

# Delegated Decision Report

<b>Application No:</b>	25/0120	<b>Statutory Period Expires:</b>	18th April 2025
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<b>Site:</b>	42C Commercial Street Newport NP20 1LP		
<b>Proposal:</b>	CONVERSION OF UPPER FLOORS OF COMMERCIAL PREMISES INTO FOUR SELF-CONTAINED FLATS		
<b>Applicant:</b>	Y Zhang		
<b>Type:</b>	Full	<b>Ward:</b>	Stow Hill
<b>Decision:</b>	REFUSED		

**1. BACKGROUND**

1.1 None.

**2. SITE LOCATION AND CONTEXT**

2.1 The property is located within an area containing a mix of commercial/residential properties, where there is predominantly commercial on ground floor. The site is defined within the City Centre and within a Primary Shopping Frontage Area. The site is also defined within an Archaeology Sensitive Area and Parking Zone 1. Properties are typically 3-4 storey properties and Commercial Street has a high footfall. Kingsway Place appears to be more of a service yard/parking area for some units.

**3. DESCRIPTION OF DEVELOPMENT**

3.1 The application seeks the conversion of the upper floors of the commercial premises into four 2no.bedroom self-contained flats. The commercial unit on the ground floor would remain. The first floor proposes flat 1 and flat 2. Flat 1 is situated to the rear of the building, and flat 2 is situated to the front of the building. Both flats overlook an internal light well through the middle of the building. Flat 3 is located on the second floor and has outlook from the front and rear of the building. Flat 4 is on the third floor and also holds outlook to the front and rear of the building. The flats hold waste storage on the ground floor and bike storage within the basement. The property benefits from a dual entrance off Commercial Street and to the rear of the building. The rear access is accessed via a set of steps off Kingsway Place. The proposal also seeks approval of replacement windows to upvc on the rear elevation and within the lightwell.

**4. RELEVANT SITE HISTORY**

None.

**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.

## 5.3 TECHNICAL ADVICE NOTES

TAN 2: Planning and Affordable Housing (2006)

TAN 11: Noise (1997)

TAN 12: Design (2016)

TAN 21: Waste (2017)

The Historic Environment Act (2023)

## 5.4 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

- Policy SP1 Sustainability
- Policy SP3 Flood Risk
- Policy GP2 General Development Principles
- Policy GP5 Natural Environment
- Policy GP4 Highways and Accessibility
- Policy GP6 Quality of Design
- Policy GP7 General Development Principles – Environmental Protection and Public Health
- Policy T4
- SP13 Planning Obligations
- SP18 Urban Regeneration
- H2 Housing Standards
- Policy H8- Self Contained Accommodation and Houses in Multiple Occupation.
- W3 – Provision for Waste Management Facilities in Development
- CE6 Archaeology
- CE7 Conservation Areas
- SP9 Conservation of the Natural, Historic and Built Environment

## 5.5 SUPPLEMENTARY PLANNING GUIDANCE

FLAT CONVERSIONS SPG

PARKING STANDARDS SPG

PLANNING OBLIGATIONS SPG

WASTE STORAGE AND COLLECTION SPG

## 6. CONSULTATION RESPONSES

### 6.1 Highways:

Access to the flats is from the rear. It is not clear how this is achieved with all the commercial properties around and behind it. Although there is a service road at the rear, we would have concerns about this as the main entrance for residential development. There does not appear to be a direct access that would feel safe. The development requires 8 parking spaces to comply with current policies. A sustainability study could reduce this but a minimum of four (1 per unit) would be required. Cycle parking is indicated within the basement. Again, the access raises concerns, but the steps and doors that have to be negotiated to access the basement would make this unacceptable and impractical for bike storage. It would also be insecure as there is a shared facility with no natural surveillance. We do not consider that there is any meaningful cycle storage provided. Servicing, including refuse management also raises concerns. The bins are not at ground level and there is no detail of how/where they can be presented for collection. We would not anticipate the Council services entering this service road. In summary, the proposals are not policy compliant and we would raise objections relating to parking, cycle parking, refuse management and likely highway safety and amenity issues arising.

### 6.2 Waste Manager:

We would anticipate each property receive a single 120l bin for kerbside collection with recycling bags, boxes for kerbside collection.

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.

