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FAO Jeremy Content

Please ask for: Mrs Maria Walton
Tel: 01872 322606
My Ref: P/08/0613 MW
Your Ref: P/08/0613
Date: 17 March 2009

Dear Mr Content

TOWN AND COUNTRY PLANNING ACT, 1990
LOCAL GOVERNMENT ACT, 1972
LOCAL GOVERNMENT PLANNING AND LAND ACT, 1980

**Outline Application for Major Development of Hayle Harbour and Adjoining Land.
Application P/08/0613; ING RED UK (Hayle Harbour) LTD**

This letter sets out the updated strategic planning position of the County Council and incorporates the views of the County Council as Highway Authority, with regard to the above application. The strategic planning consultation for this application was previously considered by the Cornwall County Council's (CCC) Planning (Development Control) Committee of 27 November 08. The Committee resolved that:

"Penwith District Council be advised that:-

- (a) the County Planning Authority strongly supports the principle of the regeneration of the Harbour and the area in view of its potential to secure significant economic benefits to the town and restoration of its historic fabric (Structure Plan policies 11 and 12, and Draft RSS policies ES1 and ES2;
- (b) with regard to the overall scale and mix of uses, of the proposed scheme, it has not currently been satisfactorily demonstrated that:-
 - (i) the transport impacts of the proposals are acceptable in terms of the need to: reduce the need to travel; increase choice of travel by non car modes; and ensure traffic considerations are not significantly worsened;
 - (ii) appropriate mitigation of impacts on the natural environment can be secured;
 - (iii) the proposals will secure the full restoration of the historic fabric to justify this scale of development in the World Heritage Site; and
 - (iv) adequate attention has been paid to Structure Plan Policy 10 in respect to the sequential approach to development.

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- (c) The overall sustainability of the scheme has not been demonstrated and the proposals currently remain in conflict with development plan policies. County Council officers will, with Penwith District Council, continue to negotiate with the applicant with a view to resolving the outstanding issues; and
- (d) Local needs housing be provided as part of the development in line with the Local Plan target of 25%.”

In December 2008 Penwith District Council resolved to be minded to approve the application subject to a section 106 agreement. The District Council acknowledged that there remained a number of significant issues outstanding before the section 106 could be completed and before permission could be granted.

Since then County Council officers have, with Penwith District Council officers, been working with the applicants to try and resolve these issues and to negotiate the section 106 agreement.

This letter does not repeat the views set out in the report of 27 November 08 regarding the potential regeneration benefits of the scheme, although these remain a fundamental part of the CCC position. This letter focuses on the key outstanding issues identified in the County Council's resolution, on which CCC officers have been negotiating, i.e. transport, the natural environment, and restoration of the historic fabric.

i) Transport

The County Councils report of 27 November 08 expressed concerns that there remained a great deal of uncertainty about the likely impact that will actually be created by the development and concerns as to whether the proposals could deliver a sustainable and less car orientated development.

There has been good progress on some of the transport issues; however there remain a number of outstanding transport issues which whilst capable of being resolved, still require further work to be undertaken. The updated traffic assessment requested was received only recently as a “draft” and a complete TA with appendices is still awaited.

In summary, the current position is as follows:-

i) Parking

On the basis of further information submitted the overall amount of car parking is broadly acceptable. Appropriate conditions/106 will be required to secure the management of these spaces so as to manage demand and promote non car uses. This has not yet been agreed but indications are that it is capable of being resolved.

ii) Phillack Access

The applicant has submitted a further report to illustrate the impacts of a new road access through Phillack and to justify it.

However CCC considers that there are adverse impacts arising from a new access through Phillack and there remains inadequate justification for this. The additional traffic, outside of the peak season, on this community, is estimated to be at least 42% and is not warranted. Conditions through the centre of this historic village are difficult with parked cars, adverse gradients and footways being narrow and not contiguous. Despite the conclusions suggested by the applicant's access report; accidents are clustered on the tight bend of Churchtown Road and on the junction of Lethlean Lane/B3301 and seem to increase during periods of the year when traffic flows are

higher. The introduction of additional Towan traffic through Riviere Fields is also undesirable. Given that the main road through Hayle will, if the development proceeds, experience severe congestion, the likelihood is that the route through Phillack could act as a “rat run” increasing the flows further. The second access will not encourage residents of Riviera Fields to travel sustainably.

