

# Delegated Decision Report

Application No:	24/0862	Statutory Expires:	Period	13 <sup>th</sup> June 2025 (Extended)
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Site:	<i>170 - 172 Commercial Road Newport South Wales NP20 2PL</i>		
Proposal:	<i>PROPOSED NEW SHOP FRONT, CONVERSION OF FIRST FLOOR OFFICES AND ROOF SPACES TO CREATE 5 NO. FLATS, CONVERSION OF PART GROUND FLOOR TO PROVIDE A CLASS A3 UNIT, CAR PARK ALTERATIONS AND ASSOCIATED WORKS</i>		
Applicant:	<i>S Hussain</i>		
Type:	Full	Ward:	Pillgwenlly
Decision:	GRANTED WITH CONDITIONS		

## 1. BACKGROUND

1.1 The application site has an extensive planning history and a scheme similar to the proposal was approved in 2017 (Reference 17/0050). This permission has now lapsed.

## 2. SITE LOCATION AND CONTEXT

2.1 The application site includes a single storey retail building fronting Commercial Road (which was formerly occupied by Kwik Save), a two storey stone building to the rear, which formerly incorporated office space at first floor level, the adjacent car park to the south of the buildings and a service yard to the north.

2.2 The site is currently vacant and situated within the defined urban boundary and within the Commercial Road District Centre.

2.3 The site is located approximately 40 metres away from the Lower Dock Street Conservation Area, from which partial views of the site are visible. In addition, the site is located approximately 13 metres away from the Grade II listed building known as 174 Commercial Road, which is a mid 19<sup>th</sup> century two storey house that was listed as an example of a small late Georgian style house illustrating a type now increasingly rare in Newport.

2.4 The site is identified as being in Flood Zone 3 (Rivers and Sea) by Natural Resources Wales' (NRW) Flood Maps for Planning (FMfP).

## 3. DESCRIPTION OF DEVELOPMENT

3.1 This application seeks full planning permission for a new shopfront, along with the conversion of the first floor offices and roof space to create 5 no. flats, the change of use of part of the ground floor retail space to an A3 unit and car park alterations and associated works.

3.2 The new shopfront would consist of an aluminium glazed curtain walling system which would span across the majority of the width of the building's front elevation. New panelled cladding would be installed above and to the sides of the glazing. The retail unit would also be generally refurbished and see the installation of an insulated metal panel roofing system and re-rendered elevations.

3.3 The two storey stone building located to the rear of the application site would be utilised by the retail store at ground floor level. In addition, a new plant room, entrance hall and stairwell serving the first floor flats would be contained within part of the ground floor of the building. The first floor and roof space of the building would be converted to form five flats, each consisting of one bedroom. Flats 1 and 5 would be fully contained within the first floor of the building, whilst Flats 2, 3 and 4 would have their living accommodation and bathrooms contained within the first floor and their bedrooms within the roof space. Pedestrian access to the flats would be provided off Francis Drive.

3.4 The development would also involve the change of use of part of the ground floor retail space to an A3 unit in order to facilitate a new café. The new café would have a gross floorspace of approximately 57 square metres, with the retail unit having a gross floorspace of approximately 830 square metres. Whilst the café would be sublet, it would have access through the larger store as well as from Commercial Road itself.

- 3.5 The development would also incorporate the refurbishment of the existing car park, with twenty eight spaces provided, six of which would serve the residential use. Refuse and recycling stores associated with the residential units, along with cycle parking spaces would be located to the south of the building. A service yard serving the retail space would be located to the north of the building, with vehicular access provided from Francis Drive and Albert Street. Within this space, a retail refuse and recycling store would be sited, along with six cycle parking spaces for use by employees.
- 3.6 Soft landscaping at the site would include a 1 metre high hedgerow to the site's eastern boundary, which would be set back from either side of the vehicle access by 2 metres. In addition, it is proposed to plant ornamental shrubs and trees amongst grass adjacent to the western boundary of the site, which borders Francis Drive.
- 3.7 The site would be enclosed on its western boundary by the existing low brick wall, which would see metal bow top fencing panels installed on top. The eastern and northern boundaries of the site would be enclosed with metal bow top fencing panels, which would maintain visibility into the site.

