



**Cyfoeth  
Naturiol  
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Natural  
Resources  
Wales**

Ein cyf/Our ref: SE/2014/117443/01-L01  
Eich cyf/Your ref: RECONEX/13/1279

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21<sup>st</sup> May 2014

Annwyl Mr Roberts/Dear Mr Roberts

## **DEVELOPMENT OF 248 DWELLINGS AND ASSOCIATED WORKS ETC AT LAND TO SOUTH OF GLAN USK PRIMARY SCHOOL, HERBERT ROAD, NEWPORT**

Thank you for referring the aforementioned planning consultation to Natural Resources Wales, which we received on 15<sup>th</sup> April 2014.

As you are aware Natural Resources Wales responded to the previous consultation in our letter dated 5 February 2014 (our ref. 1962690/C.38.07.02/AH). Our understanding is that as part of the re-consultation a full planning application and an Environmental Statement (ES) has been submitted. The proposed development will comprise 250 dwellings with a mixture of flats and houses with a new dedicated access route along the narrow strip of land running from the proposed site to Collier Street.

### **Summary**

#### **In summary;**

- **Natural Resources Wales objects to the development as submitted and recommends that an appropriate assessment under the Conservation of Habitats & Species Regulations 2010 (as amended) be undertaken with regards to the possible impacts on the integrity of the River Usk Special Area of Conservation (SAC).**
- **Natural Resources Wales objects to the development as submitted on flood risk management grounds. The view of Natural Resources Wales is that the Flood Consequence Assessment is not sufficient to demonstrate that the risks and consequences of flooding associated with the proposed development are manageable. We seek confirmation and clarity on aspects, which may affect the outcomes of the assessment.**

**Notwithstanding our objection on the above grounds we also refer to our advice on other environmental matters given in our previous representation of 5<sup>th</sup> February 2014.**

We provide our fuller representation below;

### **Ecological Matters**

#### **Conservation of Habitats and Species Regulations 2010 – River Usk Special Area of Conservation**

The advice in this letter is offered by Natural Resources Wales to assist in reaching a view on the possible significant effect of the above proposals in the context of Regulation 61 (1) of the Conservation of Habitats and Species Regulations 2010 as amended. On the basis of the information provided, Natural Resources Wales is unable to state that the proposed development would not be likely to have a significant effect on the River Usk Special Area of Conservation (SAC). We therefore recommend that Newport City Council, as the competent authority, carry out an ‘appropriate assessment’.

The purpose of the appropriate assessment would be to assess the implications of the proposed development with respect to the conservation objectives of the River Usk SAC. The conclusions of the appropriate assessment should enable Newport City Council to ascertain whether or not the proposed development would adversely affect the integrity of the SAC.

Regulation 61 (6) states that, as part of the appropriate assessment process, the competent authority ‘shall have regard to the manner in which it (the development) is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.’ In addition we remind you of the need to consider this proposal ‘in combination’ with other developments in the vicinity, particularly the possible cumulative impacts from other proposed developments along this stretch of the River Usk SAC as part of the appropriate assessment.

Areas of concern were highlighted and expanded on in our letter of 5 February 2014. Our view is that the issues of concern expressed within our letter have not been fully addressed in the amended ES. The comments in our letter of 5 February therefore remain valid.

### Plans and cross-sections

We have assessed the updated information on the planning portal including the landscaping plan and cross sections. The information supplied does not allow us to fully assess the impacts of the development on the SAC. In an effort to assist the applicant we requested additional information from them directly, which to date they have not been able to fully supply. We maintain our request for such information from the applicant (or via yourselves), which will subsequently inform our advice to you.

### Specific comments on ES addendum

We note the addition of a cumulative impacts section to each chapter.

We note paragraph 7.2 (7.120) the bullet points of mitigation which replaces the previous version. It is our understanding that the text of bullet points 4 and 16 and Para 7.128 have been changed.

All comments on other bullet points remain as stated in our letter of 5 February. In particular our comments on bullet points 3, 16, specifically what are the details of the off-site enhancement proposed. And, how will all the enhancement measures be maintained in the longer term.

