

SECTION 1 – CASE REGISTRATION

Consideration of Requests for Applications to be Called in by the Welsh Ministers and Referrals under the Notification Direction			
Application description and type (full, outline or reserved matters)	LPA reference	Case status (undetermined, approved subject to S106 etc)	Has an Article 18 Direction been issued? If so, on what date?
Full application for the erection of silos and de-dusting building, extension to rail unloading facility, new above ground conveyors and ancillary development.	20/0748	Undetermined. Application was deferred at planning committee meeting of 3 February due to Art 18 Direction being received.	Yes. Article 18 Direction issued 2 February 2021
Has the application been referred under Notification Direction? If so, on what grounds?	Is the site allocated for development in an adopted and up to date development plan or does it benefit from an extant planning permission? Provide details.		
No.	The site is not allocated for development in the LDP		

SECTION 2 – ISSUES RAISED BY THE APPLICATION

Ser	Matters to consider (either raised in request or identified by officials)	Is this statement correct?	Relevant local and national policies	Has the issue been adequately and appropriately addressed?	What is your conclusion? Explain whether or not the LPA has given due to consideration of the issue and why
1	Potentially toxic waste (air pollution) would have a damaging impact upon the Gwent Levels	No.	<p>The officers report recognises that the following LDP policies are considered to be relevant to the proposed development of this site:</p> <ul style="list-style-type: none"> ▪ ▪ ▪ ▪ CE3 Environmental Spaces and Corridors ▪ CE8 Locally Designated Nature Conservation and Geological Sites ▪ ▪ 	Yes.	<p>The officer's report states the LPA is to determine operational development only and that the Environmental Permitting, undertaken by Natural Resources Wales (NRW), is the effective regulation of air quality associated with operational emissions in this case that the impact of such emissions upon both health and environmental receptors. The LPA can consider any regulatory gaps arising from potential effects of the conversion process and to this extent officers are satisfied that operation traffic related matters are for the LPA to control.</p> <p>NRW was consulted by Newport City Council and did not object to the development, but recommended a number of</p>

					<p>conditions be attached to any planning permission.</p> <p>The officer's report notes that NRW Permitting Service (PS) commented "<i>The PS has received additional air quality information and assessment from the applicant which is set out in Simec Uskmouth Power's letter dated 18/12/2020. The NRW PS now have the necessary air quality information to proceed with the environmental permit's assessment of aerial emissions on ecological receptors, including statutory designated nature conservation sites.</i></p> <p><i>NRW PS are also satisfied with the in-combination effects assessment and conclusion which is detailed in the Updated Habitats Air Quality Assessment, prepared by ITPEnergised (version 2, dated 15/12/20). It is considered that there would not be an effect on the integrity of the International site features when the proposal is acting in combination with other relevant projects.</i></p>
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					<p><i>Based on the latest information provided, NRW PS are satisfied that it can be concluded that the proposal with the planned controls, including Best Available Technique abatement of air pollutants, is not likely to have an adverse effect on the integrity of statutory designated sites".</i></p> <p>The officer's report has regard for the issues raised and comes to a reasoned view.</p>
2.	The development would have a damaging impact from associated development on the landscape of the Levels.	No.	SP8 Special Landscape Areas	SP8 – No	<p>The officer's report notes that there are several very high quality vistas close by and potentially affected by the development. These include the Caldicot and Wentlooge Levels, the Nash Reserve, the Saltmarsh and mudflats looking out over the Severn Estuary.</p> <p>The officer's report notes that "the site is within the Caldicot Levels Special Landscape Area but the proposed development would result in the redevelopment of a previously developed industrial site within an extensive industrial context</p>

