.

06 No development shall commence until details of the foul and surface water drainage and storage system including means of discharge into the drainage network, have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details prior to first occupation of the development.
Reason: To ensure the protection of controlled waters and in the interests of safeguarding the River Usk SSSI and the River Usk SAC.

07 Any imported material used for the preparation of ground levels or capping material shall be uncontaminated natural material which satisfies the appropriate risk assessment criteria for its specific end use. Information to demonstrate suitability of any such material shall be submitted to and approved in writing by the Local Planning Authority before import to the site.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI and in the interests of residential amenities and human health.

08 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways during either the construction or operational phases of development.
Reason: To prevent pollution of the water environment and to safeguard the conservation objectives of the River Usk SAC and SSSI.

09 Prior to commencement of any piling works or any other foundation designs using penetrative methods, details of these operations shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include evidence that there would be no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
Reason: To prevent pollution of the water environment and safeguard the conservation objectives of the River Usk SAC and SSSI.

10 Any facilities for the storage of oils, fuels and chemicals shall be sited on impervious bases and surrounded by imperious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of inter-connected tanks plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
Reason: To prevent pollution of the water environment.

11 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following:
- dust suppression measures;
- noise mitigation measures;
- details of temporary lighting during construction works;
- details of enclosure of working areas;
- a drainage strategy to operate setting out controls of contamination during construction, including controls to surface water run off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.
- pollution prevention and contingency measures.
Construction works shall be implemented in accordance with the approved CEMP.
Reason: To protect the amenities of nearby residents and in the interests of safeguarding the features of the River Usk SAC and SSSI.

12 Prior to installation of any external lighting, details of such lighting (design of columns and how the lamp would be designed to demonstrate that there would be no light spillage across the River Usk SAC/SSSI) shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved details and thereafter maintained as such.
Reason: To safeguard the conservation objectives of the River Usk SAC and SSSI and in the interests of the visual appearance of the area.

13 No development shall commence until details of fencing to prevent otters getting onto the site during construction and details of a buffer strip (including measures to protect this buffer to ensure exclusion of construction activities other than the proposed footpath/cycleway and any associated railings, lighting and landscaping for which details of specific construction methods and management are required under condition 14, together with details of working corridors for any other works within the buffer strip) have been submitted to and approved in writing by the Local Planning Authority. The otter prevention fencing and buffer strip protection measures shall be implemented in accordance with the approved details prior to commencement of development and maintained as such for the duration of the construction of the development and any works carried out within the buffer strip implemented in accordance with the approved details.
Reason: To safeguard the conservation objectives of the River Usk SAC and SSSI.

14 Before the development is commenced, details of the proposed footpath/cycleway and any associated railings, lighting (including details of light spillage) and landscaping including details of design, construction methods and management shall be submitted to and approved in writing by the Local Planning Authority. The proposed works shall follow the principles set out in the indicative site layout plan submitted with the planning application and shall be implemented in accordance with the approved details prior to first occupation of the development.
Reason: In the interests of residential amenities, the visual quality of the riverfront and to ensure the protection of the River Usk SAC and SSSI.

15 No work of demolition, excavation, land raising or construction shall take place within 20 metres of the top of the riverbank between sunset and sunrise respectively unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure no disturbance is caused to otters migrating up or down the river during the periods of darkness in the interests of protecting the integrity of the River Usk SAC.

16 No works within the River or associated with piling shall be undertaken during the period from 1 March to 30 June.
Reason: To avoid disturbance during the main Shad and Lamprey spawning and migration period in the interests of protecting the integrity of the River Usk SAC.

17 A landscaping scheme (which shall be accompanied by a management plan detailing future maintenance) submitted in pursuance of Condition 18 (which in relation to tree/shrub planting shall include inter alia grass mixtures and the number, species, heights on planting and positions of all trees and shrubs as well as details of trees to be retained and measures to protect them during construction) shall be carried out in its entirety by a date not later than the end of the full planting season immediately following the completion of the associated development. Thereafter, the trees and shrubs shall be maintained for a period of 5 years (or as agreed in the management plan) from the date of planting and any which die or are damaged shall be replaced and maintained until satisfactorily established. For the purposes of this condition a full planting season shall mean the period from October to April.
Reason: To safeguard the rights of control of the Local Planning Authority in these respects, to ensure that the site is landscaped in a satisfactory manner, and in the interests of protecting the integrity of the River Usk SAC.

