



Appeal Decision

by Richard James Bsc (Hons) Msc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 14/03/2025

Appeal reference: CAS-03596-M5N9H1

Site address: Land off Nash Road, Newport.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by GD Environmental Services Ltd against the decision of Newport City Council.
 - The application Ref 24/0294, dated 3 April 2024, was refused by notice dated 16 May 2024.
 - The development proposed is an open storage space and storage/lock up building.
 - A site visit was made on 4 December 2024.
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Decision

1. The appeal is allowed and planning permission is granted for an open storage space and storage/lock up building on Land off Nash Road, Newport, in accordance with the terms of the application, Ref 24/0294, dated 3 April 2024, subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs was made by GD Environmental Services Ltd against Newport City Council. This application is the subject of a separate Decision.

Procedural Matters

3. A Landscaping Plan (Drawing No. LLH001 Revision C) and Landscaping Plan Section B-B (Drawing No. LLH003 Revision 0) have been submitted with the appeal. As these provide more detailed information in relation to landscaping, trees and hedgerows rather than materially evolving the scheme, there would be no prejudice in them forming part of my assessment. I have therefore taken them into account.
4. The proposal would be located within Zone C1 of the Development Advice Maps (DAM), and 'Flood Zone 3 – Sea' of The Flood Map for Planning (FMfP) and would form 'less vulnerable development' as defined within Technical Advice Note 15 'Development and Flood Risk' (2004) (TAN 15). The proposal's effects upon flood risk did not form a reason for refusal on the Council's Decision Notice. However, given the national policy objective of managing flood risk through a precautionary framework, as an important part of contributing towards achieving sustainable development, I consider that this matter should form a main issue.

Main Issues

5. These are the effect of the proposal upon:

- the character and appearance of the area;
- the living conditions of neighbouring occupants, with particular regard to noise;
- highway safety;
- biodiversity interests; and
- flood risk.

Reasons

6. The appeal site comprises a parcel of previously developed land located adjacent to, and accessed from, Nash Road via an existing gateway. It is a largely level site, laid primarily to rubble and scrub land, which is bounded by reens and woodland to its rear and north western side. Front boundary hedgerow runs adjacent to Nash Road. Two residential properties are located immediately to the south of the appeal site. The Leeway Industrial Estate is located across Nash Road, opposite the appeal site. Numerous skips of varied sizes were being stored on the appeal site at the time of my site visit.
7. The appeal site forms part of a wider employment land allocation for B1, B2, B8 and leisure use, as designated within Newport Local Development Plan (LDP) Policy EM1 (iv). Although the Council's appeal questionnaire states that a Tree Preservation Order (TPO) is present on site, it has since confirmed that the TPO and a Site of Importance for Nature Conservation (SINC) are located next to the site.
8. The proposal would be used to store vehicles and equipment in association with the MDW waste management business, which is located further along Nash Road to the north of the appeal site and its adjacent woodland. No waste material would be stored or processed on the appeal site. The proposal would include the relocation of the existing access to the northern corner of the appeal site, with a replacement front roadside hedgerow, which would continue around the site perimeter. The new building and associated yard area would be set back into the site from the relocated access. The remainder of the site would be laid to permeable stone for outdoor storage. A planting strip would also run along the northern and rear boundaries and a grassed bund with additional planting would be set back from the side boundary towards the neighbouring dwellings, beyond which more planting is proposed within a rough grassland area.

Character and appearance

9. The appeal site is located towards the edge of Newport's built perimeter. When travelling along Nash Road in a southerly direction, in addition to woodland and well-established roadside hedgerow, I saw numerous large industrial buildings within the Leeway Industrial Estate, which continues past the appeal site's frontage to the south east. Other large educational buildings and the appellant's other industrial yard are also present further to the north. As such, the appeal site's immediate context comprises a mix of both industrial and natural landscape qualities, as Nash Road's character transitions from an urban context to a more sparsely developed countryside setting.
10. Newport Local Development Plan Policies GP2, GP5 and GP6, state amongst other matters, that good quality design will be sought in all forms of development, which will be permitted where its use and form will not be detrimental to the visual amenities of nearby occupiers or the character or appearance of the area and it includes an appropriate landscape scheme.
11. Having regard to the appeal site's previous agricultural and construction compound uses and from my observations on site, little evidence is submitted to indicate that a substantial level of tree and vegetation clearance has recently occurred, over and above

the 0.15ha quantified within the submitted Green Infrastructure Statement (GIS). It is stated that this clearance was for maintenance, access and health and safety requirements. I am satisfied that the appeal site's current appearance and condition forms the baseline from which to assess the proposal's visual and ecological effects.

