

PETITION

COMMITTEE DATE: 10/08/2022

APPLICATION No. **22/00725/MJR** APPLICATION DATE: 08/04/2022

ED: **WHITCHURCH/TONGWYNLAIS**

APP: TYPE: Discharge of Condition(s)

APPLICANT: Velindre NHS University Trust

LOCATION: LAND TO THE NORTH-WEST OF WHITCHURCH HOSPITAL
PLAYING FIELDS

PROPOSAL: DISCHARGE OF CONDITION 8 (CONSTRUCTION
ENVIRONMENTAL MANAGEMENT PLAN) & 10 (MITIGATION
AND MONITORING) OF 20/01110/MJR

RECOMMENDATION: That conditions 8 (Construction Environment Management Plan), and 10 (mitigation and monitoring) of 20/01110/MJR shall be partially discharged and shall be undertaken in accordance with the updated document "CEMP version 4 (dated 7/07/22).

1. BACKGROUND INFORMATION

- 1.1 This application is reported to Planning Committee following receipt of a valid on-line petition of 50 signatures, which requests that the application is considered by the planning committee "to enable a thorough, transparent, public examination of the document and decision-making; for the views of the communities to be heard and enable any concerns to be addressed".

2. DESCRIPTION OF THE SITE AND AREA

- 2.1 The proposed site for the temporary construction access comprises some 0.8 hectares of land within the curtilage of the existing Whitchurch Hospital (identified in blue on the aerial photo at Figure 1 below). The land comprising the application area is previously developed land, with some 0.5 hectares comprising the existing main vehicular and pedestrian access to the site.



Figure 1-Site location. MIM site in red, the TCAR area in blue

Figure 1: Aerial view of site

- 2.2 The temporary construction road would provide access to the land to the north-west which has outline planning permission for a Cancer Centre (see planning history).
- 2.3 The Whitchurch Hospital land is Grade II listed on the Register of Landscapes Parks and Gardens of Special Historic Interest in Wales. The closest Grade II Listed Building is the Whitchurch Hospital Chapel immediately adjacent to the route, and the main Whitchurch Hospital buildings are located approximately 170m from the site's south-east boundary.
- 2.4 Along the adopted highway along Pendwyallt/ Park Road are a number residential properties that front onto the roads that will be used by the proposed construction traffic. However, this submission is concentrated upon access through the adjoining Grade II listed Whitchurch hospital site and grade II listed historic park and garden.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 Technical approval is sought from the Local Planning Authority (LPA) for the partial discharge of conditions 8 (Construction and Environmental Management Plan (CEMP) and 10 (mitigation and monitoring of listed buildings) of planning permission reference 20/01110/MJR.
- 3.2 Planning permission ref. 20/01110/MJR approved 'Temporary construction access route for the construction of the approved Velindre Cancer Centre, for a period of no more than 48 months following the completion of the related

highway improvement works, or until 30/11/24, whichever is first'. (This Temporary Construction Access Route is known as TCAR2).

3.3 The conditions in question read as follows:

Condition 8 Construction Environmental Management Plan (CEMP):

8. No part of the development hereby permitted shall be commenced until a scheme of construction management plan has been submitted to and approved in writing by the Local Planning Authority, to include as required, but not limited to, details of site hoardings, site access and wheel washing facilities, site compounds, drainage details to ensure that there is no contamination of the SSSI, site manager's contact details and procedure for notifying the residents of the Hollybush Estate, Coryton Primary School Ty Coryton House and City Hospice, in advance of each element of work. Construction of the development shall be managed strictly in accordance with the scheme so approved.

Reason: In the interests of highway safety and public amenity, in accordance with Policies T5, T6 and EN13 of the adopted Cardiff Local Development Plan (2006-2026).

Condition 10 (mitigation and monitoring of listed buildings):

10. No Development shall be undertaken until details of the proposed mitigation and monitoring of the Listed Chapel have been submitted to and approved in writing with the Local Planning Authority. The submitted details and monitoring shall accord but not limited to the Motts Heritage Statement dated August 2020 and 347168-MML-028-XXTCN-LTA-2000-001 Revision A- Potential Vibration Impact Strategy and any barriers shall be designed to ensure that they are not fixed to the chapel and can be removed once this permission has expired. The approved details and methodology shall be implemented on site before the implementation of this permission.

Reason: To ensure that the Listed Chapel is protected during construction activity in accordance with Policies KP5 and KP17 of the Adopted Cardiff Local Development Plan (2006-2026)."