#### 4. RELEVANT SITE HISTORY

Application Number:	Proposal:	Decision:	Decision Date:
22/0132	PARTIAL DISCHARGE OF CONDITION 2 (MATERIALS) AND CONDITION 4 (LANDSCAPING AND TREE PLANTING) RELATING TO PLANNING PERMISSION 17/0050 FOR THE NEW SHOPFRONT, CONVERSION OF FIRST FLOOR OFFICES AND ROOFSPACE TO CREATE 8 NO. FLATS, RENOVATION OF EXISTING CAR PARK, EXTERNAL SHOP LOADING AREA, SECURITY BOUNDARY FENCING AND WALLS	Part Approved/Part Refused	06/04/2022
18/0053	DIVISION OF EXISTING SINGLE RETAIL SHOP UNIT INTO 2NO. UNITS, WITH ALTERATIONS TO SHOPFRONT TO PROVIDE AN ADDITIONAL FRONT ENTRANCE TO SERVE THE ADDITIONAL UNIT	Refused	15/03/2018
17/0050	NEW SHOPFRONT, CONVERSION OF FIRST FLOOR OFFICES AND ROOFSPACE TO CREATE 8NO. FLATS, RENOVATION OF EXISTING CAR PARK, EXTERNAL SHOP LOADING AREA, SECURITY BOUNDARY FENCING AND WALLS	Granted with Conditions	07/04/2017
16/0042	SUBDIVISION OF SUPERMARKET INTO TWO RETAIL UNITS AND CONVERSION OF OFFICES TO 5NO. APARTMENTS AND ERECTION OF THREE STOREY APARTMENT BLOCK COMPRISING 10NO. APARTMENTS AND ASSOCIATED PARKING AND ACCESS	Refused	07/07/2016
14/1068	CHANGE OF USE OF CAR PARK TO HAND CAR WASH AND SITING OF PORTAKABIN	Refused	05/01/2017
11/0919	FORMER RETAIL STORE TO BE CONVERTED TO CASH AND CARRY AND FOOD RETAIL STORE WITH SMALL RESTAURANT FRONTING COMMERCIAL ROAD, AN APARTMENT BLOCK WITH 9NO.	Withdrawn	17/09/2012

	UNITS TO BE BUILT ABOVE PART OF EXISTING CAR PARK		
04/0265	PROPOSED ILLUMINATED DOUBLE SIDED, POLE MOUNTED ADVERTISING BOARD	Refused	08/04/2004
99/0368	RETENTION OF TWO ILLUMINATED HOARDINGS FRONTING KWIK SAVE CARPARK	Refused	21/05/1999

## 5. PLANNING POLICY

### 5.1 The National Development Framework: Future Wales - the National Plan 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

### 5.2 Planning Policy Wales (Edition 12) 2024

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

4.3.34 - Leisure and entertainment, and food and drink uses can benefit retail and commercial centres, and with adequate attention to safeguarding amenities can contribute to a successful evening economy. In addition to general diversity of uses, mixed use developments, which combine retailing with entertainment, restaurants and, where appropriate, residential in a comprehensive and planned way should also be encouraged where appropriate to promote lively centres during both the day and the evening.

Technical Advice Note (TAN) 4: Retail and Commercial Development

Technical Advice Note (TAN) 11: Noise

Technical Advice Note (TAN) 12: Design

Technical Advice Note (TAN) 15: Development, Flooding and Coastal Erosion

Technical Advice Note (TAN) 21: Waste

Technical Advice Note (TAN) 23: Economic Development

Technical Advice Note (TAN) 24: The Historic Environment

### 5.3 HISTORIC ENVIRONMENT ACT (WALES) 2023.

### 5.4 Newport Local Development Plan (2011-2026) (NLDP):

SP1 (Sustainability)

SP9 (Conservation of the Natural, Historic and Built Environment)

SP18 (Urban Regeneration)

SP19 (Assessment of Retail Need)

GP2 (General Amenity)

GP4 (Highways and Accessibility)

GP5 (Natural Environment)

GP6 (Quality of Design)

GP7 (Environmental Protection and Public Health)

CE7 (Conservation Areas)

R6 (Retail Proposals in District Centres)

T4 (Parking)

## W3 (Provision for Waste Management Facilities in Development)

- 5.5 Supplementary Planning Guidance:  
Parking Standards Supplementary Planning Guidance (Adopted August 2015)  
Waste Storage and Collection (Adopted January 2020)

## 6. CONSULTATION RESPONSES

### 6.1 Local Highways Authority:

*1<sup>st</sup> Response:* The broad principles of the development raise no objections; however some details need to be addressed. For clarity we have considered each element below separately.

#### Flats

The flats do not appear to be detailed in terms of bed numbers. It is likely however that sufficient sustainability points to allow for a reduction in parking requirements can be demonstrated. We are therefore content to accept 6 spaces for the five flats irrespective of bedroom numbers.

The peak demand for these would be late evening and early morning which does not clash with the peak retail demand. They should however have electric vehicle charging (EVC) provision, so we would welcome allocated parking. EVC provision should be secured by way of condition.

A waste collection point and bin store are indicated, however there does not seem to be any segregation of residential and commercial streams as would be expected. Furthermore, there is potential to block what would serve as a convenient route for pedestrian and cycle access from the rear (Francis Drive) on collection days.

This could be addressed via a refuse management plan/condition, however we would need to ensure that sufficient space is allocated prior to determination and would therefore seek further detail including detailed setting out of the collection area and a (at least draft) refuse management Plan at this stage.