12. The existing frontage hedgerow runs for a considerable length across the appeal site and includes numerous trees of modest size, although it was thin with visible gaps that enabled views through into the appeal site at the time of my site visit. Whilst its removal would cause some temporary loss in visual amenity along Nash Road, the effects would be localised to the appeal site's immediate frontage. Having regard to the open fronted industrial estate across the road opposite and the semi-rural nature of the area, the temporary loss of this hedgerow would cause a limited urbanising effect upon the character of Nash Road. Replacement hedgerow, once matured, would provide suitable mitigation for this temporary loss of visual amenity, with additional room shown on the submitted plans between the proposed hedgerow and swale behind it, to enable denser planting if required during its management.
13. In addition to the frontage hedgerow, the proposal includes the removal of two trees, comprising a dead Elm tree to the northern corner and a modestly sized Sycamore tree, set back from the roadside and close to the neighbouring outbuilding to the south. Given their size, condition and position within the appeal site, I saw that their removal would cause negligible visual effects upon the integrity of its woodland setting. The proposal would include a substantial amount of additional green space, including a 5m buffer to most of the woodland edge, which would largely comply with the advice of the Council's Trees, Woodland, Hedgerows and Development Sites Supplementary Planning Guidance (SPG). The proposal would therefore be unlikely to cause direct or indirect effects upon the TPO. It would also include new perimeter hedgerow, a bund and an additional rough grassland area to the south. These features would provide ample room for suitable compensatory tree planting and soft landscaping, to mitigate the removal of existing trees and hedgerow and to accord with the objectives of Planning Policy Wales (Edition 12) (PPW), which could be secured via a planning condition.
14. The proposed bund would comprise a large, manmade structure within the appeal site that would be visible along Nash Road and from the neighbouring residential properties. Nonetheless, the submitted plans show that it would be set back from the boundaries of these properties, with planted grassland between. It would have a soft, green appearance, which would be set amongst other large tree growth and new hedgerow boundaries. Whilst 3m high, the perimeter hedgerow and planting along it would, once matured, help to break up the bund's manmade form. As such, there is sufficient evidence to establish its visual effects. The appellant has indicated a willingness to retain the existing hedgerow across the bund's roadside frontage. This would further screen public views of the bund from Nash Road and soften its appearance. As such, subject to conditions to secure a revised landscaping scheme, with suitable hedgerow retention, the proposed bund would not be a visually intrusive feature within its semi-rural landscape context.
15. I conclude that the proposal would not be harmful to the character and appearance of the area and would comply with LDP Policies GP2, GP5, GP6 and the objectives of the SPG and national policy.

Living Conditions

16. LDP Policies GP2 and GP7 state, amongst other matters, that development will be permitted where there will not be a significant adverse effect on local amenity and would not cause unacceptable harm to health because of noise pollution.

17. Whilst LDP Policy GP5 is included within the Council's first reason for refusal on the Decision Notice, to my reading, this policy is specifically concerned with nature conservation, water, agricultural land and landscape quality and is therefore of little relevance to this main issue.
18. The submitted Noise Impact Assessment (NIA) has used computer noise modelling of the proposed operation based on the expected hourly trip counts for vehicle arrivals and departures. It includes, amongst other things, an assessment of noise generated from the loading and unloading of skips from a 7m distance at the appellant's existing premises. The assessment concludes that based on the representative worst-case operation and inclusion of the proposed 3-metre-high bund, the noise impact of site activities at an adjacent dwelling to the south is predicted to be low when assessed to British Standard 4142:2014. It also states that site noise may occasionally be audible but would not be considered dominant over the residual sound climate or incongruous against the existing character of sound.
19. The Council does not dispute the methodology or findings of the NIA. Having considered the NIA's content and the soundscape context of the neighbouring occupants, which includes noise generated from the nearby highway and industrial estate I do not disagree with this view. The evidence therefore establishes that the bund would acceptably mitigate adverse noise impacts to sensitive receptors. Furthermore, the relocated access would increase the separation distance of neighbouring occupants from vehicles entering and leaving the appeal site and the associated noise generated, for example from revving engines, which strengthens my view.
20. As such, I conclude that the proposal would not be harmful to the living conditions of neighbouring occupants and would comply with LDP Policies GP2 and GP7.