Note: The above-referenced documents can be viewed on the [online register](#) at: -

- [Heritage Statement](#)
- [Vibration Impact Strategy](#)

3.4 During the course of the application the CEMP report has been amended (Version 4) to respond to comments raised by technical consultees, including;

- Title page image changed to avoid confusion with main project
- Amendments to Section 2.5.2 in line with CEMP
- Amendments to section 3.3.1 Traffic Management
- Amendments to section 4.1.7 Fencing

- Amendments to Appendix 6.1 - Package 2 access removed for clarity
- Appendix 6.2 Proposed Phasing Plan added

3.5 This CEMP has also given consideration for the potential of the temporary construction access route (TCAR1) to be used simultaneously with this temporary construction access route (TCAR 2).

3.6 The CEMP confirms that various technical advisors will be on site at the appropriate time e.g. Ecologist and arboriculturist (paragraphs 2.4.2 & 2.5.1).

4. **PLANNING HISTORY**

4.1 Within the last 5 years, the site has the following relevant planning history:

[17/01735/MJR](#): Proposed Velindre Cancer Centre including specialist cancer treatment centre, centre for learning, research and development, primary means of access (from Coryton Interchange), emergency access (via Hollybush estate), temporary construction accesses, parking, energy centre, landscape works, pedestrian paths, and Maggie's Centre. Granted 27/03/2018.

[20/00357/MJR](#): Variation of condition 1 of planning permission 16/02351/mnr (retention of existing car park for a temporary period expiring on 31st December 2019) substituting 31st December 2024 for 31st December 2019 – undetermined;

[20/01110/MJR](#): Temporary construction access route for the construction of the approved Velindre cancer centre, for a period of no more than 48 months following the completion of the related highway improvement works, or until 30/11/24, whichever is first- Granted 2/02/2021;

[20/01481/MJR](#): Partial discharge of condition 16 (green infrastructure management strategy) of 17/01735/MJR Granted 16/12/20;

[20/01515/MJR](#): Partial discharge of conditions 17 (construction environment management plan), discharge of conditions 10 (highway and pedestrian works details), 13 (bridge finishes), and 14 (soil resource survey (access and enabling works)) of 17/01735/MJR – Granted 16/12/20;

[20/02632/MJR](#): Variation of part c of condition 1 to extend the time limit for the submission of reserved matters by 18 months to 27/09/22 and variation of part d of condition 1 to be: the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission – previously approved under 17/01735/MJR granted 27/01/2021;

[21/02620/MJR](#): Variation to the design of the northern access bridge –

previously approved under 17/01735/MJR- approved

[21/01954/MJR](#) Partial discharge of Condition 17 (CEMP) of 17/01735/MJR – partial discharged

5. **POLICY FRAMEWORK**

National Policy

- 5.1 The **Well-being of Future Generations (Wales) Act 2015** (WFG) imposes a duty on public bodies to carry out 'sustainable development' in accordance with the 'sustainable development principle'.
- 5.2 'Sustainable development' means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.
- 5.3 'Sustainable development principle' means that Local Authorities must 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.
- 5.4 Well-being goals identified in the Act are:
- A Prosperous Wales
 - A Resilient Wales
 - A Healthier Wales
 - A More Equal Wales
 - A Wales of Cohesive Communities
 - A Wales of Vibrant Culture and thriving Welsh Language
 - A Globally Responsible Wales
- 5.5 The **Environment (Wales) Act 2016** has been designed to complement the WFG Act. It imposes a duty to require all public authorities, when carrying out their functions in Wales, to seek to "maintain and enhance biodiversity" where it is within the proper exercise of their functions. In doing so, public authorities must also seek to "promote the resilience of ecosystems".

National Planning Policy

- 5.6 [Planning Policy Wales](#) (Edition 11) was revised and restructured in February 2021 to coincide with the publication of, and take into account the policies, themes and approaches set out in, [Future Wales – the National Plan 2040](#) (see below) and to deliver the vision for Wales that is set out therein.
- 5.7 The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015 and the Well-being of Future Generations (Wales) Act 2015.

- 5.8 PPW11 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision-making process.