Covered, secure cycle parking appears to be proposed, but again the detail is lacking. It appears that the space allocated for 5 bikes is little more than 2m wide and may be insufficient spacing for 3 Sheffield racks as required. Quality is as important as quantity to encourage cycle use. Whilst this could be addressed via condition, we would advocate dealing with it now as it may affect the building size.

#### Retail Unit

Sufficient parking is proposed for the retail unit and includes provision for blue badge owners. Separate cycle storage is proposed but only two spaces are proposed, and the standard requires one per four staff. Additional "long stay" spaces are therefore required.

The short stay cycle provision is acceptable as proposed.

We note that the service yard has two sets of gates proposed.

Neither are set back sufficiently to avoid impact on traffic or pedestrians when waiting to enter or even queueing. We would seek confirmation that the gates and fences would remain as mesh, to avoid visibility issues /objections on highway safety grounds.

The footways and crossings around the yard area will have to be rationalised as part of the access works. This will require separate licence from highways and must be undertaken at no cost to the Council. A condition to provide appropriate kerbs and footway levels will be needed.

Setting back of gates could render the service yard useless and there is nowhere for HGVs to wait safely to enter.

As the unit and yard is existing however, we would accept some compromise in terms of provision. To manage the potential impacts, a service management plan should be secured

by way of condition. This should ensure queuing is avoided, vehicles enter from Francis Dr (with minimal waiting) and exit right via Albert Street under the supervision of a banksman.

#### Food Retail

The food retail is small and in an appropriate location/centre. As such it is only required to have parking in the vicinity and could share visitor cycle parking with the retail unit.

It should however have provision for staff cycle parking. This could be joint with the retail unit subject to suitable arrangements.

The key issue for this unit would be servicing. HGVs could theoretically stop outside, but most of the day the parking is oversubscribed. Again, a service management plan may be the most proportionate solution, but we would suggest consideration of shared use of the service yard (with appropriate linkage).

#### Summary

The proposals raise a number of issues that could result in objections; however, most appear to be easily addressed by design amendments and or conditions. The food element however appears to raise the greatest concerns, with no appropriate provision. We note that the applicant refers to a fall-back position where it is removed from the proposals. This would be an acceptable solution.

At this stage we would offer a holding objection pending further information, amendments and conditions.

*2<sup>nd</sup> Response:* There does not appear to have been any amendments/detail to address issues raised previously.

In addition, it should be noted that the residential/retail car park cannot be gated at the back of footway (not really clear what the plan is intended to indicate but this would raise a further objection on safety grounds.

In addition there now appears to be hedges that would obstruct pedestrian visibility and raise another safety related objection.

*3<sup>rd</sup> Response:* Just to confirm that the plan now reflects our conversation and the conditions below would make the development acceptable. Could you include one for the cycle stores too, just so it has a time limit, ideally before beneficial use please.

If you need anything else from me please shout, but I content to withdraw all objections subject to those conditions.

*NB: Conditions to include cycle stores prior to beneficial use, refuse management plan, service management plan.*

6.2 Environmental Health Officer: No response received.

6.3 Waste Officer: We would anticipate the property receive a single 120l bin for kerbside collection with recycling bags, boxes for kerbside collection also with one council tax paid on each of the property as a whole.

From April 1st 2020, developers or owners of all new residential units will be required to purchase bin provision for each unit serviced to meet the Council's specification. 120L, 180L, 240L and 360L wheeled bins must be purchased/obtained from Newport City Council. 660L and 1100L bins can be purchased elsewhere but it is strongly recommended to speak to NCC Waste Management Refuse Management beforehand to ensure the bins fit the Refuse Department collection vehicles safely. Failure to purchase correct bin(s) will result in collections being suspended with the Council reserving the right to refuse collection until suitable bin specifications are met. For the commercial units we anticipate a requirement for trade waste and recycling. NCC trade waste services would be happy to quote for services ahead of opening. From April 2024 Workplace Recycling Regulations will apply to all non-domestic premises.

From 6 April 2024, it will become law for all businesses, charities and public sector organisations to sort their waste for recycling.

- 6.4 Landscape Officer: No objection and no further comments.
- 6.5 Ecology Officer: I have no concerns over the impact of the proposed scheme, as the bat survey produced a negative result, so apart from nesting birds there is not likely to be any significant impact on the natural environment.

Nesting birds were noted during the bat survey, so the Applicant should be reminded that nesting birds are protected under the Wildlife and Countryside Act 1981: Part 1, 1(1)(b), whereby it is an offence to intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built.

We should use a planning condition to secure ecological enhancement (net benefit for biodiversity). This could include the soft landscaping features proposed, as well as the measures proposed in Section 10 of the Bat Survey Report v2.0 dated October 2024.