Highway Safety

21. The submitted plans show access gates that are set back approximately 12m from the edge of the carriageway and a submitted swept path analysis displays enough space for a 9.5m long vehicle to exit the carriageway before opening these gates. This would, nonetheless, fall short of the Council's requirement for this 12m distance to be measured from the nearside edge of the highway boundary, to allow larger rigid vehicles to exit the highway. The appellant has expressed a willingness to accept a condition to limit the size of vehicles accessing the site and has provided a previous appeal decision (ref. APP/H6955/A/13/2209711), which includes an example of a condition to this effect.
22. However, the appellant also accepts the Council's suggested condition for the gates to be set further into the site as an alternative. There is little difference between the 12m distance shown on the submitted plans and that required by the Council. Ample space is also available within the proposed yard area. As such, it would be more reasonable in this case to require the gates to be set further into the appeal site through a condition. This would enable larger vehicles to access the site and stop or park off the highway in the event of gates being closed. This would avoid the need for the control of vehicles entering and leaving the site in perpetuity. Having regard to the size of the access, the position of gates set back from the highway frontage and the semi-rural context of the appeal site, the visual effect of the gates is unlikely to be significant. Further details of their design would therefore be unnecessary.
23. The appellant contends that no vegetation clearance on 3rd party land would be required to obtain the proposed northern visibility splay. The submitted Transport Note includes a detailed plan (Drawing No. 22-051-SK02 Rev. B) that shows a 110m visibility splay crossing the highway verge to the north. I saw that a good level of visibility of the highway along this verge line is possible in this direction from the proposed access. This visibility

is aided by the curved and level nature of the road, with good forward visibility available for oncoming vehicles from this direction. With acceptable visibility splays achieved to the south via the proposed replacement hedgerow, the increased use of the relocated access, by large vehicles, would not present an unacceptable risk to highway users, subject to the amended siting of the proposed gates being secured by condition.

24. As such, I conclude that the proposal would not be harmful to highway safety and would comply with LDP Policies GP4 and T4, which amongst other matters, state that development proposals should provide safe access arrangements and appropriate levels of parking.

Biodiversity interests

25. As referred to above, the Council has provided no persuasive evidence to indicate that pre-emptive site clearance has been undertaken by the appellant, which would necessitate an assessment of the baseline ecological conditions of the appeal site, prior to such clearance.
26. The appeal is supported by an Ecological Impact Assessment and a subsequent Technical Note, which, amongst other things, identify that the hedgerow with trees along the north-eastern site boundary is considered to offer sub-optimal sheltering opportunities, as it is quite narrow with numerous gaps and is likely to be regularly illuminated by car headlights. A Hedgerow fingertip survey found that the hedge does not provide favourable dormouse nesting habitat, given its openness and lack of dense cover for dormice or provide a favourable corridor for dormice to travel between sites, given the gap at the existing site access and poor-quality connecting habitat to the south. The Technical Note states that the replacement hedge, set back behind the visibility splay will, in time and with regular management, provide a denser and better quality dormouse habitat, particularly for nesting.
27. The Council's Ecologist notes, amongst other things, that whilst the presence of dormice cannot be ruled out, the proposed replacement planting should ensure that there will be no overall detriment to dormouse populations, which are European Protected Species. The only concern raised in this respect would be the potential harm to individual specimens during clearance of this hedgerow. The Ecologist recommends a condition to require a clearance methodology for dormice and nesting birds during the removal of the hedgerow. Natural Resources Wales (NRW) does not object to the proposal on biodiversity grounds.
28. From my observations on site, I see no reason to come to an alternative view. The submitted information adequately establishes the baseline ecological value of the appeal site, which has included an assessment of the existing trees and hedgerow. In these circumstances, the absence of a clearance methodology is not determinative, as the evidence demonstrates that sensitive habitats and species are satisfactorily avoided. Having regard to the considerable level of landscaping, hedgerow and other planting proposed and the lack of 3rd party land affected, the proposal also includes measures to first restore and finally mitigate and compensate for features lost, to achieve an overall net benefit to biodiversity. The Council provides little substantive evidence of how the proposal would be harmful to the nature conservation objectives of the Gwent Levels Site of Special Scientific Interest or the Solutia SINC. The proposal includes an adequate buffer to the edge of the SINC designation, including the nearby ditch and reens and would not lead to the fragmentation of habitats which might connect to it. As such, a condition to prevent operations or storage within the SINC area would be unnecessary.
29. I conclude that the proposal would not be harmful to biodiversity interests. It would comply with LDP Policy GP5 and SP9, which amongst other matters, require the

