

Delegated Decision Report

Application No:	25/0826	Statutory Period Expires:	29th October 2025
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Site:	<i>Llanwern Works, Queensway, Llanwern, Newport, South Wales</i>		
Proposal:	<i>PRIOR NOTIFICATION FOR DEMOLITION OF THE HOT MILL STRUCTURE AT LLANWERN STEELWORKS ALONG WITH ITS ASSOCIATED EQUIPMENT AND INFRASTRUCTURE</i>		
Applicant:	<i>Tata Steel UK Ltd</i>		
Type:	Demolition	Ward:	Bishton & Langstone
Decision:	PRIOR APPROVAL IS REQUIRED		

1. BACKGROUND

- 1.1 The hotmill at the retained Llanwern steelworks has been mothballed and not operating since 2015. The applicant now reports the building complex as redundant and surplus to requirements.

2. SITE LOCATION AND CONTEXT

- 2.1 The hotmill is a large building complex at the western end of the retained site adjacent to the new industrial development at Indurent Park (Saint Modwens Park). The complex includes the main building and a supporting array of smaller buildings that house associated equipment / plant.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The proposal is to demolish the hotmill and associated buildings at the retained Llanwern Steelworks. The hotmill is currently mothballed and has been judged redundant. The proposed demolition programme is estimated to last for three years and includes the retention of one building as mitigatory habitat for bats since bats of various types have been found in various elements of the complex which are scheduled for demolition.
- 3.2 The demolition operation is complex and will ultimately see the removal of above ground structures and the back-filling of sub-floor voids with secondary aggregate recovered on the site. Ultimately the site will be left clear of demolition waste and will be left as a flat recovered area suitable for redevelopment.
- 3.3 The applicant confirms the presence of nesting birds (gull species) on the roof and use of the main building and some subsidiary buildings by various bat species. Proposed mitigation is the retention of a building and its adaptation to improve it as bat habitat. Other works will avoid nesting season and measures will be taken to deter birds from nesting on the building during the demolition period.

4. RELEVANT SITE HISTORY

None.

5. PLANNING POLICY

5.1 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

SP9 – Construction of the Natural, Historic & Built Environment
SP18 - Urban Regeneration
GP2 – General Amenity
GP4 – Highways & Accessibility
GP5 – Natural Environment
GP7 – Environmental Protection & Public Health

5.4 SUPPLEMENTARY PLANNING GUIDANCE

- Wildlife & Development (August 2015)

6. CONSULTATION RESPONSES

6.1 No responses received.

7. PUBLIC REPRESENTATIONS

7.1 No responses received.

8. ASSESSMENT

Principle of Development

- 8.1 Demolition of a building is permitted development under Part 31 of the General Permitted development Order 1995 as amended. However conditional controls require that the developer seeks the 'prior approval' of the Local Planning Authority (LPA) as to the method of demolition and the restoration of the site.
- 8.2 The LPA may determine that the information submitted is sufficient in itself and that prior approval is not required or alternatively that the information provided is insufficient and that prior approval is required. The latter means that additional information is needed before the demolition methodology can be agreed. The LPA must inform the applicant within 28 days if prior approval is required and thereafter demolition may not commence until that prior approval is given.

Key Issues

- 8.3 The key issues are:
- Impact on amenity; noise, vibration & dust.
 - Bio-diversity; nesting birds and European Protected Species (bats)

Minor issues are:

- Highways
- Water quality
- EIA

Impact on amenity; noise, vibration & dust

- 8.4 The site is remote from dwellings with the nearest residences being on Broad Street Common and at the housing areas of Glan Llyn, approximately 1.5Km and 1.4Km respectively. Given this separation, control over working areas and the proposed methodology the information provided shows that harm to residential amenity can be mitigated.

