

Application Number: DM/2021/01416

Proposal: Proposed installation of 2no. shower/toilet blocks, to serve site visitors and nearby camp site

Address: Old Station, Tintern, Chepstow, NP16 7NX

Applicant: Monmouthshire County Council

Plans: All Drawings/Plans A9814/TSB/01 - , Location Plan - , Other ECOLOGY REPORT - , Heritage Statement

RECOMMENDATION: Approve

Case Officer: Kate Young
Date Valid: 15.09.2021

This application is presented to Planning Committee as the application is submitted by Monmouthshire County Council Tourism and Leisure Department and there are some unresolved objections

1.0 APPLICATION DETAILS

1.1 Site Description

The site is the Old Station Railway and Picnic Site, Tintern. The site is located in an area of open countryside within the Wye Valley Area of Outstanding Natural Beauty. There are several listed buildings and structures on the site. To the north of the car park is a camping field, which was granted planning approval in 1995. It was used for about 15 years mainly by scout and Duke of Edinburgh Groups but has not be used since 2018 due to lack of facilities.

The site is partly located within a C2 Flood Zone as defined by the Development Advice Map (DAM) of Technical Advice Note (TAN)15 - Development and Flood Risk. The site is outside but adjacent to the 50m buffer of the Wye Valley Special Area of Conservation and is outside the Phosphorous Sensitive Area of the River Wye.

1.2 Value Added

Ecological enhancements

1.3 Proposal Description

The application seeks the erection of two toilet/shower blocks to be used in association with the camping field. Each block would measure 3m x 2.9m and would have a flat roof of 2.6m. The blocks would be clad in timber and have a door at the front and high-level windows on each side. There would be an access ramp and rails to the front of each one as well as three timber bollards. There would be external down-facing wall mounted floodlights installed. The new shower blocks would be connected to mains water via a new pipe under the car park and the foul drainage would discharge to the mains.

A Heritage Impact Statement and an Ecology Report were submitted as part of the application.

2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2019/00022	Formation of new access door for transportation of sit on train unit, to and from current storage location within the signal box.	Approved	04.04.2019
DM/2021/01421	Installation of new solar panels to roofs of existing railway carriages.	Approved	02.02.2022
DC/2012/00543	Renewal of planning consent 2007/00190 - Phase 1: to lay 500m of 12 1/4 inch railway track from existing signal box to Brockweir bridge, to erect a steel carriage shed (clad in wood) to house engine and rolling stock. Phase 2: to continue track southwards by 280 metres.	Approved	30.10.2012
DC/2007/00190	Phase One - to lay 500 metres of 12 1/4 inch railway track from existing signal box to Brockweir Bridge; to erect a steel carriage shed (clad in wood) to house engine & rolling stock - sited by play area. Phase Two - to continue track southwards by 280 metres.	Approved	29.06.2007

DC/2006/01466	Re-surfacing Of Existing Stoned Footpath On Dismantled Railway Formation With Dense Bitumen Macadam Binding Course Finished With Sealing Grit, Of Dimensions - 2.5M Wide, 395M Long = 987.5 M2	Approved	27.06.2006
DC/2014/00875	Siting of two moveable camping huts.		
DC/2009/00913	Replacement of two railway carriages	Approved	18.11.2009
DC/2010/00085	Flag to be flown from single flag pole.	Approved	14.04.2010
DC/2005/00059	Creation Of A Shared Surfaced Path For Cyclists & Pedestrians	Approved	08.09.2006

3.0 LOCAL DEVELOPMENT PLAN POLICIES

Strategic Policies

S5 LDP Community and Recreation Facilities

S11 LDP Visitor Economy

S12 LDP Efficient Resource Use and Flood Risk

S13 LDP Landscape, Green Infrastructure and the Natural Environment

S17 LDP Place Making and Design

Development Management Policies

LC4 LDP Wye Valley AONB

NE1 LDP Nature Conservation and Development

EP1 LDP Amenity and Environmental Protection

DES1 LDP General Design Considerations

SD3 LDP Flood Risk

Supplementary Planning Guidance

Sustainable Tourism Accommodation SPG November 2017:

<https://www.monmouthshire.gov.uk/app/uploads/2016/10/Sustainable-Tourism-Accommodation-SPG-November-2017.pdf>

National Planning Policies (If Any)

Technical Advice Note 6 - Planning for Sustainable Rural Communities (2010):

<http://gov.wales/docs/desh/policy/100722tan6en.pdf>

Technical Advice Note (TAN) 15: Development and Flood Risk (2004):

<http://gov.wales/topics/planning/policy/tans/tan15/?lang=en>

4.0 NATIONAL PLANNING POLICY

Future Wales - the national plan 2040

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with 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. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

Planning Policy Wales (PPW) Edition 11

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, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

5.0 REPRESENTATIONS

5.1 Consultation Replies

Tintern Community Council – Required confirmation as to whether the application is part of a plan to form a formal camp site or is it an expansion of the existing site and that there are no plans to change the existing toilets in the main building which serve the Café. Clarification has been provided and no further comments have been made

MCC Heritage - No Objection.