Technical Advice Notes

- 5.9 PPW is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance: -
- TAN 5: Nature Conservation and Planning (2009);
Noting also the Chief Planning Officer letter dated 23/10/19: securing bio-diversity enhancement;
 - TAN 10: Tree Preservation Orders (1997)
 - TAN 11: Noise (1997)
 - TAN 15: Development and Flood Risk (2004)
 - TAN 16: Sport, Recreation and Open Space (2009)
 - TAN 18: Transport (March 2007)
 - TAN 21: Waste (February 2017)
 - TAN 23: Economic development (2014)
 - TAN 24: The Historic Environment (May 2017)
- 5.10 On 16th July 2020 the Welsh Government published [Building Better Places: The Planning System Delivering Resilient and Brighter Futures](#) which provides planning policy guidance for local planning authorities and the development industry on priorities for the planning system to deliver post Covid-19. The guidance is to be read in conjunction with PPW, which contains the principles and policies needed for Wales to recover from Covid-19 in a positive manner, putting placemaking at the heart of future development.
- 5.11 It also emphasises that development management decisions should focus on creating healthy, thriving active places with a focus on a positive, sustainable future for our communities. The planning system has an important role in supporting healthier lifestyles and reducing inequalities. This includes both direct and indirect opportunities such as the allocation of land for health facilities, ensuring good design and barrier free development, jobs and skills, improving air quality, soundscapes and protecting and improving access to recreation and natural green spaces. These can provide both physical and mental health benefits, improve well-being and help to reduce inequality.

The Development Plan

- 5.12 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 5.13 [Future Wales – the National Plan 2040](#) now forms part of the Development Plan for all parts of Wales, comprising a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. All Development Management decisions, strategic and local development plans, planning appeals and all other work directed by the development plan need to accord with Future Wales.
- 5.14 The Local Development Plan is the [Cardiff Local Development Plan 2006-2026](#) which was adopted in January 2016, and within which the following policies are of relevance:

KEY POLICIES

- KP5 Good Quality and Sustainable Design
- KP6 New Infrastructure
- KP8 Sustainable Transportation
- KP15 Climate Change
- KP16 Green Infrastructure
- KP17 Built Heritage
- KP 18 Natural Resources

DETAILED POLICIES

Environment

- EN6 Ecological Networks and Features of Importance for Biodiversity
- EN7 Priority Habitats and Species
- EN8 Trees, Woodlands and Hedgerows
- EN9 Conservation of the Historic Environment
- EN10 Water Sensitive Design
- EN11 Protection of Water Resources
- EN13 Air, Noise, Light Pollution and Land Contamination
- EN14 Flood Risk

Transport

- T1 Walking and Cycling
- T5 Managing Transport Impacts
- T6 Impact on Transport Networks and Services

Community

- C3 Community Safety/Creating Safe Environments
- C4 Protection of Open Space
- C5 Provision for Open space, outdoor recreation, Children's play and sport

- C6 Health

Waste

- W2 Provision for Waste Management Facilities in Development

Supplementary Planning Guidance:

5.15 The following [Supplementary Planning Guidance](#) (SPG) is of relevance to this application: -

- Archaeology and Archaeology Sensitive Areas (July 2018)
- Green Infrastructure (including Technical Guidance Notes relating to: Ecology and Biodiversity; Trees and Development; Public Rights of Way and Development; River Corridors; Protection and Provision of Open Space in New Developments; Soils and Development) (November 2017)
- Managing Transportation Impacts (Incorporating Parking Standards) (July 2018)
- Planning for Health and Wellbeing (November 2017)
- Waste Collection & Storage Facilities (October 2016).

6. **INTERNAL CONSULTEE RESPONSES**

6.1 The **Operational Manager (Traffic and Transportation)** recommends that conditions 8 (construction environment management plan) can be partially discharged.

6.2 **Public Rights of Way (PROW):** No objections but state that temporary closure orders will be required to shut the public rights of way. These are subject to separate regulations.

6.3 **Heritage Team:** recommends that condition 10 can be partially discharged

6.4 **Shared Regulatory Services (Noise):** Note the proposed CEMP and raise no objection to the partial discharge of condition 8 as the proposed construction hours of operation are in line with the Control of Pollution Control Act 1974

6.5 **Drainage.** The proposed route is the subject of a SAB process and is ongoing, therefore, any surface water considerations can be considered through the SAB process.

