

Delegated Decision Report

Application No:	25/0295	Statutory Period Expires:	11th June 2025
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Site:	<i>Land Encompassing 133 To 135 Commercial Street Newport NP20 1LY</i>		
Proposal:	<i>PARTIAL DISCHARGE OF CONDITION 9 (CEMP) OF 19/1228 PROPOSED MIXED USE DEVELOPMENT AT 133-135 COMMERCIAL STREET, PARTIAL DEMOLITION OF GROUND, FIRST AND SECOND FLOOR; RETENTION AND EXTENSION OF EXISTING GROUND FLOOR UNITS; CONVERSION OF REMAINING RETAINED FLOORSPEACE FOR RESIDENTIAL USE; ERECTION OF REAR EXTENSION FOR RESIDENTIAL USE; AND GENERAL REFURBISHMENT</i>		
Applicant:	<i>C Spiteti</i>		
Type:	Discharge Conditions	Ward:	Stow Hill
Decision:	Refused		

1. BACKGROUND

- 1.1 Consent was granted for the proposed mixed use development at 133-135 commercial street, partial demolition of ground, first and second floor; retention and extension of existing ground floor units; conversion of remaining retained floorspace for residential use; erection of rear extension for residential use; and general refurbishment under permission 19/1228.

2. SITE LOCATION AND CONTEXT

- 2.1 The site is situated in the commercial city centre of Newport within the urban boundary (as identified within the Adopted LDP). The City Centre location means that the site is within the designated shopping centre and it is also located within an Archaeological Sensitive Area.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 The application seeks to discharge condition 9 (CEMP) of 19/1228. The applicant has confirmed that the demolition works have commenced.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
19/1228	PROPOSED MIXED USE DEVELOPMENT AT 133-135 COMMERCIAL STREET, PARTIAL DEMOLITION OF GROUND, FIRST AND SECOND FLOOR; RETENTION AND EXTENSION OF EXISTING GROUND FLOOR UNITS; CONVERSION OF REMAINING RETAINED FLOORSPEACE FOR RESIDENTIAL USE; ERECTION OF REAR EXTENSION FOR RESIDENTIAL USE; AND GENERAL REFURBISHMENT	Granted with Conditions	03.06.2020

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.

6. CONSULTATION RESPONSES

6.1 **Natural Resources Wales:** No comments to make

6.2 **Highways:** Recommend no discharge. The submitted CEMP is basically a generic health and safety document. It makes reference to delivery scheduling and use of banksmen, but nothing else needed for highway purposes. It suggests that the contractor will be responsible for most of the things it should detail.

6.3 **Senior Scientific Officer:** No comments received.

6.4 **Environmental Health:** No comments received.

7. PUBLIC REPRESENTATIONS

7.1 None.

8. ASSESSMENT

8.1 The application seeks to discharge condition 9 (CEMP) of 19/1228.

8.2 Condition 09 (CEMP) states:

No development shall commence, including any works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following details:

i) The parking of vehicles of site operatives and visitors;

ii) Loading and unloading of plant and materials;

iii) Storage of plant and materials used in constructing the development;

iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

v) Wheel washing facilities;

vi) Measures to control and mitigate the emission of dust, smoke, other airborne pollutants and dirt during construction;

vii) A scheme for recycling/disposing of waste resulting from demolition and construction works.

viii) Hours of construction;

ix) Lighting;

x) Management, control and mitigation of noise and vibration;

xi) Odour management and mitigation;

xii) Diesel and oil tank storage areas and bunds;

xiii) How the developer proposes to accord with the Considerate

Constructors Scheme (www.considerateconstructorsscheme.org.uk) during the course of the construction of the development; and

xiv) A system for the management of complaints from local residents which will incorporate a reporting system.

xv) Measures to minimise the impact on air quality should include HGV routes avoiding Air Quality Management Areas and avoid vehicle idling

The construction of the development shall be undertaken in accordance with the approved CEMP.

Reason: In the interests of residential amenity and in the interests of highway safety and

- 8.3 With regards to the details submitted, the Highways Officer has objected to the discharge of condition as the CEMP is not comprehensive and rather represent a Health and Safety document.
- 8.4 Furthermore, the condition was imposed as a Pre-Commencement Condition under planning permission 19/1228, including demolition works. The applicant has confirmed that works began on 27th May 2025; however, the condition had not been discharged prior to commencement. As a result, the condition cannot now be discharged, as the works commenced in breach of its requirements. The development is therefore considered unlawful.

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 The information submitted is insufficient to discharge the condition. Further to this, the development has commenced by way of demolition, as such, the commencement of development is considered unlawful and the condition cannot be discharged.

**11. DECISION
REFUSED**

01 The information submitted is insufficient to discharging the condition. Notwithstanding this, the development commenced in breach of a pre-commencement condition as such, the planning permission was not lawfully implemented, and the condition can no longer be discharged. The development is therefore contrary to policy GP4 and GP6 of the Adopted Newport Local Development Plan 2011–2026.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Supportitng letter 14 April 2024, Site location plan, CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN_ VER-(07) FINAL,

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policy GP5 was relevant to the determination of this application.

03 As consideration of this request did not raise significant additional environmental matters over and above those previously considered as part of the original application, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.