### 6.3 Welsh Water:

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 if feasible to avoid any new direct connection to the public sewerage system. We would recommend that the existing connections are surveyed to ensure feasibility.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the **Conditions 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.

6.4 Principal Heritage Officer:

I support the application with the following conditions:

Prior to their installation, further details of all new fenestration, at a scale of at least 1:20, shall be submitted to and approved in writing by the Local planning Authority. Reason: In the interest of preserving the character and appearance of the conservation area in accordance with section 160 of the Historic Environment (Wales) Act 2023.

6.5 Ecology Officer:

Due to the urban location of this building I would not normally ask for a bat survey. It is too far away from any suitable foraging habitat, and the species of bat which would live in an urban area with lots of light disturbance tend to roost close by to where they can feed. However we can never totally rule out the presence of bats so we should attach our Bat Advisory Note as below, if consent is granted.

If the application were for demolition then I may take a more precautionary approach because if a bat roost were present then disturbance would be inevitable, but in this instance with an internal conversion, the risk of harm is lower, so a bat survey is not justified.

The site may support nesting birds, 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.

6.6 Drainage Manager: No comments received.

6.7 Environmental Health Officer: No comments received.

6.8 Contaminated land: No comments received.

6.9 HMO licensing: No comments received.

6.10 Police: No comments received.

6.11 SAB: No comments received.

**7. PUBLIC REPRESENTATIONS**

Neighbour and Ward member notification letters were sent on 25/02/2025.

7.1 No comments received.

**8. ASSESSMENT**

### 8.1 **Principle of Development**

The proposal relates to the use of an existing building in the urban area within the defined limits of the City Centre, providing additional residential accommodation whilst retaining a commercial frontage within the Primary Shopping frontage. The reuse of a building within the City Centre would be looked upon favourably and would be in line with Policy SP18. In principle the development is accepted, however, a full evaluation is carried out below.

### 8.2 Policy H8 evaluates self-contained accommodation and sets out a definitive set of criteria:

WITHIN THE DEFINED SETTLEMENT BOUNDARIES, PROPOSALS TO SUBDIVIDE A PROPERTY INTO SELF CONTAINED ACCOMMODATION, BEDSITS OR A HOUSE IN MULTIPLE OCCUPATION WILL ONLY BE PERMITTED IF:

- i) THE SCALE AND INTENSITY OF USE DOES NOT HARM THE CHARACTER OF THE BUILDING AND LOCALITY AND WILL NOT CAUSE AN UNACCEPTABLE REDUCTION IN THE AMENITY OF NEIGHBOURING OCCUPIERS OR RESULT IN ON STREET PARKING PROBLEMS;
- ii) THE PROPOSAL DOES NOT CREATE AN OVER CONCENTRATION OF HOUSES IN MULTIPLE OCCUPATION IN ANY ONE AREA OF THE CITY WHICH WOULD CHANGE THE CHARACTER OF THE NEIGHBOURHOOD OR CREATE AN IMBALANCE IN THE HOUSING STOCK;
- iii) ADEQUATE NOISE INSULATION IS PROVIDED;
- iv) ADEQUATE AMENITY FOR FUTURE OCCUPIERS.

### 8.3 When assessing the scheme against the criteria, the first consideration is; THE SCALE AND INTENSITY OF USE DOES NOT HARM THE CHARACTER OF THE BUILDING AND LOCALITY AND WILL NOT CAUSE AN UNACCEPTABLE REDUCTION IN THE AMENITY OF NEIGHBOURING OCCUPIERS OR RESULT IN ON STREET PARKING PROBLEMS. Whilst the use of the upper floors would be intensified, it is not unusual for residential accommodation to be situated above commercial units within the City Centre. It is however noted that there would likely be an increase in waste/waste storage, and whilst residential bin storage has been provided on the ground floor, this is not considered to be an acceptable means of waste storage for the number of flats and expected level of waste generation as the storage area is internal and adjacent to the entrance, this would have an unacceptable impact upon the living conditions of future occupiers. Moreover, insufficient information has been provided in terms of a waste management plan, which could lead to bins being stored on the street within the Conservation Area. Consequently, this would impact the locality of the area. This is discussed in further detail below. It is not considered that residential properties are situated either side of the host site as defined by the Councils Mapping system, and it is unlikely that the development would have a negative impact on neighbouring properties. In terms of parking, there is no parking proposed as part of the development, however, given the sites Sustainable location within the City Centre, this would not lead to a refusal in this instance and can be justified. Cycle parking has been demonstrated within the basement, but this is unacceptable. Residents would need to navigate a number of stairs, and the storage facility is not secure and can be accessed by Commercial Staff. Therefore, the development does not accord with Policy H8. Further considerations are evaluated below.

