

Delegated Decision Report

Application No:	25/0736	Statutory Period Expires:	21st November 2025
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Site:	<i>Land At Uskmouth Power Station West Nash Road Nash Newport NP18 2BZ</i>		
Proposal:	<i>INSTALLATION OF BELOW GROUND CABLES, ALTERATIONS TO ELECTRICAL BANKING COMPOUND INCLUDING RAISING GROUND LEVELS, ADDITIONAL ACCESS AND FENCING, AND ALL ASSOCIATED WORKS</i>		
Applicant:	<i>Private Energy Partners Limited</i>		
Type:	Full	Ward:	Llanwern
Decision:	GRANTED WITH CONDITIONS		

1. BACKGROUND

- 1.1 This application has been submitted alongside 25/0488 which is a separate section 73 application that includes amendments to the red lined site boundary to accommodate this development. 25/0488 is yet to be reported and concerns have been raised by the Local Planning Authority on a procedural point in relation to the proposed amendments to the red lined site boundary, hence the applicant has applied for the cited works in full.

2. SITE LOCATION AND CONTEXT

- 2.1 The wider site is very industrialised with existing industry to the north and across the River Usk. To the south is the RSPB Wetlands National Nature Reserve. The development will primarily be viewed in the context of the adjoining former coal fired power station and CCGT station buildings and plant that are to be retained and are of significant scale. The site is located within the Developed Coastal Area on a former power station site and current BESS development site, whereby the location of the development is entirely necessary to support existing energy development, in accordance with the requirements of Policy CE9.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 This application relates to alterations to the electrical infrastructure which forms part of and supports an approved BESS facility (ref: 23/0835), which is currently under construction. Proposed amendments to the banking compound comprise creating two new access tracks to provide vehicular access, taken from the internal circulatory road of the wider power station site. The access will be formed of gravel filled ecogrid. The perimeter of the banking compound will be defined by 2.4m high palisade fencing. It is proposed to re-position the previously approved fencing boundary to accommodate space requirements for the electrical infrastructure and provide gates at the entrance points. The electrical infrastructure at the banking compound is proposed to be raised to a ground level of 9.8m AOD, using the same method and aggregate materials that was approved for the battery compound platform under permission refs 22/0823 and 23/0835. A retaining wall is also proposed at the northern, eastern and southern elevations of the banking compound. The alterations to the banking compound are necessary to accommodate the latest equipment and design requirements

4. RELEVANT SITE HISTORY

- 22/0823 - INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM(BESS) – granted with conditions 8th December 2022
- 23/0111 - NON-MATERIAL AMENDMENT TO PLANNING PERMISSION
REFERENCE: 22/0823 FOR INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM (BESS) TO AMEND RED LINE BOUNDARY TO UTILISE ADDITIONAL LAND FOR DRAINAGE/SUDS FEATURES – approved with conditions 9th March 2023.
- 23/0835 - S73 APPLICATION TO VARY CONDITIONS 1 (APPROVED PLANS) AND CONDITION 2 (SITE INVESTIGATION AND RISK ASSESSMENT) OF 22/0823 INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE

SYSTEM (BESS). AMENDMENTS INCLUDE INCREASING THE AMOUNT OF BATTERY INFRASTRUCTURE, CHANGES TO THE SITE LAYOUT, CHANGES TO THE RED LINE BOUNDARY AND SOFT AND HARD LANDSCAPING – Granted with conditions 23rd November 2023

- 23/1120 - NON MATERIAL AMENDMENT APPLICATION TO AMEND THE DESCRIPTION OF DEVELOPMENT TO REMOVE MW REFERENCE IN RESPECT OF 23/0835 S73 APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) AND CONDITION 02 (SITE INVESTIGATION AND RISK ASSESSMENT) OF 22/0823 INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM (BESS) – approved with conditions 9th January 2024
- 25/0488 S73 APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) OF 23/0835 S73 APPLICATION TO VARY CONDITION 1 (APPROVED PLANS) AND CONDITION 02 (SITE INVESTIGATION AND RISK ASSESSMENT) OF 22/0823 INSTALLATION OF A 230 MW BATTERY ENERGY STORAGE SYSTEM (BESS). AMENDMENTS INCLUDE INCREASING THE AMOUNT OF BATTERY INFRASTRUCTURE, CHANGES TO THE SITE LAYOUT, CHANGES TO THE RED LINE BOUNDARY AND SOFT AND HARD LANDSCAPING. AMENDMENTS INCLUDE INSTALLATION OF FIRE WATER TANKS, AMENDING THE LAYOUT OF THE BANKING COMPOUND, RAISING SITE LEVELS, REPOSITIONING OF ATTENUATION POND, ADJUSTING BESS PLATEAU AND AMENDING SUBSTATION POSITIONS – pending.