Bio-diversity; nesting birds and European Protected Species (bats)

- 8.5 Although a post-industrial site the building has acquired some bio-diversity interest in form of nesting birds on the roof of the building. These are primarily gulls and pair of peregrine falcons. The applicant reports that works will commence outside the nesting season and methods will be used to deter the return of birds to the structures that will not be removed in the first year of the demolition operation. Given the proposed measures in terms of the timings of works and the deterrence of future nesting there is no reason to think that the bird issue cannot be successfully mitigated on the site.
- 8.6 Bats have been identified as being on the site and using various buildings. Several species have been identified. The applicant proposes further survey work given the demolition phase will last several years and mitigation is to retain a building of known bat interest and adapt it to improve its credentials as a bat roost.
- 8.7 As a European Protected Species the Habitat Regulations engage and caselaw has established that such concerns are material planning considerations notwithstanding the need for Licensing from the statutory nature conservation body (Cyfoeth Naturiol Cymru / Natural Resources Wales) in this case. The regulations¹ allow for the issue of licences that would allow a departure from the otherwise strict protection these animals are subject to. One such reason is:
- 55(2)(e) preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;*
- The regulations further clarify that a licence may not be issued unless:
- 55(9) The relevant licensing body must not grant a licence under this regulation unless it is satisfied:*
(a) that there is no satisfactory alternative; and
(b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 8.8 In terms of planning caselaw, this has established that planning decisions must be fully informed² in relation to European Protected Species interests for the purposes of the EIA Regulations and that there can be confidence that the above Habitat Regulations tests can be met and appropriate mitigation provided to offset potential harms to the species interest³.
- 8.9 Morge confirmed that in planning decisions, the decision maker should abide by the following tests:

¹ The Conservation of Habitats and Species Regulations 2017

² R v Cornwall County Council ex parte Hardy & Gwennap Parish Council CO/4784/99. September 2000

³ Morge (FC) (Appellant) v Hampshire County Council (Respondent) UKSC/2010/0120

1. If the decision maker concludes the statutory Conservation Body will not grant a derogation licence, they must refuse planning permission.
 2. If it is likely the statutory Conservation Body will grant the derogation licence, then the decision maker may grant conditional planning permission.
 3. If it is uncertain whether or not a derogation licence will be granted, then the decision maker must refuse permission.
- 8.10 In this case there has been no formal input from the statutory nature conservation body nor any 'triangulation' from the Council's own ecologist on the ecological information provided. CNC/NRW have advised that a decision on the derogation licence will not be made until such a time as the LPA gives its approval of the demolition method. As such there is currently something of an impasse with the LPA being left in Scenario 03 above where there is no clarity from a qualified ecologist that the derogation licence would be issued.
- 8.11 Annex 3 to the Development Management Manual further clarifies process in relation specifically to prior approval process. It confirms that:

Consideration required of a proposal benefitting from permitted development rights is very similar to that given to a planning application in respect of the Habitats Directive. LPAs need to consider whether:

- *sufficient information has been submitted for them to determine that the proposal satisfies an appropriate Habitats Directive derogation purpose;*
- *there is no satisfactory alternative to the proposal; and*
- *the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

2.2 An 'appropriate derogation purpose' could be one referred to in regulation 53(2)(e) of the 2010 Regulations, which identifies the purposes of preserving public health or public safety or other imperative reasons of overriding public interest. These purposes are the most commonly used to justify derogation from the Directive; however other purposes also exist for which a licence may be granted under the 2010 Regulations.

2.3 Article 1(i) of the Habitats Directive defines conservation status of a European species.

2.4 Although an LPA must consider the above tests, it should not duplicate the role of the conservation body. A LPA should only refuse to approve details requiring prior approval where both a criminal offence relating to European protected species (EPS) is likely to result from the development and where a licence from Natural Resources Wales (NRW) is unlikely to be granted

Where NRW has stated it is satisfied a proposed development can be licensed, the LPA is entitled to rely upon their view.

2.5 The conclusions of the tests, as well as the likelihood of a licence would be granted for the proposal, will then form a material consideration for the LPA when making a decision in respect of prior approval. The LPA will need to demonstrate that officers, or elected members, were aware of their duty and had considered it in making the determination.