#### *Bullet point 4*

We note the wording is slightly altered to accord with the new landscaping plan. Please refer to our comments above in regard to details of plans.

#### *Bullet Point 16*

We note the wording is slightly altered to accord with the new landscaping plan. Again we refer you to our comments above in regard to details of plans.

We reiterate our previous comments regarding mitigation. Namely, we welcome the mitigation proposals in principle. However most are outline in nature, and further detail should be provided, including detailed plans and details of how they would be secured.

Mitigation measures that seek only to redress some of the impacts and which do not therefore totally avoid any adverse effects, cannot be considered in the appropriate assessment.

### **River Usk (Lower Usk) Site of Special Scientific Interest (SSSI)**

We consider that your letter constitutes the giving of a notice to Natural Resources Wales of proposed operations likely to damage the features of a Site of Special Scientific Interest (SSSI), under section 28I (2) of the Wildlife and Countryside Act 1981 (as substituted by section 75 (1) and Schedule 9 of the Countryside and Rights of Way Act 2000).

Our concerns for the River Usk (Lower Usk) SSSI are the same as for the SAC; please refer to our comments made above. In summary, we are unable to reach a view regarding the potentially significant impact of these proposals on the River Usk (Lower Usk) SSSI without further information.

### **European Protected Species – Otters**

As well as being a feature of the SAC, otters are fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 as amended. Should any otter breeding sites or resting places come to light at any time before the development is complete, we recommend that the applicant apply to Natural Resources Wales for a licence under Regulation 44 of the 2010 Regulations, before proceeding further.

In conclusion, we are unable to advise that there would be no significant effect on the River Usk SAC and SSSI. We therefore object to the development as submitted and recommend that an appropriate assessment is carried out. We will be pleased to offer further advice when the necessary assessments have been completed, submitted and reviewed. We would ask that a reasonable time be allowed for such information to be reviewed by ourselves and to respond.

### **Flood Risk Management Matters**

Planning application consultation RECONEX/13/1279 is supported by an updated Flood Consequence Assessment (FCA), Reference 13980/FCA01F, dated March 2014, which has been prepared by Waterman. This assessment considers a factor of 100 years over the lifetime of development, which has been agreed with Newport City Council. The 100 years lifetime of development factor also follows our Natural Resources Wales recommendation for residential developments.

We note that the updated FCA applies the 100 year lifetime of development in consideration of the extant outline planning permission for this site (October 2000). At that time it was established that “*the site shall be raised to 9.8 metres Above Ordnance Datum (mAOD) with the finished floor levels (FFLs) of all development set 600mm above the 9.8 mAOD standard,*” that is, 10.4 mAOD.

We note that the FCA confirms the following;

1. The existing site is unaffected by the 1% and 0.1% annual probability fluvial flood events in the River Usk.
2. The existing site is shown to be unaffected by tidal flooding during the 0.1% probability tidal event (8.76 mAOD) in the current day (2014) DEFENDED scenario.
3. The existing site is shown to be affected by tidal flooding during the 0.5% probability tidal event (9.92 mAOD – includes upper bound confidence limit) in the (2114) DEFENDED scenario. Peak flood depths within the main part of the existing site will be circa 2 metres.
4. For the UNDEFENDED scenario (run solely for flood mapping rather than for planning purposes) the mean and maximum water surface elevations within the existing site remain consistent at 8.62 and 8.93 mAOD for the 0.5% and 0.1% probability tidal events respectively. These levels correspond to maximum peak flood depths of 1.96 and 2.27 metres respectively with low velocities averaging 0.3 metres/sec.
5. The extant planning permission raises “*ground levels*” to 9.8 mAOD with FFLs set 600mm above this level to 10.4 mAOD. It is now considered that this degree of ground raising is not required as part of the updated proposals, which will now raise the “*site levels*” to 9.8 mAOD with FFLs 150mm above this level to 9.95 mAOD. “*Road levels*” will be set at circa 9.5 mAOD.