The station was built in 1876 on a meadow at a loop of the river Wye to its north of Tintern Abbey and village itself. Set tightly into tree lines on either side, with clearing at the central track beds although rails are removed. There are three structures listed GII in their own right, being the station itself, the name signage and signaling box, although other upstanding structures at time of listing will also be curtilage listed.

The proposed works to install two shower/ toilet units are however largely confined to the tree line, small in size and set away from the listed buildings so that they are largely unseen and we consider them not to affect the designated setting.

MCC Ecology - An ecological assessment has been provided to inform this application. Whilst the Old Station has a suitable habitat for bats the proposals will not have an impact on this potential habitat but request details of a lighting scheme. In relation to nesting birds, a condition is recommended to restrict timing of works outside the bird season (March – August). The identified net benefits are also welcomed in terms of bird boxes but request an alternative location.

MCC Ecology have raised concerns that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before permission is granted.

NRW - NRW initially raised concerns over protected species and drainage issues and requested conditions for a lighting scheme. However, after discussions additional comments are summarised below.

Flooding, the application is within the flood zone 1 meaning there is a less than 0.1% chance of flooding in a given year and raise no concerns over flooding.

In relation to EPS licences NRW refer to the ecological consultant to advise their client whether the proposals will require a licence. It is noted that dormice have been noted with 60m of the site. If their habitat is to be removed, then a licence would be required.

Advise on further conditions in terms of lighting and potential contamination from its former use

as a railway.

5.2 Neighbour Notification

Letters of objection received from five addresses

The grasslands here are valuable and rare habitat for wildflowers, fungi, invertebrates and associated wildlife, all of which are vulnerable to too much disturbance. This will lead to future development of the site

The camp site is not needed

Increased light pollution

Detrimental to this public amenity

The addition of publicly accessible toilets to the site would be generally beneficial however, the camping field has had little use in the last two years. It would be more economical to provide water facilities rather than showers that may get little use.

The camping field is protected by SAC status and historic covenants

Increasing the activity of the campsite will adversely affect wildlife interests

This is not an official campsite at the Station and a shower block is not necessary for day visitors.

5.3 Other Representations

Brockweir Community Council - Support the application

It was strongly felt that any enhancements to the site would bring significant benefit to the local community.

Tintern Station Friends - Introducing changes to the land that were never intended and contrary to covenants and other protections. Tintern Station Picnic Area is not a tourist attraction to be developed commercially. Byelaws preclude overnight parking and stays, camping and fires. There are no "campers access steps" (referenced in the drawings) rather a slope to the highway Shower blocks are not part of the heritage of this railway site and will adversely affect the character of a listed building The proposed changes of use do not bring benefits that outweigh any loss or harm, nor do they protect and sustain the historic assets. These developments are not subservient to the primary purpose to conserve and enhance the natural beauty of the area.

The ecology report which is limited in its remit

A tree survey is required

Requires more biodiversity enhancements across the site

Risk of flooding

Impact on residential amenity from overnight camping

Loss of parking including disabled spaces - breach of Equality Act 2010

The fire service has not been consulted

Should refurbish the existing WCs not build new ones

Plans do not enhance the use of the site or facilities for the community.

Consultation and publicity procedures not followed

Little regard to the conservation area, biodiversity and ecological heritage

Does not improve the environmental and cultural well-being of residents and visitors

MCC will be approving a planning application for its own commercial business, to increase income at the expense of residents, heritage and conservation.

Please note all representations can be read in full on the Council's website:

<https://planningonline.monmouthshire.gov.uk/online-applications/?lang=EN>

6.0 EVALUATION

6.1 Principle of Development

The camp site already has an established use; the main issues in this case are the visual impact of the two shower blocks and their impact on ecology. Generally, PPW and the planning authority are supportive of developments that promote sustainable tourism. The planning system encourages tourism where it contributes to economic development, conservation and social inclusion but needs to recognise the needs of local residents. PPW says that planning authorities should adopt a positive approach to proposals that utilise previously developed land for tourism uses. Given the importance of tourism to the Monmouthshire economy, the need to safeguard, provide and enhance the County's visitor facilities, including the accommodation offer, is essential if Monmouthshire is to realise its potential as a high quality and competitive visitor destination. The LDP provides a positive planning framework to enable appropriate tourism development whilst

ensuring that the County's natural and built environment, on which the tourism market depends, is protected and enhanced. Strategic Policy S11 - Visitor Economy - specifically seeks to enable the provision and enhancement of sustainable tourism development in Monmouthshire stating that development proposals that provide and/or enhance sustainable forms of tourism will be permitted subject to detailed planning considerations. The principle of the new shower and toilet blocks is therefore acceptable.