conservation, enhancement and management of recognised sites within the natural environment in all proposals and will support development where it protects and encourages biodiversity.

Flood risk

30. PPW explains that planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or rivers. In support of this, LDP Policy SP3, amongst other matters, necessitates that development be directed away from areas of flood risk and ensures that the risk of flooding is not increased elsewhere.
31. The proposal would be located within Zone C1 of the DAM and 'Flood Zone 3 – Sea' of the FMfP. In these circumstances TAN 15 states that the tests outlined in sections 6 and 7 will be applied and that new development should only be permitted within zone C1 if determined to be justified in that location.
32. The proposal would be located on land allocated within the LDP for employment use and as such, would directly contribute towards its key employment objectives. It would also meet PPW's definition of previously developed land. In these circumstances, TAN 15 advises in paragraph 7.4 that, before deciding whether a development can take place, an assessment, which examines the likely mechanisms that cause the flooding, and the consequences on the development of those floods, must be undertaken, which is appropriate to the size and scale of the proposed development.
33. The appeal is not supported by a Flood Consequences Assessment (FCA). Notwithstanding this, NRW outlines that the appeal site is not affected by fluvial flooding from the adjacent watercourses/reen systems. It also advises that the coastal defences that protect this area are of a good standard and at least to a 0.5% requisite standard of protection for tidal schemes. In this case, NRW advises that the lead in time for tidal flood warnings would provide sufficient time to instigate any proposed Flood Emergency Plan for the appeal site. It considers that, due to the scale and nature of the proposal, the flood risks from a tidal source could be managed by designing the fabric within the proposed building so it is more resistant/resilient to flooding. NRW also considers that the proposal would cause no measurable increase in flooding elsewhere.
34. Consequently, NRW raises no objection to the proposal on flood risk grounds and does not recommend any conditions to secure mitigation measures. Furthermore, the flood resistance/resilience design features it refers to largely relate to the proposed building and would form simple and minor features, that would have little effect upon the external appearance of the proposal.
35. As such, having regard to the above advice, the scale of development and the less vulnerable nature of the proposal, the lack of a FCA is not determinative, as the risks and consequences of flooding are already sufficiently understood. I conclude, therefore, that the proposal would be justified, having regard to its effects upon flood risk, and would accord with LDP Policy SP3 and the strategic objectives of national policy.

Conditions

36. I have amended the wording of some of the Council's suggested conditions to align with my findings above and the advice in Circular WGC 016/2014 'The Use of Planning Conditions for Development Management'.
37. A condition is required to secure an amended landscaping scheme, to include the retention of hedgerow across the bund's road frontage, to ensure suitable compensatory tree planting is included in accordance with national policy objectives and to secure a landscaping management plan.

38. Matters relating to surface water drainage would be subject to separate legislative approvals and I see no planning reason to duplicate these controls. The Council's suggested condition nos. 3 and 8 are therefore unnecessary.
39. A condition to secure the approval of a scheme for biodiversity mitigation and enhancement in line with national policy objectives is also necessary, to include amongst other things, a scheme for hedgerow clearance.
40. The Council's suggested condition no. 6 would be unnecessary in addition to a condition to require the approval of a scheme for the protection of trees shown to be retained on the approved scheme of landscaping. As such, it would also not be appropriate to refer to the submitted Tree Survey and Tree Plan documents that refer to the current proposal within this condition.
41. Having regard to the extent of works proposed, the available space within the appeal site and its intended use for storage, a number of construction traffic details required by the Council's suggested condition no. 13 would be unnecessary. Consequently, I have combined those deemed to be necessary with those of the suggested condition no. 15 to require the approval of a Construction Traffic and Environmental Management Plan.
42. Having regard to the details on the submitted plans and the requirement for the approval of a revised landscaping scheme via condition, the approval of further details for the proposed bund, the closing of the existing access and boundary treatments are unnecessary. As would be the Council's suggested condition no. 17 for noise restrictions, as the NIA predicts a low noise impact from the worst-case scenario. The monitoring of actual noise levels would therefore be unnecessary alongside the restricted operating hours.