### 8.4 Policy H8 further states, THE PROPOSAL DOES NOT CREATE AN OVER CONCENTRATION OF HOUSES IN MULTIPLE OCCUPATION IN ANY ONE AREA

OF THE CITY WHICH WOULD CHANGE THE CHARACTER OF THE NEIGHBOURHOOD OR CREATE AN IMBALANCE IN THE HOUSING STOCK. This element of Policy H8 is not applicable in this instance as the proposal is not for a HMO.

- 8.5 Policy H8 goes on to states, ADEQUATE NOISE INSULATION IS PROVIDED. The applicant has not provided any information on the potential impact of existing noise generation from the streetscene and/or noise from existing mechanical ventilation units. It is unknown if there would be adequate noise levels experienced by residents if windows were to be opened without being adversely impacted by undue noise disturbance. There are a number of A/C units/service machinery to the rear of the building and there is no information to suggest if this would create noise disturbances. Therefore, this element of Policy H8 is not satisfied and further discussed below.
- 8.6 Finally, Policy H8 states, there should be ADEQUATE AMENITY FOR FUTURE OCCUPIERS. The Council proposes space standards for 2no.bed flats. Whilst flats 2, 3, and 4 all fall marginally short of this standard, Flat 1 falls significantly short and would not provide adequate space for residents. Additionally, there is direct intervisibility between flats 1,2, and 3 between the shared lightwell and this would be unacceptable. Furthermore, there is a shared access to the rear of the unit between Commercial staff and residents, and this relationship would be inappropriate as it is contrary to the SPG and discussed in detail below. Given the issues outlined above this does not accord with Policy H8 and is further evaluated below.

#### 8.7 **Visual Amenity/ Character and Appearance**

In terms of external alterations, it is noted that the applicant wishes to replace some of the windows on the property with white UPVC and double glazing and are marked out on the elevation plans provided. These include windows on the rear elevation and light well. These changes do not include those on the principal elevation, however, a new doorway has been proposed on the principal elevation to serve a separate entrance to the flats. Given the site is defined within the City Centre Conservation Area, the scheme needs to accord with section 160 of the Historic Environment (Wales) Act 2023 which requires the Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Whilst the external changes are predominantly to the rear, the full extent of external changes cannot be assessed on the impact to the Conservation Area given the limited information on fenestration changes provided at this stage. The Principal Heritage Officer was advised on the scheme and suggests they have no objections subject to further details of all new fenestration submitted to the LPA via condition. Full details of external alterations should be provided to be carry out a full assessment of its impact on the locality.

#### 8.8 **Residential Amenity**

All of the flats proposed are 2no.bedroom flats and The Council's Flat Conversion SPG specifies desired standards for internal floorspace:

Beds/bedrooms	Flat type			
	Studio	Converted	New	
			Common Access <sup>2</sup>	Walk Up <sup>3</sup>
1	32	45	46	50
2	n/a	58	59	65
3	n/a	74	84	90
4	n/a	86	93	99

**Figure 1: Desired standards for gross internal floor space (square metres)**

The proposed flats floor space equates to:

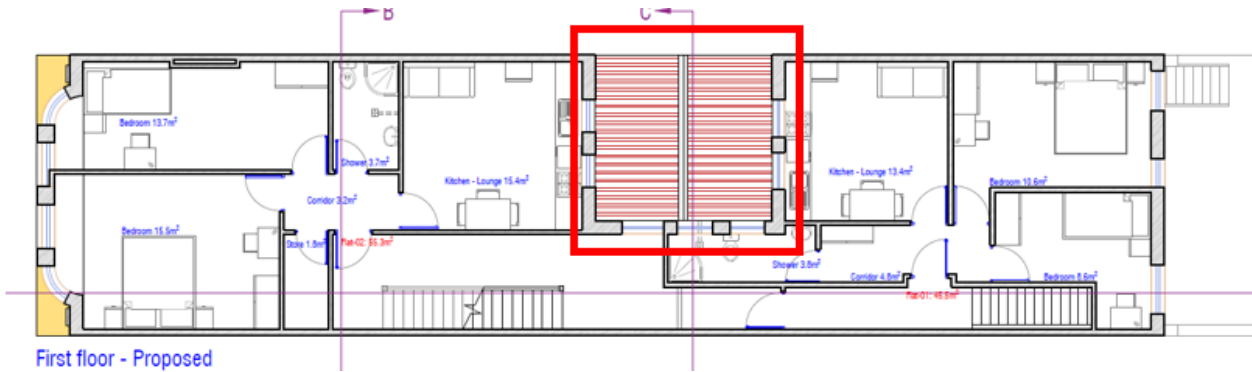
- Flat 1= 45.5sqm
- Flat 2=55.3sqm
- Flat 3=56.7sqm
- Flat 4=55.8sqm