6.2. Good Design and Place Making

PPW11 says that good design is fundamental to creating sustainable places where people want to live, work and socialise. The special character of an area should be central to its design. In this case the two shower blocks are small and will not be visually prominent being set on the northern side of the car park with rising land behind and screened by existing trees. The use of timber cladding is appropriate in this setting and will ensure that the shower blocks appear subservient to the main station building on the site. It is proposed that the colour of the timber cladding matches that of the existing stone buildings. A condition can be imposed to ensure that the colour of the cladding is acceptable. The proposal accords with the objectives of policy DES1 of the LDP and PPW11 promoting good design.

6.3 Historic Environment

The site is outside of the Tintern Conservation Area and not seen within the context of Tintern Abbey. The station was built in 1876 on a meadow at a loop of the River Wye to the north of Tintern Abbey and village itself. There are three structures listed, being the station building, the name signage and the signal box, although other upstanding structures at time of listing are also curtilage listed. A simple contemporary design for the shower block is being used so that it does not detract from the listed structure and the historic legacy of the site. The new structures will stand apart from the main station building so as not to detract from its setting. MCC Heritage Officer has no objection to the proposal saying that "the proposed works to install two shower/ toilet units are largely confined to the tree line, are small in size and set away from the listed buildings so that they are largely unseen and do not to affect the designated setting." The proposal will preserve the special interest and setting of the listed buildings on the site.

6.4 Landscape

The site is located within the Wye Valley Area of Outstanding Natural Beauty (AONB) and therefore should be assessed against Policy LC4 of the LDP. The proposed structures are small in scale and only 2.6m high, they are set against rising ground levels and mature trees and will not be visually prominent in the wider landscape. In addition, the use of timber cladding on the sides of the buildings will help to reduce their visual impact. In this case the proposed development will be subservient to the primary purpose of conserving the natural beauty of the area. The use of this site for tourist purposes is already established and will not be intensified as a result of the two new shower blocks. The design of the structures and the quality is appropriate for this location and will harmonise with the surrounding landscape and built heritage as the structures will appear subservient to the main stone buildings at the station. The proposed new shower blocks will not generate additional traffic and will not significantly impact on nature conservation interests. The proposals will preserve the natural beauty of the Wye Valley AONB and would therefore comply with policy LC4 of the LDP.

6.5 Biodiversity

6.5.1 An Ecology Survey Report by Just Mammals was submitted as part of the application. An external and internal daytime inspection of the building on site was carried out in May 2021 and found that the station offered various features suitable for roosting bats and was assessed to have moderate potential to be used. Several potential access points and possible roost locations were identified in the roof of the building and around the roof edges. Therefore, two dusk emergence/activity observations were conducted on the building. These observations were necessary to establish with a high degree of certainty if bats are using any part of the station building or were likely to be absent. Observation of the station building in May 2021 established the presence of a soprano pipistrelle roost in the roof structure at the south-west corner. The observation in June 2021 revealed two additional soprano pipistrelle roosts in separate parts of the roof at the southern end of the station building: at the gable apex and at the south-east corner. A robust and thorough assessment was undertaken, adhering to good practice guidelines. When the nature conservation significance of the property is considered against recognised criteria, the status of the site is assessed to be low, due to the presence of a common species day roosting in

the building, with no evidence for a maternity roost.

6.5.2 NRW have said, "We have reviewed the bat report "Old Railway Station, Tintern, NP16 7NX, Ecological Survey Report, dated July 2021, by Just Mammals" submitted in support of the application. The proposed development site lies within 250m of the Wye Valley Woodlands Special Area of Conservation (SAC) of which a feature of its designation is the Lesser Horseshoe bat. Evidence of Lesser Horseshoe has been identified under the canopy of the nearby station building, whilst common pipistrelle and soprano pipistrelle are roosting within the building. We also hold a dormouse record within 60m of the proposed development".