- 6.6 Drainage: No response received.
- 6.7 SAB: Having reviewed the submitted information, a SAB application may be required.
- 6.8 Senior Scientific Officer: No response received.
- 6.9 Housing Development Manager: There is high demand for social and private rented housing in Newport. This ward has a higher percentage of private rented than the Newport average, but good quality homes would be in demand.

There will be requirements for a commuted sum contribution, in line with guidance contained in the Affordable Housing SPG.

Finally, consideration needs to be given to fire safety measures and safe escape for the bedrooms located in the roof space of the 3x duplex apartments.

- 6.10 Leisure Services: No response received.
- 6.11 Education Information Manager: No response received.
- 6.12 Newport Access Group: No response received.

- 6.13 Dwr Cymru Welsh Water:

#### ASSET PROTECTION

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

#### SEWERAGE

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the public sewerage system.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the **Condition and Advisory Notes** listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

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

#### 6.14 Natural Resources Wales:

*1<sup>st</sup> Response:* We have no objection to the proposed development as submitted and provide the following advice.

##### Flood Risk

The planning application proposes highly vulnerable development. Our Flood Risk Map confirms the site to be within Zone B of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 3 Sea.

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

We have reviewed the supporting FCA undertaken by Vale Consultancy dated July 2024 referenced 19861 – FCA – 01 for the proposed new shopfront, conversion of the first floor offices and roof-space to create 8 flats and renovation of existing car park, external shop loading area, security boundary fencing and walls. The FCA shows that the risks and consequences of flooding are manageable to an acceptable level. Therefore, we have no objection, to the application as submitted.

Currently the site is occupied with commercial use on the ground floor with a service yard to the north and car parking to the south of the building. The first floor of the building was formerly used as office spaces. There is a change in vulnerability associated with the proposed application given the introduction of residential units on the first floor.

The FCA states the following ground levels:

- Existing building are in the region of 8.50 – 8.80m AOD with levels generally rising from east to west.
- Existing service area are in the region of 8.45 – 8.80m AOD with levels generally rising to the south / southwest.
- Existing car park are in the region of 8.20 – 8.50m AOD

A Finished Floor Level (FFL) of 8.56 m AOD is indicated on the topography for the ground floor of the building and it has been assumed that the first floor will be located 2.3 m above this ground floor level as such to meet building regulations. Therefore, the minimum FFL of the first floor residential development is assumed to be in the region 10.86 m AOD.

A Finished Floor Level (FFL) has been indicated from the topographic survey for the service area and is recorded as 8.58 m AOD.

The consultant provided the following flood levels, based on the River Usk tidal model with the climate change projection:

- 1 in 200 year plus climate change event (2124) : 9.56m AOD (70P)
- 1 in 1000 year plus climate change (2124) : 10.04m AOD (70P)

We would normally require that the highest confidence interval is applied to the flood levels (95P) but given that this a change of use application, albeit with the introduction of a highly vulnerable component, we are satisfied that the lower confidence interval (70P) flood levels

can be used in the risk assessment. Using these lower flood levels the following flood depths would be experienced on site while comparing the ground floor levels:

- 1 in 200 year plus climate change : building flood depth 1m / service yard flood depth 0.98m / car park flood depth 1.36m
- 1 in 1000 year plus climate change : building flood depth 1.48m / service yard flood depth 1.46m / car park flood depth 1.84m

With the comparison, the site will experience flooding in both extreme flood events over the lifetime of development and fail the requirements of A1.14 and suggested limits of A1.15 of TAN 15.

The HVD on the first floor will be raised to a minimum of 10.86m AOD which provides a freeboard of 0.52m AOD above the 1 in 1000 plus climate change event ( with the upper confidence of 95% 2124) design flood level and will therefore remain flood free in both events. The flood risk associated with the lower level components of the development remains the same as existing flood risk.

Due to the nature of the proposed development, it is not possible to alter floor levels, but the FCA does suggest that internal alternations are introduced, where practically possible, to limit the impact of flooding. It is also recommended that the site owner undertake a Flood Evacuation Management Plan (FEMP) and that occupiers sign up to early flood warnings for the surrounding area to allow for early evacuation. In the event of the site flooding before site users have an opportunity to evacuate via the route specified - the occupants should seek refuge on the upper floors as and where possible until flood waters have receded, and it is safe to evacuate the site. We would recommend that any plans of the site are reviewed by the Emergency Planners within the LPA.

Given that there is no increase in impermeable surface area with the conversion of the existing building, the FCA concludes that it will not increase flood risk elsewhere. There will be no displacement of flood water / storage as a result of the proposed works. We are satisfied with this conclusion and require no further assessment in relation to A1.12 of TAN 15.

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

#### Protected Species

We note the bat report submitted in support of the above application (Bat Survey, prepared by Ecological Services Ltd, has identified bats were not using the application site. We therefore have no adverse comments to make on the application as submitted.