8.9 All four flats fall short of the space standards outlined above. Flats 2, 3 and 4 fall short marginally but this could be deemed acceptable; however, Flat 1 falls significantly short of the standards set out within the SPG, providing reduced residential amenity for residents. There would be limited space for basic functions and would result in an adverse impact to the living conditions of future occupiers. Therefore, this does not accord with the SPG and Policy GP2.

8.10 Overlooking and privacy

The Flat Conversions SPG suggests, *Rooms should be arranged and designed in a manner that maximises the living standards of occupants. For instance, living rooms, kitchens and bedrooms should neither overlook adjoining properties nor face high boundary walls. Living rooms, moreover, should not be next to, directly above or directly below a bedroom in a neighbouring property unless the fabric of the building contains suitable acoustic insulation.* When assessing the potential degree of overlooking, the first floor situates flat 1 and flat 2 sharing an internal lightwell as shown from the red box below. Flat 1 and 2's kitchen living windows, Flat 1's 2no. bathroom windows, and 1no. hallway window would look into the shared light well. The bathroom and hallway window would be conditioned to be obscure glazed to limit overlooking and protect residents privacy, however, there are direct views between flat 1 and flat 2's kitchen living area with a separation distance of approximately 4m. This relationship is unacceptable given the close proximity. Although the outlook into the light well is poor, obscure glazing these windows would further result in poor residential amenity. Therefore, the scheme is contrary to the SPG and Policy GP2.

Proposed floor plan of Flat 1 and 2:



First floor - Proposed

Intervisibility between flat 2 and flat 1:



8.11 The view from the front of 42C Commercial Street would overlook Commercial Street and would hold a typical relationship for flats overlooking the public realm. This outlook would be deemed acceptable within its location. To the rear it is noted that the rear outlook would face Newport library/museum building and Kingsway Place. The distance from the rear extension to the library building is approximately 19m. The SPG suggests, *Protected windows that face one another should be at least 21.00 metres apart (unless separated by permanent structures or evergreen trees protected by Tree Preservation Orders)... Protected windows that do not face one another may be less than 21.00 metres apart.* It is noted due to the use of the building opposite, this distance of 19m would be deemed appropriate. Furthermore, given the property is located within the City Centre, we anticipate some separation distance requirements to fall short. Therefore, given its location and the marginal reduction in distance, this would be deemed acceptable.

8.12 In terms of outlook from Flat 3's living area, this is shown below. Views can be afforded to the sky and light to enter the property. However, as also demonstrated from the

image below, views can be afforded down into flat 1's living area and bathroom. The close proximity views into the living area are deemed unacceptable contrary to Policy GP2 and the SPG.

View from Flat 3's living area into flat 1's living area:



- 8.13 In terms of window to room ratio, this is deemed acceptable. Flat 4's rear outlook is demonstrated below which partially overlooks the roof of the neighbouring building which appears to be able to be accessed for service work and it is likely there would be limited footfall. Therefore, this relationship is acceptable.

Outlook from flat 4's kitchen/living room:



8.14 Outdoor amenity space

Due to the city centre location, the application site does not benefit from private outdoor space. This is typical of city centre living whereby one would not expect to have provision to a private outdoor amenity space within a built up urban environment. Furthermore, in line with the Flat Conversions Supplementary Planning Guidance document *FC 5.1* private amenity space is only required where the opportunity exists. As the opportunity does not exist, the proposal is considered to accord with the Flat

Conversions SPG guidance on amenity space. There is accessible transport to amenity areas such as Belle Vue Park situated along Cardiff Road and the City Centre along the Usk River.