6.5.3 MCC Ecologists have reviewed the submitted survey report and agree with its findings and recommendations. The Old Station building itself will not be impacted by the current proposals, and therefore roosting bats should not be affected. MCC Ecologists offer no objection to the proposal for two new shower units however they still have concerns regarding the proposed lighting and request further details are provided regarding the number of lights, its specification and the location/height that they will be installed at.

6.5.4 Given the scale of the proposed development, two small shower blocks free standing to the rear of the Station building on solid ground, the impact of the development on the habitats identified is considered to be very limited. In addition, a condition to provide a lighting scheme has been included and all ecological enhancements will be achieved through the positioning of bird boxes (as referred to below). It is considered that the primary habitats would not be affected by the development. It is noted that dormice have been identified within 60m of the site, however again given the scale, type and position of the proposed development this is not considered to have a detrimental impact on their conservation status.

6.5.5 Biodiversity Net Benefit

Planning Policy Wales (PPW) 11 sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity". This policy and subsequent policies in Chapter 6 of PPW respond to the Section 6 Duty of the Environment (Wales) Act 2016.

The submitted ecology report recommends that two additional bird boxes are installed at the site. This is considered an appropriate level of enhancement for an application of this size. However, the location or specification of the boxes has not been shown on any of the submitted plans.

The location of the application offers the opportunity to target species such as spotted flycatcher and marsh tit which are known to be present within woodlands along the Wye Valley and on the Birds of Conservation Concern (BoCC) Red List. It is recommended that a Vivara Pro Seville 28mm WoodStone Nest Box and a Vivara Pro Barcelona WoodStone Open Nest Box (or similar) are installed on either trees within the site area or on the proposed toilet/shower blocks. Nest boxes should not be installed on a south-facing elevation to avoid risk of birds overheating. This can be the subject of a condition. The proposed enhancements are appropriate and proportional for the proposal and will provide ecological net benefit on the site as required by the Environment (Wales) Act 2016 and Planning Policy Wales Edition 11 and policy NE1 of the LDP.

6.6 Impact on Amenity

The nearest residential property is Station House which is approximately 80 metres to the west of the proposed shower blocks. Between Station House and the proposed structures is the public car park for the Old Station tourist attraction. The proposal will not be visually prominent when viewed from Station House because of the intervening trees and embankment. There will be no overlooking or loss of privacy resulting from the shower blocks given the distance between the new structures and the nearest residential dwelling. At present the Old Station facilities are only open during the day although the car park could be used later than that. It is expected that the shower block would be used throughout the day and evening. This may lead to a slight increase in noise and disturbance. There is an extant use for the camp site and the use of the showers and toilet will not intensify that use. Any impact on residential amenity relating to the occupiers of Station House will not be significant compared to that emanating from the general activity on the Old Station site especially given the distance between the existing property and the proposed shower block. There are no other residential properties in the near vicinity that could be affected by this proposal. The proposal accords with the objectives of policy EP1 of the LDP as it does have regard to the privacy, amenity and health of the occupiers of neighbouring properties. The proposal will not result in any additional overlooking or loss of privacy and any increase in disturbance will be only minimal at most.

6.7 Highways

There are no highway implications as a result of this development. There will be no increase in traffic or loss of parking spaces resulting from the siting of the shower/toilet buildings.

6.8 Flooding

The siting of the proposed structures is in a C2 Flood Zone as defined by the Development Advice Map (DAM) of Technical Advice Note (TAN)15. The application is proposing less vulnerable development.

NRW have been consulted with particular reference to flooding but have not raised an objection in relation to flood risk.

6.9 Drainage

The foul drainage will go to the mains and pipes will be laid under the car park to connect into the existing system. The surface water will soak away; as the total surface area of the structures is less than 100m² SAB approval will not be required.

6.10 Phosphates

Under the Conservation of Habitats and Species Regulations 2017 it is necessary to consider whether the development should be subject to a Habitat Regulations Assessment. This is in particular reference to the impact of increased concentrations of Phosphates on designated SAC's. NRW has set new phosphate standards for the riverine SACs of the Wye and Usk and their catchment areas. Development that may increase the concentration of phosphates levels will be subject to appropriate assessment and HRA. This application is outside of the SAC catchment therefore it will not have a detrimental impact on any protected SAC, and as a result no further assessment is required.

6.11 Contamination

Former railway land can be affected by historic contamination. This is a moderately sensitive site in terms of controlled waters, underlain by a Secondary A aquifer and located 130m from the Wye and its designations. However, the railway has been closed since 1964 - allowing time for some forms of contamination to break down. NRW therefore request a condition relating to the control of contamination, if it is found during construction works.