					<p>that would have no direct effects on the important features, elements and characteristics of the landscape designation.</p> <p>The officer's report also notes that "the Landscape Officer raised a number of initial queries regarding the proposal that have been answered and overall is satisfied with the information provided and no objection is raised. Similarly, having regard to the historical value of the landscape and the impact of development upon it, no objections are raised by either Cadw or GGAT and the proposal is considered to not have any adverse impact upon Scheduled Ancient Monuments, Listed Buildings and their settings, archaeological"</p> <p>On the issue of the impact on the landscape, the officer's report concludes that "...the proposal will be of large scale and clearly visible on a site that already includes highly prominent urban buildings and</p>
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					<p>structures alongside landscape and vistas of high value. From several vistas, particularly those more distant from the site, the impact will be lessened by existing high and large scale industrial features on and off site and whilst the effect will likely be adverse it is also likely to be minor.</p> <p>The Officer's report states that "The scheme is, in this respect, contrary to policy SP8 of the adopted Local Development Plan as it does not contribute positively to the landscape qualities of the Levels Special Landscape Area." In the conclusion the officer report states that "The proposal will have an adverse effect upon local visual receptors, notably recreational viewpoints close by at the national nature reserve managed by RSPB and Wales Coastal Path. From some viewpoints these effects are at least moderate and could potentially be regarded as significant. The effects cannot be mitigated. However, from</p>
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					<p>the majority of sensitive visual receptors, the development will be visible, distant and amongst a foreground or backdrop of other high level industrial buildings or plant that will enclose or lessen effects. However, in respect of the Levels Special Landscape Area the test set out in adopted LDP policy is that the existing or potential qualities of the site will be improved or complemented. The merits of the scheme weigh significantly in favour of it and any adverse effects deemed to arise from impact on landscape and impact upon amenity must be balanced against such merits".</p> <p>NRW has significant concerns with the development and require planning permission only be granted if the conditions listed in the OR are included. These conditions relate to biodiversity.</p>
2	The project should be categorised as DNS and determined by Ministers.	No.		Yes.	Advice provided by Lewis Thomas, Head of Consenting, on whether the project is DNS, is:

					<p>"Consideration has been given to whether the proposal which is subject to this call-in request is indeed a Development of National Significance ("DNS") and should be instead be subject to an application directly to the Welsh Ministers under Section 62D of the Town and Country Planning Act 1990.</p> <p>The criteria for whether a project is a DNS is set out in the DNS (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended). Regulation 4(1) specifies the construction of a generating station is DNS only if its expected installed generating capacity is between 10 megawatts and 350 megawatts. Furthermore, Regulation 4(2) specifies the extension or alteration of a generating station is DNS only if the extension or alteration is expected to increase the installed generating capacity by at least 10 megawatts, but not so that the installed generating</p>
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					<p>capacity exceeds 350 megawatts.</p> <p>Planning application no. 20/0748 to Newport City Council comprises of operational development at Uskmouth Power Station and contains a number of ancillary works such as the erection of silos and a de-dusting building, the extension to rail unloading facility and new above ground conveyors. The application does not seek permission for works which amount to the construction of a new generating station nor does it seek an alteration of existing generating facilities at Uskmouth Power Station which amount to an increase in the installed generating capacity by at least 10 megawatts.</p> <p>Accordingly, the planning application does not fall within the definition of DNS under Regulations 4(1)-(2) of the DNS (Specified Criteria and Prescribed Secondary</p>
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					Consents) (Wales) Regulations 2016 (as amended)".
3	The proposal conflicts with Welsh Government targets, policies and recommendations, specifically those set out in PPW.	Yes (based on Policy Branch's response)	PPW	No.	The OR sets out the relevant policies that have been taken into account and states " <i>The proposed scheme will provide the opportunity to switch to non-fossil fuels based energy which is supported by PPW</i> ".
4	The proposal conflicts with the Well-being of Future Generations (Wales) Act.	No.	WFG Act	Yes.	<p>The officer's report makes reference to The Wellbeing of Future Generations (Wales) Act 2015 and notes that the act "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."</p> <p>The officer's report goes on to say "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</p>

					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".
5	Site is at risk of flooding	No.		Yes.	<p>The site is at risk of tidal flooding from the River Usk and is within flood zone C1 for the purposes of TAN15. The main risk of flooding is associated with surface water ponding in localised low-lying areas of the site boundary area.</p> <p>The officer's report notes that <i>"An Flood Consequences Assessment (FCA) has been submitted for consideration which identifies that the Uskmouth Conversion Project is considered being at varying degrees of risk of tidal flooding. Flood management procedures and a Flood Evacuation Plan would be incorporated into the</i></p>