Other Conditions
18 Approval of the details of the appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be obtained from the Local Planning Authority. These details shall accord with the principles laid out in the Design and Access Statement (Outline Stage C dated June 2009 revised 15 October 2009) with the exception of the and indicative site plan which is superseded by indicative site plan ref. 7746 P(0)100 rev.G.
Reason: To safeguard the rights of control of the Local Planning Authority in respect of the reserved matters and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990 and with the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

19 Prior to commencement of development a Carbon Reduction Strategy and Environmental Sustainability Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved Carbon Reduction Strategy and Sustainability Statement.
Reason: In the interests of the sustainable development of the site.

20 Detailed flood mitigation measures as set out in principle in the FCA and shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. In relation to the levels the finished floor levels of the buildings shall be a minimum of 9.55 metres above ordnance datum (AOD) and the accesses, car parking areas and pedestrian walkways shall be a minimum of 9.26 metres AOD. The reserved matters shall include a comprehensive set of levels and cross sectional drawings which shall clearly show finished ground levels, finished floor levels of buildings, the manner in which raised ground will be graded down to existing ground levels along the perimeter of the site, and details of tree root

protection areas. The mitigation measures shall be implemented in accordance with the approved details prior to first occupation of the proposed development.
Reason: In the interest of flood prevention.

21 No work shall be commenced on the construction of the approved scheme until details/samples of materials and finishes to be used on the external surfaces (including buildings; hard landscape areas; pathways/cycleways; car park and access road areas) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved materials.
Reason: To ensure that the development is completed in a manner compatible with its surroundings and to ensure adequate security and privacy.

22 No development shall commence (unless otherwise agreed in writing by the Local Planning Authority in relation to specific advanced works) until a Management Strategy for the maintenance of all external communal areas has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include details of any Management Company proposed and its terms of reference. The Management Strategy shall be implemented in accordance with the approved details.
Reason: In the interests of residential amenity.

23 The reserved matters shall include details of off-street parking and covered cycle parking. These facilities shall be provided in accordance with the approved details prior to first occupation of any development and thereafter maintained as such.
Reason: In the interests of highway safety.

24 Any parking spaces associated with residential uses on the site shall be used for the parking of domestic vehicles only and for no other purposes.
Reason: To ensure the retention of adequate parking in the interest of highway safety.

25 Car park areas, internal roads, cycleways and footways (including the riverside walkway and cycleway) on the site shall be constructed in accordance with plans submitted to and approved in writing by the Local Planning Authority prior to commencement of development and completed in accordance with the approved details prior to first occupation of the development unless an alternative timescale has been approved in writing with the Local Planning Authority.
Reason: In the interests of highway and pedestrian safety.

26 A Green Travel Plan (including provision for a Travel Plan Coordinator) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The Green Travel Plan shall be implemented and maintained thereafter in accordance with the approved details.
Reason: In the interests of reducing the need to travel by car and encouraging use of alternative modes of transport.

27 Prior to commencement of development (including site preparation) a construction management plan for that parcel relevant to the nature and location of the reserved matters application including details where relevant of the means of mitigation against construction noise and vibration including piling methods, provision of a noise management plan, details of any temporary site access/parking and the likely position of haul roads, details of the location of compounds for the storage of plant and materials, measures to prevent dust pollution and suitable plant and wheelwash facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and the approved measures shall remain in operation for the duration of the development.
Reason: In the interests of residential amenity and highway safety.

28 Notwithstanding the requirements of condition 15 no construction work shall be carried out on the site other than between the hours of 8.00 am – 6.00 pm (8.00 am - 5.00 pm for works involving piling) Monday-Friday and 8.00 am - 1.00 pm Saturdays (but no work on Saturday involving piling) unless otherwise first agreed in writing by the Local Planning Authority. No construction or piling works shall take place on Sundays or Bank Holidays unless otherwise first agreed in writing by the Local Planning Authority.
Reason: In the interests of residential amenity.

29 The reserved matters shall include details of all street lighting and lighting of any parking areas, including the trigger times for implementation, which shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved details.
Reason: In the interests of residential amenity, highway and pedestrian safety and the security of the site.