5. PLANNING POLICY

5.1 THE NATIONAL DEVELOPMENT FRAMEWORK: FUTURE WALES - THE NATIONAL PLAN 2040

Future Wales: The National Plan 2040 (2021)

Future Wales together with PPW will ensure the planning system focuses on delivering a decarbonised and resilient Wales through the places we create the energy we generate, the natural resources and materials we use and how we live and travel. Regarding energy generation, Future Wales identifies that Wales can become a world leader in renewable energy technologies. Wales's wind and tidal resources, potential for solar generation, its support for both large and community scaled projects and commitment to ensuring the planning system provides a strong lead for renewable energy development means it is well placed to support the renewable sector, attract new investment and reduce carbon emissions.

Policy 17 of Future Wales is of specific relevance to this project. The policy states that: "...the Welsh Government strongly supports the principle of development renewable and low carbon energy from all technologies and at all scales to meet our future energy needs. In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales' international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency." It goes onto state that "...new strategic grid infrastructure for the transmission and distribution of energy should be designed to minimise visual impact on nearby communities" and "...proposals should describe the net benefits the scheme will bring in terms of social, economic, environmental and cultural improvements to local communities." In addition, to topic-based policies, Future Wales establishes four regions and policies appropriate to them. Newport is within the 'South East' region in which it is noted that decarbonisation and responding to the threats of the climate emergency should be central to all regional planning.

There is strong potential for wind, marine and solar energy generation and Strategic and Local Development Plans should provide a framework for generation and associated infrastructure. The Welsh Government wishes to see energy generation, storage and management play a role in supporting the South East Wales economy. Local ownership and distribution are important for ensuring communities in proximity to renewable energy

development benefit from it and that the future energy system better serves Wales.

3.3 Planning Policy Wales (Edition 12)

National Planning policy is clear that a Globally Responsible Wales is promoted by reducing our carbon footprint through measures such as the promotion of renewable energy over carbon-emitting sources. The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The policy notes that the planning system should optimise energy storage and maximise renewable and low carbon energy generation.

Section 5: Productive and Enterprising Places

“Embracing the challenge of decarbonising our energy and transport sectors including phasing out of fossil fuels and moving towards local, decentralised renewable energy systems, the increased use of energy storage to balance supply and demand and the challenge this creates on our distribution networks”

Energy

5.7.6: The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government’s aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

5.7.7 The benefits of renewable and low carbon energy, as part of the overall commitment to tackle the climate emergency and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

5.7.12 Energy storage has an important part to play in managing the transition to a low carbon economy. The growth in energy generation from renewable sources requires the management of the resultant intermittency in supply, and energy storage can help balance supply and demand. Proposals for new storage facilities should be supported wherever possible.

5.9.7 The local balance of the energy network will be a crucial consideration in this regard, and planning authorities should consider the best places for local renewable energy generation to help improve the resilience of the grid in the future.

Welsh National Marine Plan:

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals. The following chapters and sections are of particular relevance in the assessment of this planning application:

- Achieving a sustainable marine economy –
 - Contribute to a thriving Welsh economy by encouraging economically productive activities and profitable and sustainable businesses that create long term employment at all skill levels.
 - Support the opportunity to sustainably develop marine renewable energy resources with the right development in the right place, helping to achieve the UK’s energy

- security and carbon reduction objectives, whilst fully considering other's interests, and ecosystem resilience.
 - Provide space to support existing and future economic activity through managing multiple uses, encouraging the coexistence of compatible activities, the mitigation of conflicts between users and, where possible, by reducing the displacement of existing activities.
 - Recognise the significant value of coastal tourism and recreation to the Welsh economy and well-being and ensure such activity and potential for future growth are appropriately safeguarded.
- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.