7. **EXTERNAL CONSULTEE RESPONSES**

7.1 None

8. REPRESENTATIONS

- 7.1 The application is a subsequent application under the EIA Regulations, which requires the application to be publicised by site and press notice in addition to neighbour letters. 2 letters of representation have been received which object to this application. These objections are summarised below:
- The multiple and complex planning applications relating to the proposal make it difficult for parties to monitor, understand and object effectively;
 - The planning system unfairly benefits the developer and is aided by greedy, feckless politicians and a planning department who have no regard for the environment, flooding risk and future generations.
 - Interesting that the proposal states no works to be undertaken during the nesting season, which has already happened;
 - The whole development will have a detrimental effect upon the environment;
 - The planning process is just a tick box exercise that fails to listen to the legitimate concerns of residents;
- 7.2 As noted above, an on-line petition of 50 signatures has also been received, which states that they are of the view that the application will have a major effect on the immediate and wider community.

8 ANALYSIS

- 8.1 Members' attention is drawn to the fact that this application is submitted to discharge technical matters associated with the approved planning permission.
- 8.2 A number of matters have been raised by objectors and those matters that are material to the consideration of the discharge of this condition have been considered in the assessment below. It is not, however, an opportunity to consider the merits of the planning permission or to question matters the Planning Committee has already agreed, such as the use of Whitchurch Hospital for construction access or the number of vehicles that can use this route.

Condition 8 (CEMP)

- 8.3 The submitted CEMP has given consideration to both temporary construction accesses being used simultaneously, and has considered key sensitive receptors, such as the local schools and the city hospice.
- 8.4 To ensure that these, along with others, are not unduly affected the CEMP has considered the following:
- Hours of Working (para 4.1.1)

- Mon to Fri 08:00am to 18.00pm (May be extended in summer upon agreement with client)
- Sat 08:00am to 13.00pm
- No working on Sundays and bank holidays
- The Working hours are to be adhered to and the site will be locked out of working hours.

Nb: These hours accord with the Control of Pollution Act 1974.

- Air Quality (including dust) and Noise

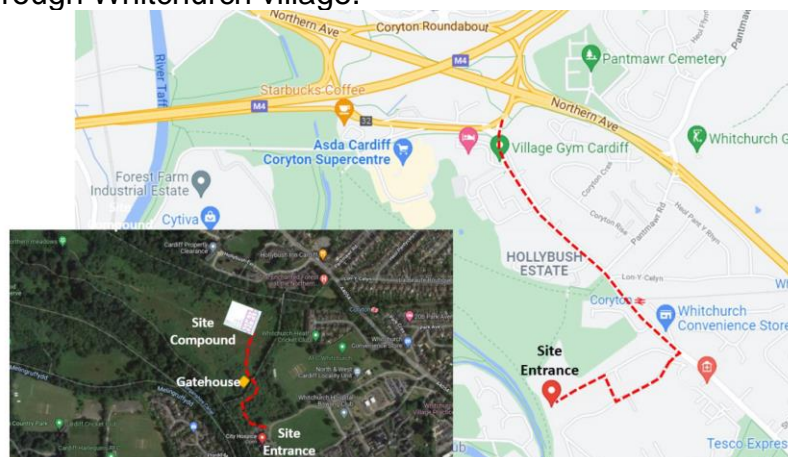
- The CEMP has considered how dust mitigation can be incorporated through such matters as:
 - no burning of materials on site ;
 - Sheeting of lorries.
 - Employing equipment to dampen down haul road
 - Use of equipment with local exhaust ventilation;
 - Stockpiles will be sealed and dampened down during dry periods

While objectors believe these measures, based on their experience of Walters current activities on site, will not be incorporated on site, it is emphasised that these matters are the subject of this CEMP and Control of Pollution Act 1974, and the applicant will need to adhere to these measures to ensure that dust does not cause harm to amenity.

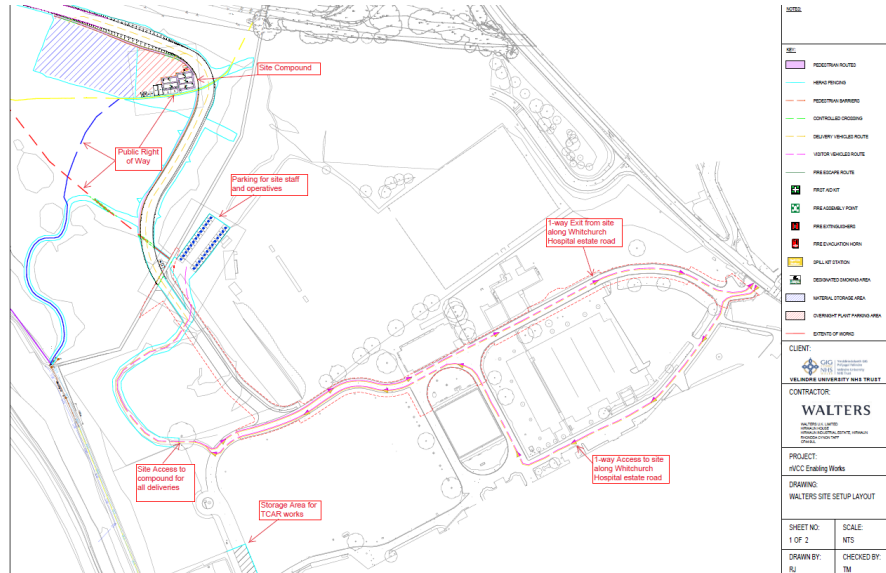
- Shared regulatory services raise no objection to the submitted details in partial discharge of this condition