30 No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
Reason: To identify and record and features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

31 Pursuant to the approval of the reserved matters relating to layout and appearance, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external road traffic noise in excess of 55 dBA Leq 16 hour [free field] during the day [07.00 to 23.00 hours] or 45 dBA Leq 8 hour [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 40 dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.
Reason: To ensure that the amenities of future occupiers are protected.

32 Pursuant to the approval of the reserved matters relating to layout and appearance, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external road traffic noise shall not exceed 55 dBA Leq 16 hour [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.
Reason: To ensure that the amenities of future occupiers are protected.

33 Pursuant to the approval of the reserved matters relating to layout and appearance, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external railway noise in excess of 55 dBA Leq 16 hour (free field) during the day (07.00 to 23.00 hours) or 45 dBA Leq 8 hour (free field) at night (23.00 to 07.00 hours) shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 40 dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.
Reason: To ensure that the amenities of future occupiers are protected.

34 Pursuant to the approval of the reserved matters relating to layout and appearance, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external railway noise shall not exceed 55 dBA Leq 16 hour [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.
Reason: To ensure that the amenities of future occupiers are protected.

35 Details of riverside walkway/cycleway including any upgrading, lighting, surfacing, railings, links between the footway and cycleway and measures to prevent collision between cyclists and pedestrians at points where pedestrian routes through the application site meet the proposed cycleway shall be submitted to and approved in writing prior to commencement of development. The riverside walkway and cycleway shall be completed in accordance with the approved details prior to first occupation of the development.
Reason: To ensure that the development is completed in a manner compatible with its surroundings and in the interests of residential amenity.

36 Tree protection conditions.

37 Method statement for works beneath tree canopies and works for land raising in relation to protection of tree roots.

38 Vehicular accesses shall be implemented in accordance with approved details prior to first occupation.

39 Resurfacing of existing highway footway and extension to the adjacent play area shall be carried out prior to first occupation of the residential dwellings.

40 Details of bin storage

41 Details of boundary treatment

NOTE TO APPLICANT

01 This decision relates to the following documents submitted in support of the application:
- planning statement
- access arrangement plan
- indicative Site Plan 7746 P(0)100 rev.G
- Design and Access Statement – Outline Stage C, June 2009 (revised 15.10.09) with the exception of the indicative site plan which is superseded by indicative Site Plan 7746 P(0)100 rev.G
- Transport Assessment

- Flood Consequences Assessment.
- Tree survey
- Sustainability parking assessment
- Tree assessment for bats
- Noise and Vibration assessment
- Ecological Scoping phase 1 habitat survey
- Air Quality Assessment
- Environmental Desk Top Study

02 The development plan relating to Newport is the Newport Unitary Development Plan 1996-2011 (Adopted May 2006). Policies H2, CE38, CE39, CE44, CE45, CE5, T14, T16, ED15, CF4, CF6, SP1, SP2, SP10, SP11, SP13, SP23, SP24, U6, SP27, CE4, CE9, CE31, CE32, H5, ED13, U3, U5, U8 and U13 were relevant to the determination of this application.

03 The number of residential units or hotel bedrooms has not been set under this outline planning consent – the number of units will be determined based on detailed design considerations at the reserved matters.

04 Subject to a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.

05 The Environment Agency recommends that developers should: -
(i) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination when dealing with land affected by contamination.
(ii) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, eg human health.
(iii) Refer to EA website at www.environment-agency.gov.uk for more information.

06 Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Recovery and disposal operations require a waste management licence or Pollution Prevention and Control permit. If contaminated soil is to be re-used on-site as part of a soil recovery operation then either a waste management licence will be required or the applicant will need to register an exemption to licensing with the Environment Agency. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

07 Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes: -
(i) Duty of Care Regulations 1991.
(ii) Hazardous Waste (England and Wales) Regulations 2005.
(iii) Waste Management Licensing Regulations 1994 (as amended).
(iv) Pollution Prevention and Control Regulations (England and Wales) 2000.
(v) Landfill (England and Wales) Regulations 2002.

08 The developer should hold joint discussions with Dwr Cymru – Welsh Water or the Environment Agency and the Fire Authority to ensure that adequate water supplies are available on the site in case of fire.