The above duties have been given due consideration in the determination of this application.

3.4 Technical advice notes

Technical Advice Note (TAN) 11: noise

Technical Advice Note (TAN) 15: development and flood risk

Technical Advice Note (TAN) 18: transport

Technical Advice Note (TAN) 23: economic development

5.3 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

LDP Designations and Site Characteristics

Site Designation:

- Archaeologically Sensitive Area - CE6
- Developed Coastal Zone – CE9
- Urban Boundary
- Flood Zone
- Parking Zone 6

Nearby Designations:

- Environmental Space - Church of St Mary, Nash (1.1km west)
- Special Landscape Area - The River Usk
- SINC –immediately adjacent
 - Julian's Gout Land (north east)
 - Gwent Wetland Reserve (south)
 - Alpha Steel Site (east)
- SSSI – immediately adjacent
 - RIVER USK (LOWER USK) (north)
 - NEWPORT WETLANDS (south)
 - SEVERN ESTUARY (west)
- RAMSAR and SPA – Severn Estuary
- Special Area of Conservation – RIVER USK / Severn Estuary
- Wales Coast Path - Adjacent to Nash Road and south of the site
- National Nature Reserve – NEWPORT WETLANDS (west and south)
- Landscape of Outstanding Historical Interest – Gwent Levels (east and west)
- Public Right of Way and Coastal Path - 401/12/1 (south)
- Accessible Natural Greenspace - Waterway (north)
- Accessible Natural Greenspace - Amenity (south)
- Historic Environment Record – Various within Uskmoth Power station

The following LDP policies are considered to be relevant to the proposed development of this site:

- SP1 Sustainability
- SP3 Flood Risk
- SP8 Special Landscape Areas
- SP9 Conservation of the Natural, Historic and Built Environment
- SP18 Urban Regeneration
- GP1 General Development Principles – Climate Change
- GP2 General Development Principles – General Amenity
- GP3 General Development Principles – Service Infrastructure
- GP4 General Development Principles – Highways and Accessibility
- GP5 General Development Principles – Natural Environment
- GP6 General Development Principles – Quality of Design
- GP7 General Development Principles – Environmental Protection and Public Health
- CE2 Waterfront Development
- CE3 Environmental Spaces and Corridors
- CE6 Archaeology
- CE8 Locally Designated Nature Conservation and Geological Sites
- CE9 Coastal Zone
- CE10 Renewable Energy
- T3 Road Hierarchy
- T4 Parking
- T8 All Wales Coast Path
- W3 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance (Adopted)

- Sustainable Travel SPG (July 2020)
- Archaeology and Archaeologically Sensitive Areas SPG (Aug 2015)
- Wildlife and Development SPG (Aug 2015)
- Parking Standards SPG (Aug 2015)
- Air Quality (SPG) (Feb 2018)

6. CONSULTATION RESPONSES

6.1 Natural Resources Wales:

We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

Condition 1: Construction Environmental Management Plan

Condition 2: Land Contamination

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

Protected Sites

The application site is situated approximately 100m from the River Usk Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and Newport Wetlands SSSI and National Nature Reserve. It is also approximately 380m from the Severn Estuary designations of SSSI, SAC, Special Protection Area (SPA) and Ramsar site. We note proposal include earth works to lay cables and new access tracks. Such works have the potential to mobilise suspended solids which could enter drainage channels as well as the risk of oil/chemical spills from plant used for the works. This has the potential for impact to protected sites via run off. Currently there are no pollution prevention or mitigation measures proposed/submitted. We advise a Construction Environmental Management Plan (CEMP) be submitted or conditioned as part of any planning permission granted to ensure that there are adequate measures in place to minimise the risk to designated sites from pollution / contaminated run-off.

We refer the applicant to the following guidance with regards to pollution prevention and mitigation measures: Guidance for Pollution Prevention (GPP) documents | NetRegs | Environmental guidance for your business in Northern Ireland & Scotland.