					<p><i>development management plan to ensure that on site materials are appropriately stored and that site-users are safely evacuated from site in a timely manner. The potential impacts on site-users and the local environment is therefore considered to be of minor adverse significance for EIA purposes. The Uskmouth Conversion Project is at low risk of surface water flooding. The Uskmouth Conversion Project is defined as 'highly vulnerable' and suitable for the present Flood Zones including climate change, subject to the application of a justification test. A justification test has been undertaken and there are no other reasonably available sites suitable for a development of this type. The FCA demonstrates that appropriate mitigation measures would reduce the adverse impacts caused by the Uskmouth Conversion Project and an appropriate drainage strategy would be incorporated into the design to attenuate any</i></p>
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					<p><i>increase in surface water runoff, therefore, increase in flood risk. The FCA and Outline Drainage Strategy therefore demonstrate that the project meets the requirements of PPW10 and TAN15.</i></p> <p>The officer's report also notes that NRW has not requested any conditions in this respect other than to ensure the FFL (Finished Floor Level) of the primary silos is elevated above flood levels, and that other operational controls will be exercised by NRW as part of its permit”.</p>
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SECTION 3 – LPA CONSULTATION ON THE APPLICATION

Ser	Individually list any relevant internal/external consultees in relation to the issues raised in Section 2	Were responses provided? Yes/No	Summarise any issues raised in consultee responses which are also identified in Section 2	Has the LPA given due regard to this consultation response?	If the LPA failed to consult, is this relevant? If so, why?
1	Council's Public Protection Manager	Yes.	<p>Air Pollution:</p> <p>In the officers report the Council's Public Protection manager states: "It is understood the development will be regulated under the Environmental Permitting (England and Wales) Regulations 2016 and will require permitting by Natural Resources Wales (NRW). An air quality assessment is provided in support of the application and includes operational assessment of 'the residual emissions from the exhaust stack ('stack emissions') and their effects on human health and ecological receptors'. Modelling has been undertaken utilising ADMS Roads and has been carried out in line with relevant guidance and best practice. The stack height determination carried out indicates that the existing stack height of 122m is appropriate. The report concludes 'The results of dispersion modelling reported in this</p>	Yes.	

		<p>assessment indicate that predicted contributions and resultant environmental concentrations of all pollutants considered would be of “negligible” significance’.</p> <p>The information provided indicates that the development will not have a significant impact on local air quality and that emissions will be well below relevant air quality objectives. The assessment has been carried out in line with current guidance and best practice. The operation will be regulated by the EA/NRW under the Environmental Permit as required by regulation and it is understood that monitoring will be carried out as part of the permit. No relevant issues have been identified from the available information”.</p> <p>The OR also states that “..no objection is raised by the Public Protection Manager or the Head of City Services in relation to noise, air quality, vibration, odour or traffic effects of the development subject to conditions. These are included in this report. However, it is clear that these comments are based on modelling and assessment contained within the ES and changes to the figures provided could give rise to additional effects. Conditions</p>		
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			are recommended to control this going forward."		
2	Council's Landscape Officer/ case Officer	Yes.	<p>Landscape impact:</p> <p>The officers report concludes that “..the proposal will be of large scale and clearly visible on a site that already includes highly prominent urban buildings and structures alongside landscape and vistas of high value. From several vistas, particularly those more distant from the site, the impact will be lessened by existing high and large scale industrial features on and off site and whilst the effect will likely be adverse it is also likely to be minor.</p> <p>The proposal will have an adverse effect upon local visual receptors, notably recreational viewpoints close by at the national nature reserve managed by RSPB and Wales Coastal Path. From some viewpoints these effects are at least moderate and could potentially be regarded as significant. The effects cannot be mitigated. However, from the majority of sensitive visual receptors, the development will be visible, distant and amongst a foreground or backdrop of other high level industrial buildings or plant that will enclose or lessen effects. However, in respect of the Levels Special Landscape Area the test set out in</p>	Yes.	

			adopted LDP policy is that the existing or potential qualities of the site will be improved or complemented. The merits of the scheme weigh significantly in favour of it and any adverse effects deemed to arise from impact on landscape and impact upon amenity must be balanced against such merits".		
3	Natural Resources Wales	Yes.	<p>Air pollution</p> <p>The officer's report notes that NRW's Permitting Service (PS) commented "<i>The PS has received additional air quality information and assessment from the applicant which is set out in Simec Uskmouth Power's letter dated 18/12/2020. The NRW PS now have the necessary air quality information to proceed with the environmental permit's assessment of aerial emissions on ecological receptors, including statutory designated nature conservation sites.</i></p> <p><i>NRW PS are also satisfied with the in-combination effects assessment and conclusion which is detailed in the Updated Habitats Air Quality Assessment, prepared by ITPEnergised (version 2, dated 15/12/20). It is considered that there would not be an effect on the integrity of the International</i></p>	Yes.	