- Traffic / Highway Safety

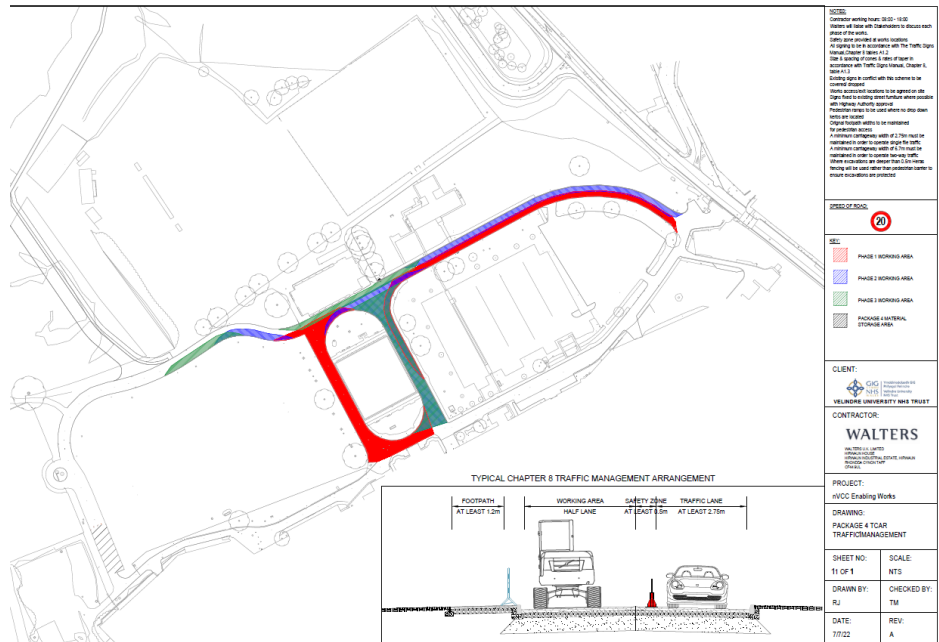
- As stated above the CEMP has considered that both construction access points will be used within the Whitchurch hospital site and both will have the same constraints imposed i.e. no access through Whitchurch village.



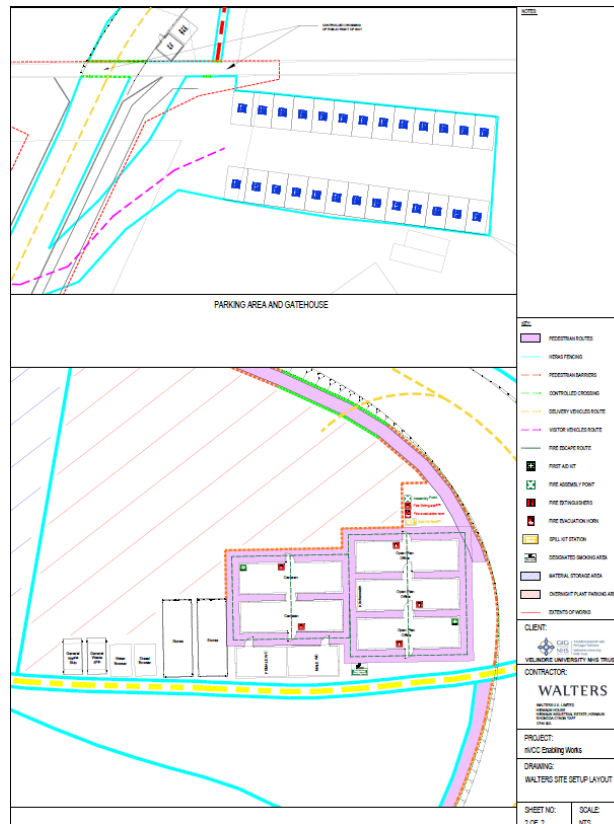
- The internal layout within the Whitchurch hospital estate will also incorporate a one way system which will ensure an orderly route that will allow 'stacking' within the hospital site rather than on the adopted highway (see appendix 6.1 below). It is important to note that the maximum throughput will not exceed 100 HGV a day (200 movements).