Setting the FFLs to 9.95 mAOD will ensure they will remain flood free during the 0.5% probability event (with Upper Bound Confidence Limit applied – 9.92 mAOD) over the next 100 years to 2114.

Furthermore, the “*road levels*” and “*site levels*” respectively will be at or above the 0.5% probability event (without Upper Bound Confidence Limit applied – 9.5 mAOD) over the next 100 years to 2114.

The application of climate change to the 0.1% (1 in 1000 year) extreme tidal flood event has not been considered in the FCA and, therefore, the critical event is the 0.5% tidal event in 2114.

6. By raising the site to 9.8 mAOD this removes an area of approximately 2.5 hectares out of the 0.5% tidal floodplain. It also limits the conveyance route for floodwaters spilling into the site from the north western corner.

7. The extant scheme has been used as a “*baseline scenario*” to assess flood risk elsewhere to third parties. It is considered that as the current proposal involves a lesser degree of ground raising, there will be a corresponding reduction on flooding elsewhere. In theory, this means that the new layout proposals will be less significant on flooding elsewhere than the extant scheme. This has been assessed as showing a widespread betterment of 30mm for a large area to the east of the River Usk compared to the extant scheme.

The report concludes that the latest development proposals do not increase flooding elsewhere and will provide betterment.

8. The ordinary watercourse within the north of the site will be retained and it will be enhanced in terms of Biodiversity with its existing channel capacity being maintained. The outfall/culvert from this watercourse to the River Usk does not currently have a flap-valve. It is proposed to replace the culvert with a 2.5 metre diameter culvert and flapped outfall (in lieu of the existing 2 metre diameter culvert).

9. The proposed development is not likely to be affected by pluvial and groundwater flooding.

10. The development will result in an increase of impermeable areas with a corresponding increase in surface water runoff. It is proposed, however, to discharge surface water at an un-restricted rate into the tidally affected waters of the ordinary watercourse/River Usk.

11. Flooding to the south of the site during the 0.5% probability tidal event (with Upper Bound Confidence Limit) results in depths exceeding 1 metre within Morgan, Courtney and Collier Street. This will exceed the tolerable limits within A1.15.

A flood free route (pedestrian), however, is available to the north via the Glan Usk School grounds and onto Bank Street during the first and second tidal cycles. The third tidal cycle will result in floodwaters along this route being less than 600mm and with velocities of 0.2 metres/sec. These remain below the tolerable limits of A1.15 of TAN 15. As this flooding will not be longer than 2 hours along this route, it is suggested that the safest course of action would be for residents to remain on site until floodwaters recede.

12. Residents should be encouraged to sign up for flood warnings issued by Natural Resources Wales to allow them to plan any emergency actions and/or evacuate if necessary. It is suggested that the development plateau itself would provide an appropriate point of containment for residents if necessary until floodwaters within the vicinity subside.

In considering of the above points, we have reviewed the FCA based on the comparison of the approved scheme, that is, the extant planning permission (October 2000), and the current proposals. The view of Natural Resources Wales is that the FCA is not sufficient to demonstrate that the risks and consequences of flooding associated with the proposed development are manageable.

Maintaining the same notation as above, we offer the following comments.

1. Noted and agreed.
2. Referring to the letter from the Welsh Government dated 9<sup>th</sup> January 2014 to all Chief Planning Officers in the Local Authorities *“it is necessary to take account of the potential impact of climate change over the lifetime of development including a flood event which has a 0.1% probability of occurrence”*.

We require confirmation from the Local Planning Authority (LPA) on whether this scenario should be assessed as part of the FCA.

3. Our data indicates that during the 0.5% probability tidal event (with Upper Bound Confidence Limit) depths would be in the range of 1.6 to 3.2 metres. These reduce to 1.3 to 2.8 metres (without Upper Bound Confidence Limit applied). If your Authority is minded to consider the existing “undeveloped” site as opposed to the suggested “baseline scenario,” that is, the extant Scheme, it is highly likely that based on the depths of flooding above, the removal of this tidal floodplain by raising existing ground levels will displace a substantial volume of floodwater and increase flooding elsewhere.

We require confirmation from the Local Planning Authority on whether they consider the extant scheme to be the “baseline scenario” in assessing flooding elsewhere. Referring to the final paragraph in Section 6.1 of the FCA it states “*Newport City Council have provided their initial comments regarding the proposals as part of a screening opinion for residential development*”. They highlight that ‘*a large part of the site lies within a defended floodplain (C1) as identified in the Welsh Government’s Development Advice Maps. It will be necessary to show that the effects of tidal flooding can be acceptably managed on the site. If land raising is proposed the impact of flood water displacement and run-off effects should be taken into account*’.

4. The water surface elevations in the UNDEFENDED scenario (Table 3 – Appendix D) do not materially vary for the events specified.

Natural Resources Wales requires clarification why the “mean” velocities have been stated whereas the “maximum” depths have been used in this table. We would expect these parameters to correspond and be of the same magnitude.

5. Section 4.4 (paragraph 4) states that the road levels will be set at circa 9.5 mAOD whereas Section 4.5 (final paragraph) states that the road infrastructure will be 350mm lower than the site levels (9.8 mAOD) with corresponding levels in the range of 9.45 to 9.8 mAOD.

The FCA must provide clarity with the proposed road infrastructure levels within the development.

6. Refer to (3) above regarding loss of floodplain.

7. This is acknowledged on the basis that the “baseline scenario” is considered by the LPA as the extant scheme.

8. Noted. The proposed works will require the prior formal Flood Defence Consent of Natural Resources and/or Ordinary Watercourse Consent from Newport City Council as the Lead Local Flood Authority (LLFA).

9. Noted

10. Comments in Section 6.3 (final paragraph) propose to discharge surface water at an unrestricted rate, whereas in Section 7 (bullet point 6) comments are that surface water will be discharged into the land drainage ditch (Ordinary Watercourse) in the northern half of the site. Discussions regarding the rate of runoff should be advanced with Newport CC during the detailed design stage.

We request that the FCA substantiates which means of discharge applies because comments appear to be conflicting.

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

12. See comments in (11) above.

Natural Resources Wales is required to report to the Welsh Assembly Government those instances in which our recommendations for refusal on grounds of flood risk, have not been accepted by Local Planning Authorities. If your Authority is minded to grant permission contrary to our advice, we should be informed of all matters that influence this decision, prior to granting permission, allowing sufficient time for further representations to be made.

### **Other Environmental Material Planning Considerations**

We also refer you to our advice given in our letter of 5<sup>th</sup> February 2014 on Fisheries, Potential for Contamination, Drainage, Water Features, Water Supply, and Water Efficiency. We also refer the applicant to our regulatory advice on Environmental Permitting and Abstraction Licence requirements.

### **Other Regulatory Regimes outside of the Town and Country Planning Process**

Please be aware that any advice and comments which may have been made by Natural Resources Wales within the planning process should only be looked at in the context of that regime within which they fall and should not be construed as having any bearing or binding effect on other regulatory processes.

### **Future Communications**

We look forward to having continued dialogue with you on this proposal and in regard to environmental matters. Our advice and comments may alter as more details become available and we reserve the right to change our position.

If your Authority is minded to grant planning permission contrary to our advice then we should be informed of all matters influencing your decision, prior to granting formal permission, allowing sufficient time for further representations to be made.

Should the developer require any consents/permits from the Environment Agency then application forms should be submitted to us as soon as possible and in advance of development because this may take several months to determine.

Should you have any further queries, please do not hesitate to contact us.

Yn gywir / Yours faithfully

**Mrs Jackie Walters**

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Cyfoeth Naturiol Cymru / Natural Resources Wales**

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Ein pwrpas yw sicrhau fod adnoddau naturiol Cymru yn cael eu cynnal, gwella a'u defnyddio yn gynaliadwy, yn awr ac i'r dyfodol / Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.