We advise otters are known to be present in the wider area and therefore there is potential for disturbance if artificial lighting is to be used on site. We advise that if lighting is to be used during construction, then mitigation should be in place to avoid disturbance to otter and other sensitive species. This needs to be included in the CEMP.

We advise there is potential of the proposal during construction to disturb the wintering waterbird features of the Severn Estuary SPA and Ramsar site; these birds may be located within the site boundaries or utilising functionally linked habitat outside the SPA and Ramsar. We note SPA / Ramsar features were recorded using the large attenuation pond at the site, during winter surveys in 2022 and 2023. As such likely timings and duration of the works should be considered and covered within the CEMP.

Due to the proximity and pathways to the River Usk and Severn Estuary protected sites, we advise that the proposal will need to be considered under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). We have concerns that harm from the proposed development on the above protected sites cannot be ruled out due to potential to disturb the wintering waterbird features of the Severn Estuary SPA and Ramsar site and adverse impacts on water quality during construction as detailed above. To secure appropriate mitigation measures, we advise that the condition set out below should be attached to any planning permission for this development. Provided the development is carried out in accordance with this condition, we do not consider that it will adversely affect the integrity of the River Usk SAC and SSSI; Newport Wetlands SSSI and National Nature Reserve; and the Severn Estuary SSSI, SAC, SPA and Ramsar site.

Condition

No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

Construction methods: details of materials, how waste generated will be managed;

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Control of Nuisances and biodiversity management: details of restrictions to be applied during construction including timing, duration and frequency of works; details of dust control measures; and measures to control light spill.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of wastewater.
- Traffic Management: wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

As the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), your authority must, before deciding to give consent for a project which is likely to have a significant effect on a SAC/SPA/Ramsar site, either alone or in combination with other plans or projects, make an appropriate assessment of the implications of the project for that site in view of its conservation objectives. You must for the purposes of the assessment consult NRW and have regard to any representations we make within such reasonable time as you specify. In the absence of that assessment, NRW cannot advise that the proposals would not result in an adverse effect upon the SAC/SPA/Ramsar site.

Land Contamination

Given the wider development of the site, we note site has previously been affected by historical contamination and remediated. Therefore, we request the following condition be attached to any planning permission granted.

Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in

writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

Informative/ advice to applicant

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

Flood Risk

The planning application proposes installation of below ground cables, alterations to electrical banking compound including raising ground levels, additional access and fencing, and all associated works. The Flood Map for Planning identifies the application site to be at risk of flooding and within Flood Zone 2 and 3 (Sea) and part TAN15 Defended. Given the nature of the proposed development (and in the absence of a flood consequences assessment) we consider the proposals could be acceptable, subject to the developer being made aware of the potential flood risks and consequences. We would also expect the developer to take the opportunity to incorporate flood resilient design where feasible. Guidance on resilient design can be found in Chapter 13 of Technical Advice Note 15: Development, flooding and coastal erosion, dated 2025, which references advice from Construction Industry Research and Information Association, including a Code of Practice and Guidance for Property Flood Resilience. We provide advice on our website Natural Resources Wales / Preparing for a flood which may be useful for the developer or occupant of the proposal.

European and Fully Protected Species

We refer you to your inhouse ecological advisor for advice.

Other Matters

The advice in this letter relates to matters which are included on our consultation topics list. We do not rule out the potential for the proposed development to affect other environmental interests that are not included on this list. We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our website for further details.

Advice for the Developer

In addition to the planning conditions, Environmental Permits from NRW may be required (during construction and operation). We recommend early consultation with the relevant permitting teams to ensure all permits are in place prior to commencement of development.

6.2 Local Highways Authority:

No objections. The proposals do not impact directly on highway and there are no highway related objections.

6.3 NCC Ecology:

I do not agree with the view that the proposed development is likely to have a significant effect upon the River Usk SAC. As set out in the GI Statement, *'The site constitutes brownfield land within a former Power Station site and is therefore wholly industrial in nature. The application site itself comprises an existing electrical banking compound, hardstanding and industrial structures. There are no features of biodiversity value within the site itself, save for a very small, grassed area including 1 no. tree to the immediate north of the banking compound, where the new access tracks are proposed.'* The site is also separated from the River Usk habitats by further industrial area.