			<p><i>site features when the proposal is acting in combination with other relevant projects.</i></p> <p><i>Based on the latest information provided, NRW PS are satisfied that it can be concluded that the proposal with the planned controls, including Best Available Technique abatement of air pollutants, is not likely to have an adverse effect on the integrity of statutory designated sites".</i></p> <p>Flood risk: No objection</p>		
	Public Health Board	Yes.	<p>Flood risk:</p> <p>The project will retain the existing surface water drainage regime. The site is at risk of flooding. The LPA should consider controls to ensure that during any flooding event, loss of fuel and other material from site will not contribute to the severity of the incident.</p>	Yes.	
	Newport Council's Planning Policy Manager:	Yes.	<p>Flood risk:</p> <p>The site lies primarily in Flood Zone C1 (defended flood plain) and a Flood Consequences Assessment (FCA) has been provided with 1:200 year scenario (tidal/coastal flood). Technical advice on the FCA will be provided by Natural Resources Wales. There does not appear</p>	Yes	

			to be consideration of the access and egress routs in the event of flood.		
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SECTION 4 – DECISIONS BRANCH OWN INTERNAL CONSULTATION

Ser	Issue for internal consultation	Who have you consulted?	Summarise consultation response	Do you agree with this? If not, why not?
1	Does the proposed development conflict with national policies in relation to waste planning, decarbonisation and energy.	Policy Branch	<p>The advice provided by Jon Fudge, Head of Policy Branch concluded: "On the basis of the information contained in the officer's report, this application is for operational development to facilitate a change of fuel source. I am concerned that the full implications may not have been considered. This in turn could inadvertently undermine the waste management plan for Wales. The case is less clear cut in relation to decarbonisation but the choice to ignore any examination of the period of closure relative to the fall back and the proposed fuel choice may raise the potential to undermine the decarbonisation agenda.</p> <p>Therefore, in conclusion, I do not think the full extent of issues and implications have been examined and as a result there could be potential conflicts with national policy, particularly in relation to waste planning, but potentially also in regard to decarbonisation and energy. Further, the proposal is novel, in that</p>	Yes.

			<p>whilst the prime purpose is power generation, the plant could by default become part of the integrated and adequate network for waste management and as such the potential implications of such a large facility for waste management and waste planning policies should not pass without sufficient consideration. Further, and stemming from these reasons, the proposal is likely to generate controversy and would be likely to have impacts wider than the immediate surroundings.</p> <p>Taken together, these reasons suggest that issues of more than local importance are raised and Welsh Government may be better placed to consider this proposal and intervention is therefore recommended”.</p>	
2	Is the project DNS	Consenting Branch	<p>The advice provided by Lewis Thomas, Head of Consenting, concluded:</p> <p>“Planning application no. 20/0748 to Newport City Council comprises of operational development at Uskmouth Power Station and contains a number of ancillary works such as the erection of silos and a de-dusting building, the extension to rail unloading facility and new above ground conveyors. The application does not seek permission for works which amount to the construction</p>	Yes.

			<p>of a new generating station nor does it seek an alteration of existing generating facilities at Uskmouth Power Station which amount to an increase in the installed generating capacity by at least 10 megawatts.</p> <p>Accordingly, the planning application does not fall within the definition of DNS under Regulations 4(1)-(2) of the DNS (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended)”.</p>	
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SECTION 5 – CONCLUSION

<p>Given the responses detailed above would it appropriate for the Welsh Ministers to call in the application for their own consideration, when assessed against the Welsh Governments policy on call-in?</p>	<p>Set out your reasons for coming to this view</p>
<p>Yes/No</p>	
<p>Yes.</p>	<p>Issues of more than local importance are raised and Welsh Government may be better placed to consider this proposal, and therefore the application should be called-in for determination by the Welsh Ministers.</p>

<p>Submitted by (name and date)</p>	Ceri Litherland 10 February (Amended 3 March 2021)
<p>Agreed by (name and date)</p>	Vicky Davies 24 February 2021