#### *2<sup>nd</sup> Response:*

We have no comment on the addition information and revised plans for the application and defer to our response (CAS-267631-C9K7) of 19th November 2024, if you have any queries please do not hesitate to contact me.

6.15 Gwent Police: No objections, advice provided relating to designing out crime.

## 7. PUBLIC REPRESENTATIONS

Neighbour notification letters were sent to surrounding properties and a Site Notice was displayed. Ten letters of objection were received, with the issues raised summarised below:

1. Commercial Road is very congested and the development will exacerbate the situation.
2. Queries whether the development will have adequate car parking.

3. There is no need for another shop within the locality.
4. There are too many shops selling food on Commercial Road already.
5. The area does not need more offices.
6. Pillgwenlly is one of the most deprived areas in Newport and flats would provide inadequate accommodation to serve the local population, which includes large families.
7. There is no space for children and young people to play.
8. The proposal has the potential to impact on religious activities, with reference to the adjacent Church.
9. Any complaints regarding noise from the adjacent Church brought about by future occupiers of the development will be vigorously challenged.
10. The adjacent Church did not receive notification of the planning application.
11. The building has already been demolished and since its demolition the adjacent Church has been infested with rats.
12. The proposal may alter existing community dynamics and character.
13. The proposal is not in the best interests of the community, but is purely for financial gain.
14. The application site contains large amounts of waste which is a health and safety hazard.

## **8. ASSESSMENT**

### **8.1 Principle of Development:**

- 8.1.1 The site is regarded as previously developed land within the settlement boundary. The building has been vacant for some time and, along with the wider site, has been poorly maintained and is in a state of disrepair. Policy SP18 supports the reuse of vacant land within the urban area. The proposal would therefore be consistent with this policy and the general brownfield strategy within the Local Development Plan.
- 8.1.2 Policy EM3 states that development proposals promoting alternative uses on existing employment sites will be resisted unless:
- i. the site has been marketed unsuccessfully for employment purposes for a minimum of 12 months;
  - ii. there remains a sufficient range and choice of employment land and premises to meet LDP requirements and local demand;
  - iii. the development has no adverse impact on existing or allocated employment sites;
  - iv. the development has no adverse impact on amenity or the environment.
- 8.1.3 The proposal would result in the loss of office space in the rear building. The applicant has not provided details of marketing however, it is noted that the offices have been vacant for many years. Furthermore, there is currently an over-supply of second hand office accommodation relative to demand, with a proportion located within the city centre. In addition, the application site is not a site allocated for employment purposes. Based on the above, the loss of this office use is considered to be acceptable.
- 8.1.4 The application site is located within the Commercial Road District Centre. The Local Plan describes District Centres as being predominantly linear concentrations of commercial and shop premises along main roads leading in and out of the City. Policy R6 is applicable and states that improved shopping facilities will be favoured provided:
- i. The proposal is of a scale appropriate to the particular centre.
  - ii. The proposal would not have an adverse impact on the vitality and viability of the city centre;
  - iii. Proposals to vary/remove conditions, change the range of goods sold and change the size of units would not adversely affect the vitality and viability of the city centre or change the centre's role as a district centre;
  - iv. The proposal is fully accessible on foot, by bicycle and by public transport;
  - v. Satisfactory car parking, access and servicing arrangements exist or can be provided
- 8.1.5 The proposal would not alter the previous retail offering of the site, with the exception of the inclusion of a small area to the front of the building which would provide a new café. It is considered that the proposed use of the building, including the addition of five flats, would positively contribute to the vitality and viability of the city centre, whilst not adversely

impacting upon the district centre. In addition, the proposal would be fully accessible on foot and bicycle, or by public transport and the upgrades to the car park would ensure that satisfactory access and car parking facilities would be provided. Furthermore, servicing and delivery would be undertaken in a dedicated part of the site, ensuring highway and pedestrian safety.

8.1.6 Based on the above, it is considered that the general principle of the proposal is acceptable, subject to the following material considerations.

## 8.2 **Visual Amenity/Character and Appearance:**

8.2.1 The existing building does not have a positive impact on the character and appearance of the surrounding area. Refurbishment of this vacant property which occupies a large plot along Commercial Road is welcomed. The front elevation of the building facing Commercial Road would consist of aluminium framed glass panelling with cladding above. It is considered that this would represent an improved appearance within the street scene when compared to the existing.

8.2.2 In terms of the former office building, existing openings would be re-used and there would be a number of additional windows and roof lights installed, which are considered acceptable. The existing stone building, although currently dilapidated, does have some architectural merit, of which the conversion works would preserve.

8.2.3 In addition to the above, the site would be landscaped appropriately and include dedicated areas for the storage of waste and recycling as well as a dedicated service and delivery yard. The site is considered to be well laid out, and includes appropriate boundary treatments, which maintain visibility into and out of the site.