However, NRW have advised that if we attach the CEMP condition they have proposed, then there would be no adverse effect on the integrity of the River Usk SAC. If we attach that condition we are effectively accepting that an Appropriate Assessment is needed. This

being the case, our assessment would be that NRW have advised there are potential pathways for a significant effect upon the River Usk SAC, but that if we attach the planning condition they have proposed, they have confirmed there would be no adverse effect on the integrity of that site. As long as we record this reasoning in the Officer's Report, then there is no need to set out a separate AA document nor to ask the Applicant to provide a shadow HRA. We would normally consult NRW on an Appropriate Assessment, but in this instance the consultation would just be to confirm that we will attach the CEMP condition they have proposed, and that if we do so then we accept their advice there would be no adverse effect on the integrity of the River Usk SAC.

6.4 NCC Environmental Health:
No objections.

6.5 NCC Landscape Officer:
As the work is located away from site boundaries so will be screened from external views and there are no impacts on planting proposals I have no objection or further comment.

6.6 NCC PROW Officer:
No objections.

6.7 Welsh Water:
No objections raised.

6.8 GGAT/HENEB:
No response received to date.

7. PUBLIC REPRESENTATIONS

Site Notice was put up on 19th September 2025. No responses received.

7.3 NASH COMMUNITY COUNCIL: no response received to date.

8. ASSESSMENT

8.1 The approved development of a BESS (ref: 22/0823, approved 08/12/2022 and varied by 2no NMAs – see above – and 23/0835, granted 23/11/23) involves placement of containerised battery storage units and associated electrical infrastructure. The system will connect to the National Grid via cables to the existing 132kV Uskmouth substation. The development is currently at an advanced stage of construction but is yet to be commissioned.

8.2 The proposed development is relatively narrow in scope, being additions to the banking compound already consented in this area. The proposed works are located outside the red lined site boundary of the planning permission and are required to provide vehicular access to the compound off an existing internal road but also enable cable runs from the main BESS area to the compound. There is no impact upon green infrastructure with no removal of on site landscaping proposed and ecological enhancement already controlled via the main BESS development consent in accordance with an approved Landscape and Environmental Management Plan.

8.3 2.4m high palisade fencing is proposed to enclose the compound but such boundary treatment is typical of this industrial setting and of no adverse impact.

8.4 The compound is already affected by existing 415kv National Grid supplies and 132kv overhead cabling. It is proposed to add a HV 33 kv power supply ducting and various communication related cable routes linked to the operational needs of the BESS, under ground. Direct access off the existing internal road, at level, and a porous surface to the compound will also be constructed. The infrastructure in the compound is elevated for flood risk purposes and the elevated plateau will be enlarged to accommodate proposed changes with new retaining wall features constructed on some sides. No concerns are raised by NRW in relation to flood risk matters. The Flood Map for Planning identifies the

application site to be at risk of flooding and within Flood Zone 2 and 3 (Sea) and part TAN15 Defended. Given the nature of the proposed development (and in the absence of a flood consequences assessment) NRW considers the proposals could be acceptable. The applicant is well aware of flood risk matters on site and the need to mitigate the impact of flooding on the BESS and associated development. The electrical infrastructure at the banking compound is proposed to be raised to a ground level of 9.8m AOD, using the same method, level and aggregate materials that was approved for the battery compound platform under permission refs 22/0823 and 23/0835. Condition 20 of ref: 23/0835 states "All on site electrical infrastructure shall have a finished ground level no lower than 9.8m AOD". Given the context of the immediate surroundings of the banking compound, this does not present any adverse impacts on the development/site as a whole. This is acceptable.

- 8.5 Cables will be bedded in cement below ground level and will require ground disturbance. Henneb confirm the archaeological sensitivities on site are more deeply buried and the proposed works are on previously disturbed ground. NRW has raised concerns in relation to land contamination and protected sites and requires the LPA to include specified conditions on any permission it grants. These are included. NRW also advises that the Conservation of Habitats and Species Regulations 2017 (as amended) is relevant and the Authority must, before deciding to give consent for a project which is likely to have a significant effect on a SAC/SPA/Ramsar site, either alone or in combination with other plans or projects, make an appropriate assessment of the implications of the project for that site in view of its conservation objectives. In the absence of that assessment, NRW cannot advise that the proposals would not result in an adverse effect upon the SAC/SPA/Ramsar site. However, this appears to be predicated on a situation whereby the Authority does not include the requested condition(s) as the NRW response also advises:

Provided the development is carried out in accordance with this condition, we do not consider that it will adversely affect the integrity of the River Usk SAC and SSSI; Newport Wetlands SSSI and National Nature Reserve; and the Severn Estuary SSSI, SAC, SPA and Ramsar site.