09 Under the Wildlife and Countryside Act 1981 bird species are protected whilst nesting. Therefore, any vegetation to be removed to facilitate the application development should be cleared outside of the peak bird-breeding season (considered to be March through to August inclusive) or within the breeding season only if a pre-clearance survey shows no breeding birds to be present nesting or commencing nesting within the vegetation affected.

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4. CONSERVATION OBJECTIVES

Background to Conservation Objectives:

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

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

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

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

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

Conservation planning and management.

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

Assessing plans and projects.

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

Monitoring and reporting.

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

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

b. Format of the conservation objectives

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

Each conservation objective consists of the following two elements:

1. Vision for the feature

2. Performance indicators

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

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[1] Web link: http://www.jncc.gov.uk/page-2199

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

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

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

4.1 Conservation Objective for the water course

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

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

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

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

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

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

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

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

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

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

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

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

Levels of water quality parameters that are known to affect the distribution and abundance of SAC features will be agreed between EA and CCW for each Water Framework Directive water body in the Usk SAC, and

measures taken to maintain pollution below these levels. It is anticipated that these limits will concur with the standards used by the Review of Consents process given in Annex 3 of this document.

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

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

4.2 Conservation Objective for Features 1-5:
- Sea lamprey *Petromyzon marinus* **(EU Species Code: *1095)*;**
- Brook lamprey *Lampetra planeri* **(EU Species Code: *1096*);**
- River lamprey *Lampetra fluviatilis* **(EU Species Code: *1099*);**
- Twaite shad *Alosa fallax* **(EU Species Code: *1103*);**
- Allis shad *Alosa alosa* **(EU Species Code: *1102*);**
- Atlantic salmon *Salmo salar* **(EU Species Code: *1106*);**
- Bullhead *Cottus gobio* **(EU Species Code: *1163*)**

Vision for features 1-5

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

FCS component	Supporting information/current knowledge
The conservation objective for the water course as defined in 4.1 above must be met	
The population of the feature in the SAC is stable or increasing over the long term.	Refer to sections 5.1 to 5.5 for current assessments of feature populations Entrainment in water abstractions directly impacts on population dynamics through reduced recruitment and survival rates. Fish stocking can adversely affect population dynamics through competition, predation, and alteration of population genetics and introduction of disease.
The natural range of the feature in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches where predominantly suitable habitat for each life stage exists over the long term. Suitable habitat is defined in terms of near-natural hydrological and geomorphological processes and forms eg. suitable flows to allow upstream migration, depth of water and substrate type at spawning sites, and ecosystem structure and functions eg. food supply (as described in sections 2.2 and 5). Suitable habitat need not be present throughout the SAC but where present must be secured for the foreseeable future. Natural factors such as waterfalls may limit the natural range of individual species. Existing artificial influences on natural range that cause an adverse effect on site integrity, such as physical barriers to migration, will be assessed in view of 4.2.4	Some reaches of the Usk SAC are more suitable for some features than others eg the Senni has important populations of brook/river lamprey and salmon but is not used by shad due to its small size and distance from the estuary. These differences influence the management priorities for individual reaches and are used to define the site units described in section 3.2. Further details of feature habitat suitability are given in section 5. In general, management for one feature is likely to be sympathetic for the other features present in the river, provided that the components of favourable conservation status for the water course given in section 4.1 are secured. The characteristic channel morphology provides the diversity of water depths, current velocities and substrate types necessary to fulfil the habitat requirements of the features. The close proximity of different habitats facilitates movement of fish to new preferred habitats with age. The presence of hard bank revetments in a number of active alluvial reaches e.g. through Brecon and upstream of Abergavenny, adversely affects the processes that maintain suitable habitat for the SAC features. Hydrological processes in the Usk are currently

FCS component	Supporting information/current knowledge
	affected by large abstractions, especially at Prioress Mill and Brecon Weir. However, there are many smaller abstractions not considered to cause a problem at present. Shad and salmon migration can be affected by acoustic barriers and by high sediment loads, which can originate from a number of sources including construction works.
There is, and will probably continue to be, a sufficiently large habitat to maintain the feature's population in the SAC on a long-term basis.	Allis and Twaite shad are affected by range contraction due to artificial barriers to migration in the Usk. It is likely that this loss of habitat affects their maintenance in the SAC on a long-term basis.