- Committee will note that TCAR 1 is also annotated on this plan (in sky blue) which shows that both routes can be operated at the same time.
- In addition to the one way system the CEMP also demonstrated separation between traffic and an internal speed limit of 20mph (32kph), lower to 10 mph around the chapel.



- Proposed parking will be within the Whitchurch hospital site and the compound within the former tennis court and within the construction site located on the northern meadows.



- Whilst concern has been raised by objectors that the proposed parking is not sufficient and will lead to spill over into the adjoining residential streets, the Council's Highways Officer is satisfied that the submission ensures that the public highway network is not unduly affected by this proposal.
- Deliveries will be along the agreed route and all deliveries shall be notified to call prior to attending site so that the site management can prepare for the delivery on site and guide the delivery to the drop off point. To confirm no deliveries will be undertaken during the school hours previously agreed in the overall masterplan CEMP.
- Rights of Way
 - There is currently a legal order that allows Velindre to close the railway cutting and an appropriate diversion has been agreed with the PROW team and highways.
- A Communication Strategy will also provide advance notices of activity and a compliance process.

- *Site hoardings* – (para. 4.1.7) Temporary protective fencing (Heras) will be erected to delineate the working areas, site boundaries, and protect sensitive features from disturbance, including tree protection. Fencing will be anti-climb, double clipped and supported by feet for the main site perimeters or barriers for short term works within the highway or footways. Construction Site Warning signage will also be erected on the perimeter security fencing.
- *site access* - (para 4.1.8) All construction traffic will be made aware of which local routes are acceptable for journeys to the site. Maps will be provided to drivers to ensure vehicles do not stray from designated routes and that vehicles are routed via main roads and not via indirect routes through other residential and other sensitive areas
- *Wheel washing facilities* (para. 4.1.3) – Confirms wheel washing facilities will be located at site entrance/exits. The banksman will inspect the wheels of all vehicles existing the site and where required wash the wheels with a jetwash to prevent any dirt from being carried on to the Whitchurch grounds.
- *site compounds* - The current compound is located on the former tennis courts within the whitchurch hospital site. Paragraph 4.15 confirms that the compound and staff welfare facility will relocate to the field site. The staff welfare building will be a demountable structure and given its temporary nature sewerage effluent from the site office and welfare will be removed from the site using a vacuum tanker. Entry into the main site compound will be controlled by a gateman during the daytime and security guards out of working hours
- *Drainage details (to ensure that there is no contamination of the SSSI)* – para . 4.2.1 states:

There is a Site of Special Scientific Interest SSSI namely Long Wood Nature Reserve which is positioned approx. 40m west of the site. The general site activities are separated from the SSSI by approx. 40m of grassland and dense vegetation. Since the works are a significant distance from the SSSI, and no works that will enter the groundwater table are envisaged, no further control measures are required to protect the SSSI from the works. The TCAR works are mainly alterations to the existing highway and the introduction of new footpaths. Any surface water from the footpath excavation will drain naturally to the adjacent grass vegetation without causing run-off. Silt fencing will be installed as and when required to manage any potential surface water run-off.

... the site is also subject to an European protected species licence that is issued by Natural Resources Wales that requires on going site supervision. It is understood this CEMP is in accordance with those provision. .. the CEMP states that along with an ecological clerk of works will be supported by ecologist and arboriculturist at appropriate stages e.g setting out fencing & removing vegetation,

- *Procedure for notifying the residents of the Hollybush Estate, Coryton Primary School Ty Coryton House and City Hospice, in advance of each element of work.*

Paragraph 3.3.1 of the CEMP states that for the TCAR works within the Whitchurch Hospital, the key stakeholders shall be City Hospice, Whitchurch Hospital, the Whitchurch Sports Clubs within the site (including the Rugby, cricket, Football and Hockey clubs), the district nurse offices, the Covid testing centre and any other businesses within the grounds.

Contact details shall be given to all the key stakeholders for the Walters Management on site including an out of hours contact.

