

Phil Mason
Head of Planning & Regeneration
Cornwall Council (West1)
Council Offices
St. Clare
Penzance
Cornwall
TR18 3QW

Our ref: DC/2009/106721/01-L01
Your ref: 09-1273-P
Date: 18 January 2010

F.A.O. Mr J Content

Dear Sir

CONSTRUCTION OF SUPERMARKET, PETROL FILLING STATION, CAR PARKING, HIGHWAY WORKS, NATURE RESERVE AND ASSOCIATED WORKS LAND AT MARSH LANE, HAYLE

Thank you for your consultation letter dated 03 December 2009 in respect of this proposal. We have met with the applicant's agent and consultant prior to the submission of this planning application to discuss the matters of concern that this proposal raises for the Environment Agency. However, this proposal does not fully satisfy our concerns in terms of flood risk and loss of biodiversity and we therefore raise an objection to this proposal as submitted.

Environment Agency position

Flood Risk

We object to this application because the flood risk Sequential Test submitted with the application fails to demonstrate that the Sequential Test has been adequately applied. We recommend that the application **should not be determined** until the Sequential Test has been demonstrated for the following reasons.

Reasons

The application site lies partly within Flood Zone 3 and 2 defined by Planning Policy Statement 25 as having a high to medium probability of flooding. Paragraph D.5 of PPS25 requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. In this instance the evidence provided to indicate that this test has been carried out is inadequate for the following reasons.

Firstly, the applicant has disaggregated the highway improvement works from the remainder of the proposed uses. We consider that the upgrade to the road network

Environment Agency
Sir John Moore House Victoria Square, Bodmin, Cornwall, PL31 1EB.
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk

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as detailed in the application is not essential transport infrastructure and should not be considered in the context of essential infrastructure in terms of PPS25. It is simply an upgrade to the access and egress of the site for the purpose of serving the proposed development and would have no other use if not that particular one. It is an integral part of the proposal and should not be disaggregated. To disaggregate troublesome parcels of land and infrastructure for separate testing and then suggest that they cannot be sited elsewhere as they would not serve the sole function for which they intend would be to undermine the sequential test and circumvent the use of one of the policy's most fundamental tools.

Secondly, we consider that the sites listed in Table 1 that are not in a lesser flood zone should not be automatically discounted. For example, the comments box for the Jewson site and North Quay state that the majority of these sites lie within Flood Zone 1 and only parts of their boundaries lie within Flood Zone 2 and 3. In comparison, the majority of the application site (to be built) at Marsh Lane also falls within Flood Zone 1 with small areas falling within Flood Zone 3 and 2. With the level of information submitted about the Jewson site and North Quay there appears to be little difference in terms of flood risk when compared to the application site. In order to determine that the Jewson site and North Quay are not at lower risk from flooding further assessment needs to be undertaken.

For example, if the Jewson's site is capable of accommodating a supermarket of a different design with transport infrastructure upgrades positioned in areas at lesser risk than Marsh Lane it would stand to reason that the Jewson's site would be sequentially preferable. Marsh Lane would therefore fail the sequential test.

We wish to be reconsulted on any revised Sequential Test. Our objection will remain until we receive a revised Sequential Test from your Authority which demonstrates that there are no reasonably available alternative sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed.

Biodiversity

We also object to this proposal because of the adverse impact it would have on nature conservation and recommend that planning permission be refused on this basis.

Government policy on planning and nature conservation as set out in Planning Policy Statement 9 (PPS9) requires that planning decisions should prevent harm to nature conservation interests (PPS9, Key Principles paragraph 1ii). This has not been demonstrated in the present application.

The UK Biodiversity Action Plan 1994 (BAP) identifies certain species and habitats as being of 'principal' importance" for the conservation of biodiversity, also listed for England under s41 of the Natural Environment and Rural Communities Act 2006. Action is now required to halt the acknowledged loss of biodiversity in the UK.

The proposed development as submitted shows an absence of suitable mitigating or compensatory measures to offset the impact of the proposed development on an *area of wetland designated as a County Wildlife Site (CWS)* which is made up from a rich mosaic of habitats including some BAP priority habitats. We will maintain our objection until the applicant has supplied information to demonstrate that the risks posed by the development can be satisfactorily mitigated against or compensated for.

In this instance, the proposed development will have an adverse impact on wet woodland and reedbeds which are listed as priority habitats under the UK Biodiversity Action Plan, 1994. The UK BAP recommends that there should be 'no net loss' of either habitat, **and the quality of the existing resource must be protected.**

The mitigation measures submitted with the application are inadequate and do not properly address the risks. In particular, the proposal does not account for the loss of 2.3 hectares of Marsh Lane Meadows County Wildlife Site (CWS) which Cornwall Wildlife Trust have calculated as 20% of the CWS.

We appreciate the developers attempt to justify the loss of CWS by proposing a habitat management plan which would help preserve the conservation value of the CWS, but in our opinion this fails to compensate for the area of CWS that will be lost.

If your Authority or the applicant's agent wish to discuss our objection please do not hesitate to contact me at the Bodmin office.

Yours faithfully

Mrs Emma Whereat
Planning Liaison Officer

Direct dial 01208 265048

Direct fax 01208 78321

Direct e-mail emma.whereat@environment-agency.gov.uk