8.15 Waste and cycle storage

Bin storage has been proposed on the ground floor for the residential use. A waste management plan has not been provided. The SPG states, flats should hold external bin storage. Given that the unit would provide 4no. flats, it is likely that the storage of bins to service 4 flats located internally would not be appropriate as it would have an unacceptable adverse impact upon the living conditions of future occupiers in respect of smells and general amenity. An appeal decision following application 22/0316 for CHANGE OF USE OF UPPER FLOORS TO 3 NO. SELF-CONTAINED FLATS (RESUBMISSION FOLLOWING REFUSAL OF 21/1287) also proposed internal bin storage and formed a reason for refusal. The Inspector within the appeal stated, *'With regards the issue of refuse facilities, it would appear that a storage facility would be provided internally, adjacent to the main communal corridor to the flats. The Council contends that this would not be appropriate and, given the likely implications for odour and hygiene, I agree with this assessment. Indeed, such concerns lead me to conclude that such an arrangement would have a significant adverse impact on the living conditions of the prospective occupiers of the flats.'* Therefore, it is considered that internal bin storage is not appropriate in this instance.

8.16 Additionally, given the lack of information, it is unsure where the bins would be collected from. If they were to be collected from the rear on Kingsway Place, tenants would have to carry the bins downstairs which is inappropriate. Additionally, storage of bins on Commercial Street would not be appropriate and would not be respectful of the Conservation Area contrary to s160 of the Historic Environment Act (2023). The highways officer also holds concerns over this. Therefore, the current information is not satisfactory and there has been no information to justify this.

8.17 Noise

Moreover, the Flat Conversions SPG suggests, *In order to ensure that occupants have adequate living conditions, a converted flat in a noisy location should feature noise-attenuation and ventilation measures.* No information on this or noise levels have been provided as part of the submission. Whilst Environmental Health have not provided comment on the submission, given that the unit is situated within the City Centre, it is unsure if windows can be opened and experience an appropriate level of noise. Additionally, as forementioned, the window which serves flat 4 appears to overlook the service area of the rooftop of the neighbouring building and it is unsure the noise levels this would emit. Further to this, there appears to be air conditioning units on the rear elevation as shown below. Flat 1's windows are situated above this, and it cannot be assessed the noise that would be experienced to these windows. Therefore, there is a lack of information to reasonably assess noise levels and ventilation measures at the detriment of resident's amenity.

8.18 Under 22/0316 an additional part for the reason for refusal was the issues of noise to habitable accommodation. The inspector under the appeal states, *'the appellant's suggestion that such matters could be addressed through the use of planning conditions requiring acoustic glazing and/ or heat recovery systems that would adequately mitigate street noise. However, these arguments have already been canvassed at the 2022 Appeal, with the appointed Inspector noting that, "...although*

*the appellant contends that mitigation could be secured through the use of a planning condition, given the lack of evidence before me, there is little to demonstrate the efficacy of such measures". I have no reason to take an alternative stance on this matter.'* Therefore, it is considered due to the lack of a noise assessment, the levels cannot be fully understood, and there is inadequate information submitted in line with the application to justify this.

Rear elevation with AC units:



8.19 The ground floor commercial unit is currently vacant, however, appears to have been most recently used as a beauticians. The unit has limited planning history, and the opening hours cannot be controlled in this instance by the Local Planning Authority. This suggests the use could be open later into the evenings creating some degree of noise disturbance to upper floor residents. Some consideration is given to the fact that the City Centre generally experiences higher noise levels into later evenings but in conclusion, the application is lacking in information contrary to Policy GP2.

8.20 **Access/Movement:**

In terms of access, there is a dual access to the flats from Commercial Street and Kingsway Place. A new wall is proposed within the commercial unit to create a hallway off Commercial Street to be separately used by the residents of the flats and this is deemed favourable. Kingsway Place is enclosed and would not be appropriate as a primary access point. The access from Kingsway Place is shared with staff from the Commercial unit which also enters into a shared small area at ground floor level. Commercial staff need to use the rear entrance to access commercial waste bins outside. The SPG states, *in no circumstances may a flat and a non-residential unit (e.g. a shop) share a single entrance*. A shared entrance and shared internal rear area are deemed unacceptable and contrary to the SPG. Moreover, the commercial unit has access to the basement. The basement area is proposed to store residents' bikes. This interconnected relationship would also be unacceptable.