8.2.4 Overall, the proposal is considered to have a positive impact upon the visual amenity of the application site itself, as well as the wider area.

## 8.3 **Residential Amenity:**

8.3.1 Policies GP2, H8 and the Flat Conversions SPG require no adverse impact on local amenity in terms of noise, disturbance, privacy, overbearing, light, odours and air quality. There should also be acceptable living standards for future occupants with particular regard to internal floor space, outdoor amenity space, parking, bin storage, bicycle storage and noise.

8.3.2 The surrounding area generally consists of commercial properties on the ground floor with residential uses above or just residential uses along Commercial Road. The exception to this is the adjacent church to the north of the application site. To the west of the application site is the housing estate of Alma Street, Francis Drive and Charlotte Street. It is considered that the proposed development would be compatible with these surrounding uses.

8.3.3 In terms of the impact on the privacy of surrounding residential properties. It is proposed to re-open existing openings and create new roof lights in the rear elevation of the stone building; these openings would serve habitable rooms. There would be around 22 metres between habitable windows of properties on Francis Drive and around 14 metres from rear gardens. These distances are considered to be sufficient to protect neighbouring privacy.

8.3.4 In terms of the amenity of future occupiers, the Flat Conversions SPG makes recommendations on internal space standards for new residential accommodation. It recommends a minimum of 45m<sup>2</sup> for the internal floor space of 1 bed flats, with all of the proposed flats exceeding this standard. It is noted that flats 2, 3 and 4 have bedrooms which are only served by a roof light. Whilst this scenario is not ideal, each flat is served by windows in the front elevation which would create a light and airy space within the lounge/kitchen area. As the bedrooms would still have a light source it is considered that in this case the proposal still offers an acceptable standard of amenity to future occupiers. It is recognised that all flats would have access to an external refuse storage area within the confines of the site and there is also space for cycle parking as required by the Council's Highways Department. It is acknowledged however that the flats would not be provided by outdoor amenity space, however the proposed flats are in very close proximity to the facilities offered by the city centre and any future occupier would be able to outweigh the lack of outdoor private amenity

space against the benefits of the proximity to those facilities and when balanced with the desirability of securing the redevelopment of the site, this is considered acceptable.

#### 8.4 **Noise:**

8.4.1 The application site is located in an area of commercial and residential uses. As such the applicant has submitted a Noise Report which assesses the impact of external noise on the internal ambient noise of the proposed flats. The assessment concludes that with a partially open window to provide background ventilation, the predicted internal noise levels within the bedrooms of Flats 1 and 5, will exceed the guideline values detailed in BS 8233(2). To achieve the guideline internal ambient noise levels within these rooms, sound mitigation measures are recommended using standard thermal glazing in the closed position. The report does not recommend these windows be permanently closed. The guideline values for internal ambient noise levels can be achieved within the remaining habitable rooms using a partially open window to provide ventilation. For all rooms where sound mitigation is recommended, an alternative means of ventilation is required.

8.4.2 Given the windows do not need to be permanently closed, it is considered that the occupiers of the flats would have adequate means of ventilation. To further protect residential amenity, it is considered appropriate to restrict the hours of deliveries to the retail unit to between 07:30 and 18:00 on any day.

#### 8.5 **Biodiversity:**

8.5.1 The Council's Ecologist has been consulted on the proposal and raises no objections to the scheme, noting that the submitted Bat Survey produced a negative result. Nesting birds were however noted during the survey and so it is considered appropriate to remind the Applicant of their responsibilities under the amended Wildlife and Countryside Act 1981. This can be done by way of Informative.

8.5.2 Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated. Policy GP5 of the NLDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Both the submitted Bat Survey and Green Infrastructure Statement contain ecological enhancement proposals, which can be secured by way of condition.

#### 8.6 **Waste:**

8.6.1 Facilities for the storage of waste and recycling have been incorporated into the proposed scheme for both the proposed residential accommodation and the commercial premises. It is considered that adequate bin storage would be available and bins could be collected in an appropriate location.

#### 8.7 **Flooding**

8.7.1 The planning application proposes the introduction of highly vulnerable development (residential). The application site was formerly within Zone B of the Development Advice Map (DAM) contained in TAN15 (2004). However, NRW's Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and within Flood Zone 3 Rivers and Sea.

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

#### 8.7.3 Flood Risk Assessment

Section 6.2 of TAN 15 refers specifically to justifying the location of development and that such development should only be permitted within Zone C1 if determined by the planning authority to be justified in that location and demonstrated that:

- i) Its location in Zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii) Its location in Zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners to sustain an existing settlement or region; and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 6 and appendix 1 found to be acceptable.