Performance indicators for features 1-5

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
Sea lamprey *Petromyzon marinus* :			
Performance indicators for feature condition			
(a) Distribution within catchment	Suitable habitat adjacent to or downstream of known spawning sites should contain *Petromyzon* ammocoetes.	This attribute provides evidence of successful spawning and distribution trends. Spawning sites known to have been used within the previous 10 years and historical sites considered still to have suitable habitat, are shown in Annex 4. Spawning locations may move within and between sites due to natural processes or new sites may be discovered over time. Silt beds downstream of all sites identified in Annex 4 will be sampled for presence or absence of ammocoetes. Where apparently suitable habitat at any site is unoccupied feature condition will be considered unfavourable.	1 - 5
(b) Ammocoete density	Ammocoetes should be present in at least four sampling sites each not less than 5km apart.	This standard CSM attribute establishes a minimum occupied spawning range, within any sampling period, of 15km. In the Usk, spawning sites within units 2 to 5 will be assessed against this attribute.	2 - 5
	Overall catchment mean >0.1m^{-2} (Harvey & Cowx 2003)[1]	Although this attribute is not used in CSM for sea lamprey, baseline monitoring in the Usk gave an overall catchment mean of 2.27 ammocoetes m^{-2} in suitable habitat[2], therefore 0.1 m^{-2} is a conservative threshold value for unfavourable condition.	
Brook lamprey *Lampetra planeri* and River lamprey *Lampetra fluviatilis* :			
Performance indicators for feature condition			
(a) Age/size structure of ammocoete population	Samples < 50 ammocoetes ~ 2 size classes Samples > 50 ammocoetes ~ at least 3 size classes	This gives an indication of recruitment to the population over the several years preceding the survey. Failure of one or more years recruitment may be due to either short or long term impacts or natural factors such as natural flow variability, therefore would trigger further investigation of the cause rather than leading automatically to an unfavourable condition assessment.	2 - 10
(b) Distribution of ammocoetes within catchment	Present at not less that 2/3 of sites surveyed within natural range	The combined natural range of these two species in terms of ammocoete distribution includes all units above the tidal limit ie all except unit 1. Presence at less than 2/3 of sample sites will lead to an unfavourable condition assessment.	2 -10
	No reduction in distribution of	Reduction in distribution will be defined as absence of ammocoetes from all samples within	

Attribute	Specified Limits	Comments	Relevant Unit[s]
	ammocoetes	a single unit or sub-unit/tributary, and will lead to an unfavourable condition assessment.	
(c) Ammocoete density	Optimal habitat: >10m^{-2} Overall catchment mean: >5m^{-2}	Optimal habitat comprises beds of stable fine sediment or sand ≥15cm deep, low water velocity and the presence of organic detritus, as well as, in the Usk, shallower sediment, often patchy and interspersed among coarser substrate.	2 - 10
Twaite shad *Alosa fallax* and Allis shad *Alosa alosa* :			
Performance indicators for feature condition			
(a) Spawning distribution	No decline in spawning distribution	Spawning distribution is assessed by kick sampling for eggs and/or observations of spawning adults. A representative sample of sites within units 2 to 5 will be monitored at 3 yearly intervals. Absence from any site in 2 consecutive surveys will result in an unfavourable condition assessment.	1 - 5
Performance indicators for factors affecting the feature			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents (see Annex 1). Shad are particularly sensitive to flow. The ideal regime is one of relatively high flows in March-May, to stimulate migration and allow maximum penetration of adults upstream, followed by rather low flows in June-September, which ensures that the juveniles are not washed prematurely into saline waters and grow rapidly under warmer conditions. The release of freshets to encourage salmonid migration should therefore be discouraged on shad rivers during this period.	1 - 5
Atlantic salmon *Salmo salar*:			
Performance indicators for feature condition			
(a) Adult run size	Conservation Limit complied with at least four years in five (see 5.4)	CSM guidance states: Total run size at least matching an agreed reference level, including a seasonal pattern of migration characteristic of the river and maintenance of the multi-sea-winter component. As there is no fish counter in the Usk, adult run size is calculated using rod catch data. Further details can be found in the EA Usk Salmon Action Plan.	All
(b) Juvenile densities	Expected densities for each sample site using HABSCORE	CSM guidance states: These should not differ significantly from those expected for the river type/reach under conditions of high physical and chemical quality. Assessed using electro fishing data.	6 – 10
Performance indicators for factors affecting the feature			
Water quality			
(a) Biological quality	Biological GQA class A	This is the class required in the CSM guidance for Atlantic salmon, the most sensitive feature.	6 - 10
(b) Chemical quality	RE1	It has been agreed through the Review of Consents process that RE1 will be used throughout the SAC [see Annex 3].	All
Hydromorphology			
(a) Flow	Targets are set in relation to river/reach type(s)	Targets equate to those levels agreed and used in the Review of Consents [see Annex 1].	All
Bullhead *Cottus gobio*:			
Performance indicators for feature condition			
(a) Adult densities	No less than 0.2 m^{-2} in sampled reaches	CSM guidance states that densities should be no less than 0.2 m $^{-2}$ in upland rivers (source altitude >100m) and 0.5 m^{-2} in lowland rivers	2 – 10