8.21 **Highways**

It is noted the Highways Officer has provided comments on the application. Concerns were raised on a primary access from Kingsway Place, however, it is noted there is

also an entrance from Commercial Street as discussed above. The officer states the development requires 8 parking spaces to comply with current policies. A sustainability study could reduce this but a minimum of four (1 per unit) would be required.

However, on assessment, the Parking Standards SPG states that the area is designated within Parking Zone 1 and would require 0.5-1 spaces per unit. The minimum parking required would be 2no.spaces for the 4no. flats. Given the sites sustainable location there are public transport links nearby. PPW12 states on pg.45, *Ensure that the chosen locations and resulting design of new developments reduces reliance on the private car for daily travel, supports sustainable modes of travel and assists in improving the environment, public health and community life.* Given this, the lack of parking within this sustainable location would not form a reason for refusal in this instance. However, sustainable modes of transport should be supported, and the cycle storage facility is inadequate in this development and discussed below.

In terms of cycle parking, this is shown within the basement. The highways officer has suggested that the steps and doors that have to be negotiated to access the basement would make this unacceptable and impractical for bike storage contrary to the SPG. On a site visit, this was also confirmed. The highways officer also raises concerns that the storage would not be secure as this is a shared facility with no natural surveillance contrary to Policy GP4.

## 8.22 **Ecology**

In accordance with Chapter 6 of Planning Policy Wales 12, all applications must now be accompanied by a Green Infrastructure Statement which is proportionate to the scale of development proposed. All proposals must also demonstrate a net gain in biodiversity. 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. An ecological enhancement has not been provided as part of the development for the proposal to be compliant with the aims of Policy GP5 of the NLDP 2011-2026 (adopted January 2015).

PPW12 states in paragraph 6.2.12, *A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The green infrastructure statement will be an effective way of demonstrating positive multi functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step wise approach (Paragraph 6.4.15) has been applied.* No GI statement has been provided as part of the development.

In this case no biodiversity enhancement or GI statement has been submitted to accompany the application. In accordance with section 6.4.12 of PPW 12 “Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission”. In this case there are no other significant material considerations that

would suggest that the development should continue without this supporting information. Accordingly, the lacking of this detail will form part of the reason for refusal.

The Ecology Officer has provided comment on the application and states that a bat survey would not be required in its urban location as it is too far away from any suitable foraging habitat, and the species of bat which would live in an urban area with lots of light disturbance tend to roost close by to where they can feed. However, the officer states that we can never totally rule out the presence of bats so a Bat Advisory Note is attached below.

**8.23 Drainage**

Welsh Water have no objections to the application and can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

**8.24 Other Comments**

The site is defined within the Town Centre Archaeologically Sensitive Area. As no ground works are proposed, it is considered that a written archaeology report would not be needed in this instance in line with Policy CE6.

**8.25 Section 106 Planning Obligation matters**

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>
<i>Regeneration, Investment and Housing</i>	<i>to provide on site affordable housing</i>	<i>30% affordable housing units at £19,480</i>	<i>30% affordable housing units at £19,480</i>	<i>No</i>
<i>Regeneration, Investment and Housing</i>	Admin Fee	£389	£389	No
<i>Regeneration, Investment</i>	Legal fees	£700	£700	No

<i>and Housing</i>				
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#### HEADS OF TERMS AGREED BY APPLICANT

The HOT were agreed by the applicant on 26/02/2025. However, as the development is not being supported for reasons outlined above, this will form part of the reasons for refusal.

### **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 Overall, it is considered that the scheme does not accord with Policy and would have an adverse impact on resident's amenity. There is an inappropriate relationship of intervisibility between flats and inadequate space standards met for flat 1. There is insufficient information on noise levels experienced within the flats and whether windows can be reasonably opened without undue noise disturbance. The waste storage facility and bike storage would be unacceptable and there is insufficient information to demonstrate a feasible waste management plan. The interconnected relationship between the commercial and residential unit is inappropriate. There is also a lack of information on a biodiversity enhancement scheme, a GI statement and fenestration details on the building. Given the points raised above, the scheme is refused.