- 8.6 The Council's Ecologist has further clarified and commented on this matter and disagrees with NRW on the likelihood of significant effects upon the River Usk SAC. He points to the Green Infrastructure Statement provided in support of the application, the fact this is an existing banking compound with hardstanding and industrial structures, no features with biodiversity value on the application site and the fact the site is separated from the River Usk habitats by industrial development.
- 8.7 He also confirms that by attachment of the CEMP condition as required by NRW, there would be no adverse impact on the integrity of the SAC but also that the addition of the condition also confirms an Appropriate Assessment is needed. *This being the case, our assessment would be that NRW have advised there are potential pathways for a significant effect upon the River Usk SAC, but that if we attach the planning condition they have proposed, they have confirmed there would be no adverse effect on the integrity of that site. As long as we record this reasoning in the Officer's Report, then there is no need to set out a separate AA document nor to ask the Applicant to provide a shadow HRA. We would normally consult NRW on an Appropriate Assessment, but in this instance the consultation would just be to confirm that we will attach the CEMP condition they have proposed, and that if we do so then we accept their advice there would be no adverse effect on the integrity of the River Usk SAC.*
- 8.8 Officers have sought further clarification from NRW regarding its response to this case and the need for pre-determination notification if the CEMP condition is attached. It is clear that NRW advice is that provided the protected sites are safeguarded, either through attaching a CEMP condition, or requiring a HRA and including a CEMP that way, there would be no adverse affects. Given the wider industrial development of the site and previous historical contamination and remediation, NRW requests that a condition to control unsuspected contamination also be included and it is. Associated notes for the developer are also included. Consequently, further notification to NRW is not required and the application can be favourably determined.

8.9 NRW's response also refers to bird impact over and above EPS and otter matters:

We advise there is potential of the proposal during construction to disturb the wintering waterbird features of the Severn Estuary SPA and Ramsar site; these birds may be located within the site boundaries or utilising functionally linked habitat outside the SPA and Ramsar. We note SPA / Ramsar features were recorded using the large attenuation pond at the site, during winter surveys in 2022 and 2023. As such likely timings and duration of the works should be considered and covered within the CEMP.

Due to the proximity and pathways to the River Usk and Severn Estuary protected sites, we advise that the proposal will need to be considered under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended). We have concerns that harm from the proposed development on the above protected sites cannot be ruled out due to potential to disturb the wintering waterbird features of the Severn Estuary SPA and Ramsar site and adverse impacts on water quality during construction as detailed above.

The works proposed in this case are remote from the pond mentioned above and birds using the pond are unlikely to be affected at all by the development by reason of distance and intervening development. This also applies to the location of development relative to the River Usk SPA and the Severn Estuary Ramsar. Notwithstanding, the CEMP condition is included as requested and will mitigate NRW concerns in this regard.

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 development is acceptable subject to the following conditions.