Attribute	Specified Limits	Comments	Relevant Unit[s]
		(source altitude ÿm). A significant reduction in densities may also lead to an unfavourable condition assessment.	
(b) Distribution	Bullheads should be present in all suitable reaches. As a minimum, no decline in distribution from current	Suitable reaches will be mapped using fluvial audit information validated using the results of population monitoring. Absence of bullheads from any of these reaches, or from any previously occupied reach, revealed by on-going monitoring will result in an unfavourable condition assessment.	2 - 10
(c) Reproduction/age structure	Young-of-year fish should occur at densities at least equal to adults	This gives an indication of successful recruitment and a healthy population structure. Failure of this attribute on its own would not lead to an unfavourable condition assessment.	2 - 10

4.3 Conservation Objective for Feature 6:
- European otter *Lutra lutra* (**EU Species Code: *1355***)

Vision for feature 6
The vision for this feature is for it to be in a favourable conservation status, where all of the following conditions are satisfied:

FCS component	Supporting information/current knowledge
The population of otters in the SAC is stable or increasing over the long term and reflects the natural carrying capacity of the habitat within the SAC, as determined by natural levels of prey abundance and associated territorial behaviour.	Refer to section 5.9 for current assessment of feature population
The natural range of otters in the SAC is neither being reduced nor is likely to be reduced for the foreseeable future. The natural range is taken to mean those reaches that are potentially suitable to form part of a breeding territory and/or provide routes between breeding territories. The whole area of the Usk SAC is considered to form potentially suitable breeding habitat for otters. The size of breeding territories may vary depending on prey abundance. The population size should not be limited by the availability of suitable undisturbed breeding sites. Where these are insufficient they should be created through habitat enhancement and where necessary the provision of artificial holts. No otter breeding site should be subject to a level of disturbance that could have an adverse effect on breeding success. Where necessary, potentially harmful levels of disturbance must be managed.	Survey information shows that otters are widely distributed in the Usk catchment. While the breeding population in the Usk is not currently considered to limited by the availability of suitable breeding sites, there is some uncertainty over the number of breeding territories which the SAC is capable of supporting given near-natural levels of prey abundance. The decline in eel populations may be having an adverse effect on the population of otters in the Usk.
The safe movement and dispersal of individuals around the SAC is facilitated by the provision, where necessary, of suitable riparian habitat, and underpasses, ledges, fencing etc at road bridges and other artificial barriers.	Restrictions on the movement of otters around the SAC, and between adjoining sites are currently a particular concern in the reach through Newport as a result of a continued decrease in undisturbed suitable riparian habitat.

Performance indicators for feature 6

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

Attribute	Specified Limits	Comments	Relevant Unit[s]
Performance indicators for feature condition			
(a) Distribution	Otter signs present at 90% of Otter Survey of Wales sites	Ref: CCW Environmental Monitoring Report No 19 (2005)[3]	All

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

Appendix 2:

Amend Paragraph 2.56 to read:

The Duffryn Link proposed route corridor lies within the Gwent Levels – St Brides SSSI. The SSSI is notified for its range of aquatic plants and invertebrates associated with the reens and ditches of the drainage system, under the Wildlife and Countryside Act 1981 (as amended).

The Duffryn Link is likely to result in crossing the Percoed Reen. The Reen is a known commuting otter habitat connecting to the River Usk SAC (otters are one of the qualifying features of this European site). Otters are also European Protected Species under the Conservation of Habitats and Species Regulations 2010 (as amended) Percoed Reen also supports the special interest of the Gwent Levels – St Brides SSSI. Any works affecting the Percoed Reed must be completed in a sensitive manner for otters, to maintain the Favourable Conservation Status of this species, and to conserve and enhance the special interests of the Gwent Levels – St Brides SSSI.