## **11. DECISION**

### **REFUSED**

01 The development would have an adverse impact upon interests of acknowledged importance, namely, upon residential amenity. The scheme holds an unacceptable level of amenity for future occupiers by reasons of the lack of sufficient space within the flats, the lack of privacy and intervisibility between flats, inappropriate bin storage, and a shared entrance between the residential and commercial premises. This would be contrary to the adopted Flat Conversions SPG (2021) guidance and Policy GP2 and H8 of the Newport's Local Development Plan 2011-2026 (Adopted January 2015) and Flat Conversions SPG (2021).

02 The development would have an adverse impact upon interests of acknowledged importance, namely, upon residential amenity. There is no information provided on noise levels experienced by residents within the flats and subsequent ventilation measures. No information has been provided in the form of a noise impact assessment to justify this. The proposal is contrary to Policy GP2 and H8 of the Newport's Local Development Plan 2011-2026 (Adopted January 2015) and Flat Conversions SPG (2021).

03 The proposal has not provided a Green Infrastructure Statement or Ecological Enhancement. This would not contribute positively to biodiversity and ecosystem resilience, which is contrary to Policy SP1, SP9 and GP5 of the Newport Local Development Plan 2011-2026 (adopted January 2015), Chapter 6 of Planning Policy Wales (Edition 12) and Policy 9 (Resilient Ecological Networks and Green Infrastructure) of Future Wales.

04 The development would have a significant adverse impact upon interests of acknowledged importance, namely it represents an unsustainable form of development which fails to be mitigated by contributions towards affordable housing. As such, the scheme is contrary to the Planning Obligations SPG dated January 2020 and policies SP1, SP13 and H4 of the Newport Local Development Plan 2011-2026 (Adopted January 2015).

05 The development would have a significant adverse impact upon interests of acknowledged importance, inadequate cycle storage. Inadequate information has been provided to demonstrate secure and accessible storage to residents and no information has been provided to mitigate this objection contrary to Policy GP4 and H8 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015) and Sustainable Travel SPG.

06 The development would have a significant adverse impact upon interests of acknowledged importance, namely the lack of information of a waste management plan and the impact on the Conservation Area. Insufficient information has been provided to mitigate this objection contrary to Policy W3 and CE7 of the Newport Local Development Plan 2011 - 2026 (Adopted January 2015), Waste Storage and Collection SPG and The Historic Environment Act (2023).

07 The proposed development will have a significant adverse impact upon interests of acknowledged importance, namely impact upon the appearance and character of the City Centre Conservation Area. Insufficient information has been provided relating to the proposed external alterations to mitigate this concern. The proposals are currently contrary to Policy CE7 of the Council's Local Development Plan, 2011-2026 (Adopted January 2015) and Section 160 of the Historic Environment (Wales) Act 2023.

#### *NOTE TO APPLICANT*

01 This decision relates to plan Nos: 2502\_B02\_Proposed plan\_Floors - Views - Sections plan windows; 2502 A02 - Proposed Plan/Floors - Views - Sections Plan.; 2502 A01 - Site Location Plan, Existing Plan/Floors - Views - Sections Plan.; 2502 - Design and Access Statement.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, GP2, GP4, GP5, GP6, GP7, T4, SP13, SP18, H2, H8, W3, CE6, CE7, SP9 were relevant to the determination of this application.

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

04 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

05 The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

06 In accordance with Planning Policy Wales (Edition 12) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

07 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.

08 Bats often roost in houses and other buildings, and work on these buildings may disturb a bat roost. All bats and their roosts are protected against disturbance under UK and European legislation. If works are planned on a building in which bats are roosting, Natural Resources Wales (NRW) must be contacted for advice. If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately. Where there is a likelihood that bats are present, or where bats are found to be present, a suitably qualified and experienced ecological consultant should be contracted to provide an assessment of the impact of the proposed works, and undertake bat surveys if necessary. Where bats or their roosts are present, no works of site clearance, demolition or construction should take place unless a licence to disturb these species and/or their roosts has been granted in accordance with the relevant legislation. Otherwise, a prosecution may result in a fine and/or imprisonment. NRW can be contacted at:-

Natural Resources Wales, Tŷ Cambria, 29 Newport Road, Cardiff CF24 0TP, 0300 065 3000

Bat Conservation Trust can be contacted at:-

5th Floor, Quadrant House, 250 Kennington Lane, London, SE11 5DR, 0845 1300228