The supporting study does not make a convincing case that the new access through Phillack will improve the operation of the Lethlean Lane/B3301 junction. Further more the addition of a second access through Phillack does not (based on the supporting traffic study) indicate that it will reduce traffic flows on the main new access via the new road bridge.

The County Council would therefore strongly suggest a planning condition to the effect that there shall be no vehicular access permitted through Phillack. Whilst accepting the detrimental harm it would cause, if Penwith District Council were minded to approve a second access as proposed by the applicant; as a minimum a mechanism must be secured to consider further the impacts created by the new access and secure any necessary mitigation.

iii) Impact on the Local Road Network

The original and revised draft TA indicate serious failure of the central road network in both seasonal and neutral months. The draft TA also shows failure of the main primary access in a summer situation. Further work is required to ensure that the primary access junction proposals take account of the needs of all users. A condition should be included to secure appropriate junction arrangements. .

iv) Loggans Moor

Whilst it is understood that a potential design solution has been agreed by the Highways Agency (HA); the likelihood is that queuing from the mini roundabouts will affect the performance of the trunk road at Loggans Moor. The HA will make a separate response. However, to mitigate against the issues of over capacity at the double mini roundabout, the applicant suggests a further financial contribution to improve the junction by way of signalisation compatible with the trunk road or to a mitigation scheme to an equivalent cost yet to be identified. This could be signage and works to encourage traffic at Loggans Moor to continue on the A30 and use the Park and Ride at St Erth.

v) Travel Plans

The principle of ING producing subsequent travel plans for each phase of the development has been agreed. However the conditions/106 remain to be agreed as to how any mitigation might be secured if travel plan targets are not met; and the applicant has indicated that there are no more mitigation monies available. It is important that any necessary mitigation is secured.

vi) Further Commitment to Sustainable Transport Measures e.g. St Erth

Whilst significant contributions have been agreed for sustainable transport measures, amounting to a total of £800,000., these measures will have limited effect and have been allowed for in the traffic assessment. Further sustainable transport measures may be required subject to the determination of future phases of development linked to travel plans.

vii) Phasing

General concerns re phasing vis a vis infrastructure have largely been addressed through emerging conditions and section 106 e.g. linking South Quay phase to a requirement to do a further TA before detailed planning permission is granted.

viii) Revised Traffic Assessment

In response to a request for an updated Traffic Assessment covering changes to trip rates, traffic distribution and updated traffic counts the applicant has submitted a revised Draft report. The applicant has made allowance for containment of trips within Hayle and a 10% switch to sustainable travel. The full report with Appendices has yet to be received. The information supplied has highlighted significant implications for the road network in Hayle.

Current negotiations have suggested a possible way forward whereby the applicant might make further financial contributions to transport mitigation measures and a condition could set a threshold (to be agreed) which would allow development to proceed up to that level: beyond that threshold, further development would only be allowed if appropriate transport mitigation measures were in place.

ix) Construction Waste Management (CMP)/ Site Waste Management Plan (SWMP)/Timing of New Bridge Construction

These were further issues raised in the CCC committee report of 27 November 08.

In the absence of a SWMP which was anticipated from the applicants in February, it is uncertain as to the type and quantities of waste that may either be used on site or need to be transported off site. Furthermore, there are issues as to the capacity of the existing swing bridge to take significant traffic increases, particularly HGVs. We have just received some further supplementary information from the applicant on this issue and will need to consider this further. The applicant does not intend to construct the new bridge until late in phase 1 i.e. after the harbour has been dredged. This raises issues as to the acceptability of the transport proposals for waste and for the construction process for the phase 1 DPA, and as to the timing of the bridge. It will be important that these issues are fully understood and addressed to ensure that workable solutions can be secured through appropriate planning conditions.

ii) Natural Environment

The applicants have agreed to a number of measures to manage and mitigate against the adverse impacts of the development e.g.