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

#### 8.7.5 **Test 1 – Location**

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

The application site is located within Zone B, however it is located within the updated Zone 3 of the FMfP. Whilst the site is brownfield land that is unused and in a state of disrepair, the development is not required to sustain the settlement, but it would bring about regeneration in a highly sustainable which is widely used by the public.

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

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

The development meets the definition.

#### 8.7.8 **Tests 2 to 12 – Consequences of Flooding**

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

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

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

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

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

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

The applicant is aware of the flooding risks and consequences and has outlined residential accommodation would be contained at first floor level only and a Flood Evacuation Management Plan would be provided.

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

The Applicant has confirmed that appropriate documentation should be displayed to inform any users of the site of the potential flood risk. Documentation will be displayed at an appropriate position. The documentation will indicate the risk of flooding and contain information on how prior warnings will be sent.

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

Safe exit routes to higher ground outside the flood risk area (building and site) would be kept and displayed on site.

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

A Flood Evacuation Management Plan would be provided. The local planning authority does not have the in-house expertise to judge the effectiveness of the emergency plan. Planning Officers are therefore not in a position to comment upon the effectiveness of the flood emergency management arrangements. These procedures would be the responsibility of the developer.

8.7.15 **Test 8 - The development is designed by the developer to allow the occupier of the facility for rapid movement of goods/possessions to areas away from floodwaters.**

And,

**Test 9 - Development is designed to minimise structural damage during a flooding event and is flood proofed to enable it to be returned to its prime use quickly in the aftermath of the flood.**

The application is for the change of use of an existing building and being a conversion there are limitations as to what can be designed to minimise structural damage, however given the age and build of the property it is considered less likely that structural damage will occur. It is considered that the development has been designed to allow the occupiers of the building to rapidly move goods and possessions to an area away from floodwaters if necessary. Flats would only be located at first floor level and above.

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

NRW do not object to the development on this basis.

8.7.17 **Test 11 - Paragraph A1.14 of TAN 15 identifies that the development should be designed to be flood free for the lifetime (A1.14) of development for either a 1 in 100 chance (fluvial) flood event, or a 1 in 200 chance (tidal) flood event including an allowance for climate change (depending on the type of flood risk present) in accordance with table A1.14.**

The residential accommodation will remain flood free.

8.7.18 **Test 12 – In respect of the residual risk to the development it should be designed so that over its lifetime (A1.15) in an extreme (1 in 1000 chance) event there would be less than 600mm of water on access roads and within properties, the velocity of any water flowing across the development would be less than 0.3m/second on access roads and 0.15m/second in properties and the maximum rate of rise of floodwater would not exceed 0.1m/hour.**

The residential accommodation will remain flood free.

8.7.19 Based on the above, it is considered that the proposed development would be acceptable in terms of the safety and living conditions of future occupiers, with regard to flood risk. In addition, given that there is no increase in impermeable surface area with the conversion of the existing building, the FCA concludes that it will not increase flood risk elsewhere. There will be no displacement of flood water / storage as a result of the proposed works.

8.8 **Other Issues**

8.8.1 It is noted that several objections to the application have been received and the concerns raised have been largely addressed above. A number of the objections referred to the lack of public consultation that was undertaken as part of the planning application. It is however considered that the application was correctly advertised by direct neighbour notification letters and the displaying of a site notice.

8. **Section 106 Planning Obligation matters**

In 2010 the Community Infrastructure Levy Regulations (2010) came into effect. Reg 122 of these regulations sets out limitations on the use of planning obligations. It sets out three tests that planning obligations need to meet. It states that planning obligations may only constitute a reason for granting planning permission if the obligation is:

- a) Necessary to make the development acceptable in planning terms; (the obligations of the Section 106 Agreement are necessary to ensure adequate education provision, secure affordable housing on site and provide sufficient open space and ensure its continued maintenance).
  - b) Directly related to the development; (the obligations of the Section 106 Agreement are directly related to the development).
- and
- c) Fairly and reasonably related in scale and kind to the development (the obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure the aforementioned contributions for the development of this site).

In accordance with Policy SP13 of the adopted Newport Local Development Plan 2011-2026 and the adopted Planning Obligations Supplementary Planning Guidance, development will be required to help deliver more sustainable communities by providing, or making contributions to, local and regional infrastructure in proportion to its scale and the sustainability of the location. In this case, section 106 planning obligations are required to mitigate the impact of the development in accordance with the table below.

<b>Service Area that requires planning obligation</b>	<b>Purpose of planning obligation</b>	<b>Planning obligation initially sought by Planning Authority</b>	<b>Summary Heads of Terms agreed by applicant(s)</b>	<b>Viability Issues?</b>
Regeneration, Investment and Housing	Commuted sum for affordable housing.	Net increase of 5 flats (5 x 1 bed apartments) = £17,160.	Not Agreed	Yes
Education	Commuted sum for formal open space	£9,107	Not Agreed	Yes

#### VIABILITY

In this case, the developer has provided information in relation to the viability of the planning obligations relevant to the scheme in the form of a Viability Assessment. This concludes that that the level of contributions required will jeopardise the proposal's economic viability and subsequent delivery. Taking into account the negative economic viability of the scheme, the Council's Planning Contributions Manager has concluded that the S106 planning obligations would be 'waived'.