11. DECISION

GRANTED WITH CONDITIONS

01 The development shall be implemented in accordance with the following plans and documents:

- Covering letter from CarneySweeney dated 1st August 2025;
- Green Infrastructure Statement by CarneySweeney;
- 50679-BUR-HFE-XX-DR-C-0351-S3-P1.0-Series 0100 - BC Fence Details Preliminaries;
- 50679-BUR-GEN-BC-DR-C-0101-A1.C4.1 - Banking Compound General Arrangement;
- 50679-BUR-HPV-XX-DR-C-0751-S3-P2.0-Series 0100 - BC Pavement Details;
- 50679-BUR-SGN-XX-DR-S-1775-S3-P3.0-SERIES 1700. - BC Retaining Wall Elevs;
- 50679-BUR-SGN-XX-DR-S-1773-S3-P3.0-SERIES 1700 - BC Retaining Wall Plan;
- 50679-BUR-SER-XX-DR-C-2751-P3.0-Series 2700. - Ducting Details Sh2;
- 50679-BUR-SER-XX-DR-C-2752-P1.0-Series 2700 - Ducting Details Sh3;
- 50679-BUR-SER-XX-DR-C-2753-P1.0-Series 2700 - Ducting Details Sh4;
- BUR-SER-XX-DR-C-2703-P5.0-Series 270 - Ducting GA Sh2;
- 50679-BUR-XX-XX-DR-C-0004-S3-P1.0-Series 0100.- Site Location Plan;
- Ducting GA Sh1 50679-BUR-SER-XX-DR-C-2702-P5.0-Series 2700 _ Services _ Primary.

Reason: In the interests of clarity and to ensure the development complies with the submitted plans and documents on which this decision was based.

Pre- commencement conditions

02 No development, including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

Construction methods: details of materials, how waste generated will be managed;

- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Control of Nuisances and biodiversity management: details of restrictions to be applied during construction including timing, duration and frequency of works; details of dust control measures; and measures to control light spill.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of wastewater.
- Traffic Management: wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the

environment during construction.

General conditions

- 03 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.
Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks
- 04 The development hereby approved shall be undertaken in accordance with the approved Landscape and Ecology Management Plan (LEMP) prepared by RPS dated 9th November 2022 and the reporting timeframe to provide fully detailed Landscape Monitoring Reports approved in writing by the Local Planning Authority pursuant to LPA reference 25/0441. The landscape scheme shall thereafter be undertaken in strict accordance with the Landscape and Ecology Management Plan and associated reporting timeframe.
Reason: In the interests of visual amenity and ecology. SP1, GP5, SP8, SP9, GP2 of the Local Development Plan.
- 05 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.
Reason: There is an increase potential for pollution of controlled waters from inappropriate methods of piling. SP1, SP9 and GP5 of Local Development Plan.
- 06 All on site above ground electrical infrastructure shall have a finished ground level no lower than 9.8m AOD.
Reason: To safeguard the development from flooding. SP1 of Local Development Plan.
- 07 All permanent fencing hereby approved shall be colour coated dark green at time of installation and shall be maintained and retained in this state thereafter.
Reason: In the interests of visual and landscape amenity. GP6 and SP8 of Local Development Plan.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Ducting GA Sh1 50679-BUR-SER-XX-DR-C-2702-P5.0-Series 2700 _ Services _ Primary, BUR-SER-XX-DR-C-2703-P5.0-Series 270 - Ducting GA Sh2, 50679-BUR-SER-XX-DR-C-2753-P1.0-Series 2700 - Ducting Details Sh4, 50679-BUR-SER-XX-DR-C-2752-P1.0-Series 2700 - Ducting Details Sh3, 50679-BUR-SER-XX-DR-C-2751-P3.0-Series 2700. - Ducting Details Sh2, 50679-BUR-SGN-XX-DR-S-1773-S3-P3.0-SERIES 1700 - BC Retaining Wall Plan, 50679-BUR-SGN-XX-DR-S-1775-S3-P3.0-SERIES 1700. - BC Retaining Wall Elevs, 50679-BUR-HPV-XX-DR-C-0751-S3-P2.0-Series 0100 - BC Pavement Details, 50679-BUR-GEN-BC-DR-C-0101-A1.C4.1 - Banking Compound General Arrangement, 50679-BUR-HFE-XX-DR-C-0351-S3-P1.0-Series 0100 - BC Fence Details Preliminaries, Green Infrastructure Statement by CarneySweeney August 2025.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). Policies SP1, SP3, SP9, GP2, GP5, GP6 were relevant to the determination of this application.

03 It is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit. Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste:

Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays. It is considered that the decision has been made in conformity with the Marine Policy Statement (2011) and in accordance with marine national planning policy contained within the Welsh National Marine Plan (2019) as demonstrated in the assessment of this proposal.

In addition to the planning conditions, Environmental Permits from NRW may be required (during construction and operation). We recommend early consultation with the relevant permitting teams to ensure all permits are in place prior to commencement of development.