6.12 Tourism

The site is a well-established tourist facility and Policy S11 of the LDP supports development proposals that provide sustainable forms of tourism. The provision of two shower blocks should not affect the number of people who visit the site.

6.13 Response to the Representations of Third Parties

- One local resident has said that the proposals are contrary to the laws and covenants that protect the site, however this is a private legal matter between the parties involved and not a material planning consideration.
- Concerns are raised that grassland and meadow habitats will be lost as a result of this proposal but the shower structures are not being erected on the riverside meadows.
- Concerns over further development of the site. The whole Old Station site is being upgraded, any additional development that requires planning permission will be subject to separate applications and determined on their merits.
- Concerns over the lighting scheme. External lighting will be provided on the site between the camp site and the shower block, this will be downward facing 'bat friendly' lighting. The details of the lighting system are being requested by condition and MCC Ecology will assist in assessing its acceptability.
- Concerns in relation to ecology have been addressed in the main body of the report; given the small scale of the development and suitable conditions included, the impact of the development on protected species is mitigated and considered acceptable.
- Concerns over the commercial development of the tourist attraction. This application is

addressed on its own merits and is for small-scale provision of showering /toilet facilities at the site. This is considered acceptable and any further development that will require planning permission will be considered separately.

- Impact on the AONB. The proposed structures will be of limited scale and not be visually prominent; they will have very little visual impact and will preserve the natural beauty of the Wye Valley AONB
- Concerns over parking. The development will not impact on parking provision.

6.6 Well-Being of Future Generations (Wales) Act 2015

6.6.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching this recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

6.7 Conclusion

The proposed shower buildings are small in scale and not visually prominent. There is an established camping facility on the site and the proposal will provide the site with the required washing facilities. The site is a well-established tourist facility and Policy S11 of the LDP supports development proposals that provide sustainable forms of tourism. The principle of providing additional facilities for the site is policy compliant. The scale and design of the structures are appropriate for the setting and accords with the objectives of policy DES1 of the LDP and PPW11, promoting good design. The proposal accords with the objectives of policy EP1 of the LDP as it does have regard to the privacy, amenity and health of the occupiers of neighbouring properties. The proposal will not result in any additional overlooking or loss of privacy and any increase in disturbance will be minimal. A detailed Ecology Report has been submitted with the application and MCC Ecologists conclude the proposal will not affect any ecological interests and would comply with the objectives of policy NE1 of the LDP.

This planning application is policy compliant in all respects and is therefore recommended for approval.

7.0 RECOMMENDATION: APPROVE

Conditions:

1 This development shall be begun within 5 years from the date of this permission.
REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2 The development shall be carried out in accordance with the list of approved plans set out in the table below.
REASON: To ensure the development is carried out in accordance with the approved drawings, for the avoidance of doubt.

3 Nesting Birds
No works (including vegetation clearance) shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a pre-works inspection of the adjacent vegetation for active birds' nests immediately before the work commences and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: to ensure that nesting birds are not disturbed by development works and to enable the Local Authority to fulfil its obligation under Section 25 (1) of the Wildlife & Countryside Act (1981) as amended

4 Samples of the proposed external finishes shall be agreed with the Local Planning Authority in writing before works commence and the development shall be carried out in accordance with those agreed finishes which shall remain in situ in perpetuity unless

otherwise approved in writing by the Local Planning Authority. The samples shall be presented on site for the agreement of the Local Planning Authority and those approved shall be retained on site for the duration of the construction works.

REASON: To ensure a satisfactory form of development takes place and to ensure compliance with LDP Policy DES1.

5 Biodiversity Net Benefit

Prior to the commencement of development, full details of bird enhancement measures as proposed within Section 10.7 of the submitted 'Ecological Survey Report' by Just Mammals Ltd shall be submitted to and approved in writing by the local planning authority. This shall include full details of the location and specification of the bird boxes/nests/cups and the timing of their inclusion. The details shall then be implemented as approved and shall be retained in perpetuity.

Reason: To provide biodiversity net benefit and ensure compliance with PPW 11, the Environment (Wales) Act 2016 and LDP policy NE1

6 Lighting Plan

Notwithstanding the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no lighting or lighting fixtures shall be installed on the building or along the access steps until an appropriate lighting plan which includes low level PIR lighting, provides detail of lighting type, positioning and specification, and ensures that roosting and foraging/commuting habitat for bats is protected from light spill, has been agreed in writing with the LPA. Reason: To safeguard foraging/commuting habitat of Species of Conservation Concern in accordance with Section 6 of the Environment Act (Wales) 2016 and LDP policies EP3 and NE1.

7 Condition Unsuspected contamination

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.