Although the applicant has provided extensive ecological information, currently the LPA has no reasonable confirmation that the derogation licence would likely be issued for this demolition activity since there is no clear indication that the proposed mitigation is sufficient to ensure that the populations of the identified bat species on the site would be maintained at a favourable conservation status in their natural

range. As such additional information is needed to clarify the suitability and likely success of the proposed mitigation in regard to the bat species on the site.

Highways

- 8.12 The site is adjacent to the Eastern Distributor Road (EDR) and that the information supplied satisfactorily shows that the proposed works would not have any significant impact on the local Highway network.

Water quality

- 8.13 The steelworks site is drained by a private surface water drainage system. Surface waters generated on the site are interpreted and by ditch systems that feed to a reedbed area. This then drains to a pumping station where water is pumped out to the Severn via a pipeline. The interceptor ditches in combination with the existing treatment facility mean the risk to water quality are low and capable of treatment (mitigation) before discharge to natural waters.

EIA

- 8.14 The application has been screened and found not to be EIA development.⁴

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)*

⁴ *R (on the application of SAVE Britain's Heritage) v Secretary of State for Communities & Local Government* [2011] EWCA Civ 334,

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 The prior approval of the Council is needed for the proposed demolition since there is currently no certainty that the statutory nature conservation body (CNC/NRW) is likely to issue a derogation licence for the works due to the presence of a European Protected Species (Bats, all types) within the building. The submitted information advises further surveys are to be undertaken and further advises that mitigation will be via the retention and adaptation of an ancillary building of current bat interest. However it is not clear that the proposed mitigation is likely to be adequate and will leave the local bat population at a favourable conservation status within its natural range.

11. DECISION PRIOR APPROVAL IS REQUIRED

01 Bats were detected using some of the buildings. The Habitats Directive is relevant. The information so far provided is insufficient to conclude that a European Protected Species Licence would likely be granted by the relevant Statutory Body (CNC/NRW) for the proposed works of demolition. Additional ecological information is needed in relation to protected species on the site, proposed mitigation and its likelihood of meeting the 'three tests' (IROPI) to enable the EPS Licensing regime to be satisfied.

NOTE TO APPLICANT

01 This decision relates to plan Nos:

- Pre Demolition Asbestos Survey; TATA/LL Hot Mill/003 R01 (24.09.2025)
- PROJECT HAZARD & RISK REGISTER; Revision 00 (02.06.2025)
- Copy of the Site Notice
- F503 – PROJECT QUALITY PLAN; Revision 01 (22.09.2025)
- DEMOLITION METHOD STATEMENT; C0098 MS 001 Rev. 03 (24.07.2025)
- Construction Phase Plan; C0098 Rev. 03 (19.09.2025)
- Demolition Environmental Management Plan (DEMP) Rev. 02 (19.09.2025)
- Summary of Ecological Assessments; 2486598-D06 (02) (26.09.2025)
- HRA Screening Report; 2486598-D04 (01) (26.08.2025)

- Preliminary Ecological Appraisal Report; 2486598-D03 (00) (21.08.2025)
- Breeding Bird Report 2486598-D02 (00) (August 2025)
- Preliminary Roost Assessment and Bat Hibernation - Survey of the Motor Room; 2486598 00 (June 2025)
- Bat Activity Survey Report 2486598-D05 (02) (August 2025)
- Turley's Covering Letter - 29.09.2025
- Drawing 01 - C0059 Llanwern Hotmill Project Access Routes
- Drawing C0098 3 Rev 03 – Demolition Phased Plan
- Drawing TATA /LL Hot Mill/BN – Building Names
- Drawing C0098 01 - HGV Gate Access Routes
- Drawing 0000.60.20.00.0033 B – Site Location Plan

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No Policies were relevant to the determination of this application.

03 The proposed development (including any demolition) has been screened under the Environmental Impact Assessment Regulations and it is considered that an Environmental Statement is not required.