- A sum of 60,000 to address impact on dunes
- Part funding of a dunes officer post
- Agreement to produce an ecological management plan for each phase to deal with management mitigation and monitoring of ecology
- A range of ecological management programmes
- A programme for creation/restoration of dune land habitat

There remain two outstanding issues that need to be able to be resolved through the section 106 agreement:-

1. a realistic prospect of a site being delivered to secure the mitigation/compensation for loss of inter-tidal habitat. Without this, the proposals raise conflict with national, regional and structure plan policies which seek to avoid adverse impacts and to mitigate unavoidable damage particularly to sites of national and regional significance (i.e. in this case the Hayle estuary and Carrick Gladden SSSI and the Towans BAP habitat both of which are identified on the draft RSS Nature Map as Strategic Nature Areas and as such are protected from harmful development (draft RSS policy ENV4)

2. Measures to manage access and recreational impacts on the Towans (BAP habitat) associated with the development

iii) Historic Environment

Outstanding Issues identified in the report of 27 November 08 were as follows:-

- The need for the applicant to demonstrate that all the Listed Quay walls will be repaired and conserved as part of a single programme;
- Need to revise and agree the Conservation Management Plan to guide development.
- Archaeological recording is required before and during development and need to be secured by condition.

The report identified further issues required to be dealt with by Penwith District Council with advice from English Heritage and CABE:-

- “- The need for a Survey of Quay walls to establish the extent and Character of the repairs of Listed Quay walls (South Quay, Carnsew Quay, East Quay and North Quay) and Carnsew sluices; and the erosion impacts of Penpol half tide sill on South Quay walls;
- The treatment of Listed Old Customs House and the Britannia Hotel stables;
- The impact of the new bridge on the Listed Swing Bridge and Merchant Curnow’s Quay –
- Reduction of height of tall buildings on South Quay. “

In detailed discussions over many months, satisfactory solutions to the following historic environment issues are progressing:

1. Conservation Management Plan and inventory of sites – completed and acceptable
2. World Heritage Site statement – this is included in the Conservation Management Plan above
3. Survey of Quay walls – principle agreed and in progress.
4. Extent and character of repair of Listed North, East and South Quay walls, Carnsew Quay and Carnsew sluices, Copperhouse sluices – a Section 106 agreement to cover this and detailed Planning conditions are being agreed.
5. Archaeological recording of the whole development site– to be agreed through PPG 16 Planning condition
6. Erosion impacts of Penpol half tide sill on South Quay walls – sill proposal is under discussion.
7. Treatment of Listed Customs House and stables – in progress and will be conditioned as part of a later DPA.
8. Method statement for removing the infill from the Harvey’s Shipbuilding dock and the repair of quay walls – to be agreed when the appropriate development phase happens
9. Reduction of visual impact of tall buildings on South Quay and North Quay – Height reductions agreed.
10. Impact of new bridge on the Listed Swing Bridge and Merchant Curnow’s Quay- design agreed.

Apart from some difficulty over the future of the Listed stables building, relating to how the building will sit within the raised surface of North Quay, there is no indication at present that these 10 issues will not be resolved satisfactorily.

However, as concluded in the 27 November report and resolution, the case for agreeing to this scale of development within a World Heritage Site rests on the applicants being able to demonstrate that all the Listed quay walls will be repaired and conserved as part of a phased development. This is the only way to guarantee demonstrable benefit to the World Heritage Site.

Penwith officers have accepted that the applicant will not agree to repair of all the quay walls as part of a single phase and have sought a compromise position whereby the applicant is required to carry out emergency repairs to South Quay, including the repair of the major breach in the quay wall opposite Penpol Terrace, as part of the Phase One works.

Whilst this is contrary to the County Planning Committee's view; in circumstances where Penwith District Council is nonetheless minded to approve the application, the CCC Historic Environment Service (HES) considers that, as a minimum, the above compromise should be secured in the section 106 agreement.

The County Council will also be seeking to secure (through the section 106) details relating to the schedule of works for the quay restoration, and specification of repair programmes.

iv) Fire Services

CCC Fire Brigade considers that the proposed development will increase the fire risks to an unacceptable level and will be seeking a commuted sum contribution towards a new fire station.

Conclusion

As set out in the County Planning Committee's resolution of 27 November 2008, the principle of the sustainable regeneration of Hayle is strongly supported in view of the potential to secure significant economic benefits to the town and restoration of the historic fabric.

The Committee also identified a number of issues that needed to be resolved to achieve a satisfactory development. Progress has been made on these but issues do remain as identified in this letter which needs to be resolved through the planning obligations, conditions and further negotiations.

Ongoing discussions will be necessary as to the wording of the planning conditions and section 106, across the range of issues to ensure that all the necessary requirements are appropriately secured.

Yours sincerely



Phil Mason
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