Conclusion

43. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.
44. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

Richard James

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development shall begin not later than five years from the date of this decision.
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. The development shall be carried out in accordance with the following approved plans:
Site Plan/Location Plan, Drawing No. LH01 - 01 REV E
Proposed Scheme Lock Up Building, Drawing No. LH01 - 02 Rev. D
Landscaping Plan, Drawing No. LLH001 Rev. C
Landscaping Plan – Section A-A, Drawing No. LLH002 REV. 0
Landscaping Plan – Section B-B, Drawing No. LLH003 REV. 0
Access Arrangements, Drawing No. 22-051-SK01 Rev. D
Adopted Public Highway and Proposed Visibility Splay, Drawing No. 22-051-SK02 Rev. B
Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.
3. No development shall take place until a scheme for biodiversity mitigation and enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
Reason: In the interest of maintaining and enhancing biodiversity, in accordance with LDP Policies SP9, GP5 and Future Wales Policy 9.
4. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping and a landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas. The landscaping scheme and management plan shall be carried out as approved.
Reason: In the interests of conserving the character and appearance of the area, in accordance with LDP Policy GP5.
5. No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority details of a scheme for the protection of trees shown to be retained on the approved scheme of landscaping. The approved scheme for the protection of trees shall be carried out throughout the course of the development.
Reason: In the interests of conserving the character and appearance of the area, in accordance with LDP Policy GP5.
6. No development shall commence until a Construction Traffic and Environmental Management Plan has been submitted to and approved in writing by the local planning

authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for:

- Construction traffic routes, including provision for access to the site;
- Details of loading and unloading of plant and materials;
- Details of street sweeping/street cleansing/wheelwash facilities;
- Hours of working;
- Dust suppression measures;
- Noise mitigation measures;
- Details of temporary lighting;
- Details of enclosure of working areas;
- A drainage strategy to operate, setting out controls of contamination, including controls to surface water run-off, water pumping, storage of fuels and hazardous materials, spill response plans and pollution control measures.

Reason: In the interests of highway safety, safeguarding of the living conditions of neighbouring occupants and to prevent pollution of the environment, in accordance with LDP Policies GP2, GP4, GP7 and T4.

7. No development shall take place until details of surfacing of the approved access for a minimum distance of 12m into the site from the nearside edge of the highway boundary of Nash Road have been submitted to and approved in writing by the local planning authority. The approved details shall be completed before the access is brought into use and retained as such for the lifetime of the development.

Reason: In the interest of highway safety, in accordance with LDP Policies GP4 and T4.

8. The visibility splays shown on Drawing No. 22-051-SK01 Rev. D and Drawing No. 22-051-SK02 Rev. B shall be provided before the development hereby permitted is brought into use. The visibility splays shall be retained as such for the lifetime of the development with no obstruction above 0.6m within the visibility splays.

Reason: In the interest of highway safety, in accordance with LDP Policies GP4 and T4.

9. The existing access gateway from Nash Road into the site shall be permanently closed-up in accordance with the approved landscaping scheme before the development hereby permitted is brought into use.

Reason: In the interest of highway safety, in accordance with LDP Policies GP4 and T4.

10. Notwithstanding the siting of the gate shown on the submitted plans, any gate or other form of barrier across the approved access shall open into the site only and be positioned a minimum distance of 12m into the site from the nearside edge of the highway boundary of Nash Road.

Reason: In the interest of highway safety, in accordance with LDP Policies GP4 and T4.

11. The premises shall be used for the storage of vehicles and equipment and for no other purpose.

Reason: To ensure that the development is carried out and retained for the lifetime of the development in accordance with the approved documents and drawings submitted with the application.

12. The use, including deliveries and collections, shall not be carried out outside the hours of 07:30 to 18:30 Monday to Friday and 07:30 to 13:30 Saturday, Sunday and Bank or public holidays.

Reason: In the interests of safeguarding the living conditions of neighbouring occupants, in accordance with LDP Policies GP2 and GP7.