The Reen must be maintained in situ (this watercourse must not be culverted) with a minimum of 5m of bank side habitat retained on either side. Works affecting a watercourse within the Internal Drainage Board area will need to adhere to their standard buffer requirements, see para 2.16 for more details.

Developers will be required to complete an otter survey to determine levels of otter activity in the affected area, which should be used to inform the design of the road and any mitigation that is required. Relevant licences under Regulation 53 of the Conservation of Habitats and Species Regulations 2010 (as amended) may be required from NRW. A sensitive working programme must be compiled to minimise disturbance to this species. Furthermore, should the Percoed Reen need to be crossed, the crossing will need to be designed to ensure continued otter movement up and downstream (even in flood conditions).

In accordance with Policy GP5 the developer will be expected to provide sufficient information to enable a Habitat Regulation Assessment of these works to be carried out as part of the planning process. In accordance with Policy GP5 the developer will be expected to demonstrate how the special interest of the Gwent Levels – St Brides SSSI will be safeguarded, with respect to the Wildlife and Countryside Act 1981 (as amended).

Paragraph 6.9 to read:

The allocation at East of Queensway Meadows may result in the loss of habitat (and disturbance of adjacent habitats) in particular it may impact upon Reens. Paragraph 2.56 sets out how this will need to be addressed. In accordance with Policy GP5 the developer will be expected to provide sufficient information to enable a Habitat Regulation Assessment of these works to be carried out as part of the planning process. The allocation lies adjacent the Nash and Goldcliff Site of Special Scientific Interest (SSSI), and proposals should have consideration of the designation. Similar to EM1 (i) Duffryn, this site is owned by Welsh Government and has been designated for single large user projects of at least 10ha at a time.

Paragraph 6.12 to read:

The allocation at Solutia may result in the loss of habitat (and disturbance of adjacent habitats); in particular it may impact upon Reens. Paragraph 2.56 sets out how this will need to be addressed. In accordance with Policy GP5 the developer will be expected to provide sufficient information to enable a Habitat Regulation Assessment of these works to be carried out as part of the planning process. The allocation lies adjacent the Nash and Goldcliff Site of Special Scientific Interest (SSSI), and proposals should have consideration of the designation. A SINC is located on part of the site, and measures may be required in order to mitigate any impact upon the designation. It is noted that this site will only be released, if the owner (Solutia), considers development will not compromise their existing facility and it is within their interest.

Appendix 3: Proposals/Constraints Maps Designations

PROPOSALS PLAN DESIGNATIONS

Environmental Spaces and Corridors	CE4
Archaeologically Sensitive Area	CE7
Conservation Area	CE8
Local Nature Reserve	CE9
Coastal Zone	CE10
Leisure and Sporting Facilities	CF1
Allotment	CF6
Celtic Manor Resort	CF9
Education Sites	CF13
Employment	EM1
Newport Docks	EM2
Housing Policies	H1
Gypsy and Traveller Transit Accommodation	H15
Gypsy and Traveller Residential Accommodation	H16
Safeguarding of Mineral Resource	M1
Wharves and Rail	M4
District Centres	R6
Local Centres	R9, R10
Urban Boundary	SP5
Countryside	SP5
Green Belt	SP6
Green Wedges	SP7
Special Landscape Area	SP8
Eastern Expansion Area	SP11
Major Road Schemes	SP16
Proposed Railway Stations	T1

Long Distance Walk/ Cycleway	T5

CONSTRAINTS PLAN DESIGNATIONS

Line of Relief M4	
M4 Protected Corridor	
Site of Special Scientific Interest (SSSI)	GP5
Special Area of Conservation (SAC)	GP5
RAMSAR & Special Protection Area (SPA)	GP5
TAN 15 Zone B	GP1
TAN 15 Zone C2	GP1
TAN 15 Zone C1	GP1
National Nature Reserve	GP5
Landscape of Outstanding Historic Interest	CE5
Historic Park or Garden	CE5
Newport Boundary	
Scheduled Ancient Monuments	CE7
Local Nature Reserve	GP5
RIGS	CE9
Coal Authority Development Risk	