In addition, paragraph 4.1.4 of the CEMP states:

“All communications shall be liaised with the nVCC communications team which have established communication lines for the construction activities to date. Communications will be distributed electronically to all local councillors to distribute and communicate with their constituents. Local stakeholders shall also receive electronic communications and invited to monthly meetings where required to review proposed works and evaluate current measures.

The key stakeholders namely Hollybush Estate, Coryton Primary School, Ty Coryton House and the City Hospice shall be notified in advance of new elements of works and changes to traffic management. These shall be distributed through newsletters and electronic communications through nVCC and the local councillors. As the works proceed into differing work areas, other stakeholders shall be contacted and added to the keys stakeholder list as required.

A newsletter shall also be distributed prior to key activities to forewarn of any changes to the traffic or pedestrian routes and to provide updates on the progress. The Velindre email address [can be used] residents [to] email any observations and complaints.

- 8.5 As identified earlier, this application seeks technical approval of a condition requiring approval of a Construction Environmental Management Plan. The condition was imposed in the interests of highway safety and public amenity.
- 8.6 A major new development will always have impacts and cause disruption, with the purpose of a CEMP being to manage such construction impacts to ensure that these impacts are minimised as much as possible. In this context, the CEMP has been revised throughout the course of this application to address identified issues, with the final version of the CEMP having been reviewed by all technical consultees (notably highways and Shared Regulatory Services) who have considered the impact upon residential amenity and highway safety and raise no objections to the discharge of the condition. Accordingly, the

submitted details are considered acceptable in principle and sufficient to be approved under condition 8 (which will be partially discharged given the need to comply with the approved details).

Condition 10 (mitigation and monitoring)

- 8.7 Condition 10 seeks to ensure that the Listed Whitchurch Chapel is protected during construction activity, and in this respect a document entitled ‘Whitchurch Chapel Protection Measures’ (WSP) has been submitted for approval.
- 8.8 The submission recognises that the chapel is already in a poor state of repair and the roof is partially missing. The report assesses that the key risk to the building would be HGV traffic passing in close proximity and proposes key stages of monitoring and mitigation. These are summarised below:

Pre-Commencement

- A pre-commencement condition survey shall be undertaken by a chartered surveyor to review the Chapel and provide a structural condition report.
- Protection measures shall be installed to prevent damage from passing traffic utilising a combination of concrete barriers and scaffold to support heras fencing.
- A vibration monitor shall be installed to the external wall of the chapel to monitor and record the vibration levels.
- A 10mph limit shall be set adjacent to the chapel and if required the existing surfacing repaired to minimise potential vibration from passing traffic

During the Project

- Monthly condition surveys shall be undertaken to continually monitor the condition of the chapel and report of any deterioration
- The protection fencing shall be inspected weekly to ensure it is functional and any noted damage or defects on the fencing repaired immediately
- The vibration monitor shall remain in place to continually monitor the vibration from both construction activities and passing traffic on the adjacent road. The vibration monitor shall have pre-set threshold levels in line with the previously levels agreed on the master CEMP.

Table 1: Transient vibration guide values for cosmetic damage (Table 1 – BS7385-2)

Line	Type of building	Peak component particle velocity in frequency range of predominant pulse	
		4 Hz to 15 Hz	15 Hz and above
1	Reinforced or framed structures Industrial and heavy commercial buildings	50 mm/s at 4 Hz and above	
2	Unreinforced or light framed structures Residential or light commercial type buildings	15 mm/s at 4 Hz increasing to 20 mms at 15 Hz	20 mm/s at 15 Hz increasing to 50 mm/s at 40 Hz and above

NOTE1 – Values referred to are at the base of the building.

NOTE2 – For line 2, at frequencies below 4 Hz, a maximum displacement of 0.6mm (zero to peak) should not be exceeded.

Source: Table 1 – BS7385-2: 1993

Conclusion

- 8.11 The combination of mitigation works and monitoring identified above has been reviewed by the council's Conservation team, who are satisfied with the submitted details and recommend approval of the details in partial discharge of condition 10.