## **9. OTHER CONSIDERATIONS**

### **9.1 *Crime and Disorder Act 1998***

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

### **9.2 *Equality Act 2010***

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

### **9.3 Having due regard to advancing equality involves:**

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and

- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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

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

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

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

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

**10. CONCLUSION**

10.1 In conclusion the proposal represents a positive development on Commercial Road, that will ensure vacant and unsightly brownfield land is brought back into a use compatible with the immediate area. It is considered that the proposal is compliant with local and national planning policy and it is therefore considered appropriate to grant the application, subject to conditions.

**11. DECISION**

**GRANTED WITH CONDITIONS**

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

- Site Location Plan 1907 PL-101
  - Proposed Block Plan 1907 PL-201 A
  - Proposed Site Plan 1907 PL-202 E
  - Proposed Ground Floor Plan 1907 PL-203
  - Proposed First Floor Plan 1907 PL-204
  - Proposed Second Floor Plan 1907 PL-205
  - Proposed Roof Plan 1907 PL-206
  - Proposed Elevations 1907 PL-207 A
  - Proposed Waste and Cycle Stores 1907 PL-208 A
  - Proposed Waste Stores 1907-209
  - Details of External Materials
  - Construction Environmental Management Plan (AFA Planners and Architects Revision V1.3 29 January 2025)
  - Noise Impact Assessment (Acoustic and Noise Limited, 13 January 2017)
  - Bat Survey (Ecological Services Limited, Version V2.0, October 2024)
  - Green Infrastructure and Biodiversity Enhancement Statement (Mango Planning and Development Limited, October 2024)
- Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

### ***Pre –Occupation Conditions***

2. A Landscape Management Plan, including management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the approved flats. The Landscape Management Plan shall be carried out as approved.  
Reason: To ensure the site is landscaped in an acceptable manner.
3. Prior to the beneficial use of Flats 1 and 5 standard thermal glazing shall be installed for the windows serving the bedrooms of Flats 1 and 5 in accordance with the Noise Impact Assessment (Acoustic and Noise Limited, January 2017) and details first submitted to and approved in writing by the Local Planning Authority. The details shall provide laboratory test data to show the windows (including frames/seals) meet the octave band sound reduction performance set out in the noise impact assessment. The windows shall be retained as such thereafter.  
Reason: In the interests of residential amenity.
4. Prior to the first beneficial use of either Flats 1 or 5, mechanical ventilation for the bedrooms of these flats shall have been installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The mechanical ventilation shall be retained for the lifetime of development.  
Reason: In the interests of residential amenity.
5. Prior to the beneficial occupation of any part of the development hereby approved, the car parking areas hereby approved for the development shall be provided and marked out on site in accordance with the approved plans; they shall be hard paved and constructed of porous or permeable materials; and retained as such thereafter. Reason: To ensure the provision of adequate parking and to prevent surface water runoff in the interest of highway safety.
6. Prior to the beneficial occupation of any part of the development hereby approved, the cycle stores shall be provided on site in accordance with the approved plans and retained as such thereafter.  
Reason: To ensure the provision of adequate cycle storage within the application site.
7. The biodiversity enhancement scheme shall be implemented in accordance with the approved plans prior to the first beneficial use of the development hereby approved and retained as such for the lifetime of the development.  
Reason: In the interest of protected species, in accordance with Policy 9 of Future Wales and Policy GP5 of the Newport Local Development Plan 2011-2026 (adopted January 2015).
8. Prior to first beneficial use, a Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained for the duration of the approved use.  
Reason: In the interests of residential amenity, in accordance with Policy GP2 of the Newport Local Development Plan.
9. Prior to first beneficial use, a Service Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained for the duration of the approved use.  
Reason: In the interests of residential amenity, in accordance with Policy GP2 of the Newport Local Development Plan.

### ***General conditions***

10. There shall be no arrival, departure, loading or unloading of vehicles outside of the hours of 07:30 and 18:30 on any day.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.
11. The total floor space of the building to be used within Use Class A3 of the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class

in any statutory instrument revoking and re-enacting that Order shall be restricted to that shown on the approved plans.

Reason: To safeguard the retail function and character of the Commercial Road District Centre.

## **NOTES**

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP9, SP13, SP18, SP19, GP2, GP4, GP5, GP6, GP7, CE7, R6, T4, W3 were relevant to the determination of this application.

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

03 The applicant is alerted to their responsibilities under the amended Wildlife and Countryside Act 1981 should any bats or their roosts be discovered during any demolition and/or construction works.