Other Matters

- 8.12 Having regard to the representations received on the application, the following addresses those matters that have not been considered above: -
- Concern over the actions of Walters UK in the felling of the trees on site is not a material planning consideration in relation to the details in discharge of conditions 8 and 10. Any failure to adhere to the submitted details would leave the applicant liable to the potential of planning enforcement action.
 - Officers acknowledge that the submission is complex in nature due to the complexity of the site and proposal. It is emphasised, however, that these are technical matters reserved for subsequent approval following the grant of planning permission for the development in question. Nevertheless it is noted that the majority of the submission is information that was already approved under reference 20/01110/MJR and has been submitted to demonstrate how this submission accords with the principles approved by the Planning Committee.
 - Concern has been raised that the planning process does not provide meaningful dialogue with the community affected by this proposal and that the LPA are only undertaking consultation as a 'tick box exercise'. The requirements for community engagement are a legal requirement under the EIA regulations and there is a legal duty to consider representations made. This report is considered to represent the concerns raised and provides an assessment to allow the committee to make an informed planning judgement based upon the matter for consideration.
 - As discussed above and reiterated here, this application does not allow the reopening of the principles set by the planning permission or the overarching CEMP discharge approved by the committee in 2020.
 - The discharge of this condition accords with the principles set under planning permission 20/01110/MJR which was the subject of the EIA regulations and as such the environmental impact has been considered and the submitted Environmental Statement remains fit for purpose. It is also recommended that an ecologist and arboriculturist are on site to supervise the works being undertaken to ensure the environmental considerations are met on site.

9 OTHER MATTERS RELEVANT TO THE CONSIDERATION OF THIS APPLICATION

- 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 Act 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. The Council's duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.
- 9.3 Well-Being of Future Generations Act 2016. Section 3 of this 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 (Section 5). This duty has 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 recommended decision. It is also noted that section 2(5) of the Planning (Wales) Act 2015 affords protection to decisions taken under Part 3 of the 1990 Act, in that the Well-being of Future Generations (Wales) Act 2015 does not alter whether regard is to be had to any particular consideration under section 70(2) of the 1990 Act or the weight to be given to any consideration to which regard is had under that subsection. This means the provisions of the development plan, so far as material to the application, and any other relevant other material considerations remain the primary considerations when determining planning applications.
- 9.4 Section 6 of Environment (Wales) Act 2016 subsection (1) imposes a duty that a public authority must seek to maintain and enhance biodiversity in the exercise of its functions, and in so doing promote the resilience of ecosystems, so far as is consistent with the proper exercise of those functions. In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular the following aspects:
- (a) Diversity between and within ecosystems;
 - (b) The connections between and within ecosystems;
 - (c) The scale of ecosystems;
 - (d) The condition of ecosystems (including their structure and functioning);
 - (e) The adaptability of ecosystems.

It is considered that the LPA has considered its duty under this Act and has met its objectives for the reasons outlined above.

- 9.5 EIA development: The application constitutes a 'subsequent application' for the purposes of Part 3, Regulation 9(1)(a) & (b) of the Town & Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. The application has been prepared in substantial accordance with the parameter plans, drawing and documents that were approved as part of the planning permission for the new Temporary construction access route (TCAR 2 LPA reference 20/01110/MJR,). This current application, in relation to a condition of that permission, does not give rise to any significant effect on the environment, beyond those which were considered as part of the Environmental Statement, that was approved under the above planning permission. The environmental information already before the local planning authority is considered adequate to assess the significant effects of the development on the environment, and has been taken into consideration as part of this application in accordance with the aforementioned Regulations. It is considered, therefore, that a further addendum to the Environmental Statement is not required to accompany this submission.

10 CONCLUSION

- 10.1 It is recommended that conditions 8 & 10 are partially discharged in the manner outlined above at this time and that given the complexity of the development and of the site, that the phased discharge of this condition at key points within the programme is acceptable and appropriate to control key elements of the project as it progresses. Concerns raised are noted, but are not material to this stage of discharging the condition.
- 10.2 There are no technical objections to the discharging of the conditions and the submission is in line with the plans considered by the committee in its consideration of planning application 20/01110/MJR
- 10.3 For the above reasons, the proposal is considered acceptable and it is recommended that the conditions 8 and 10 can be partially discharged as outlined in recommendation 1 of this report.

11 RECOMMENDATION

- **RECOMMENDATION:** That conditions 8 (Construction Environment Management Plan), and 10 (mitigation and monitoring) of 20/01110/MJR shall be partially discharged and shall be undertaken in accordance with the updated document "CEMP version 4 (dated 7/07/22).
- **INFORMATIVE 1:** The applicant is reminded that during the works an arboriculturist and ecologist are on site before, during and after the whole works and provide a report to the Local Planning Authority to demonstrate compliance with the approved details.

- **INFORMATIVE 2:** To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays.