



OFFICIAL – SENSITIVE: FOR THE ATTENTION OF THE CABINET SECRETARY FOR ENERGY, PLANNING AND RURAL AFFAIRS

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77 CALL- IN REQUEST. LAND AND BUILDINGS AT MUMBLES HEADLAND AND FORESHORE/ COASTAL STRIP (ADJACENT TO MUMBLES PIER) EXTENDING TO KNAB ROCK. RESERVED MATTERS RELATING TO APPEARANCE, LANDSCAPING, LAYOUT AND SCALE. APP NO RM:2018/01916/RES.

In line with the attached response to MA-(P)/LG/5044/16 of 24 May 2016, agreed by the Cabinet Secretary on 26 May 2016, which sets out the working practices for issuing decisions on planning and related casework, this e-mail is to advise the Cabinet Secretary the Welsh Ministers have received a call-in request in respect of the above development.

Background

The site has a complex planning history:

- (i) 2010/1451 - Outline planning permission granted on 20 December 2011 for comprehensive development at Mumbles Head and Foreshore to include: retail/food and drink/ gallery/hotel/ visitor accommodation – 69 hotel rooms, 26 residential apartments, 32 car parking spaces, new public realm pedestrian boardwalk, 61 public car parking spaces and associated works . All matters other than strategic access were reserved for subsequent approval.

- (ii) 2014/1946 – Section 73 application to vary the following conditions:
 - Condition 2 phasing;
 - Condition 5 submission of reserved matters;
 - Condition 6 commencement; and
 - Condition 24 Ecological CMS.

The application also sought to remove conditions 3 (Code 3) and 32 (BREEAM) which related to sustainability standards.

Following the completion of a Section 106 agreement the decision notice was issued on 15 September 2017. When agreement is given to a variation of a condition it has the effect of a new planning permission being issued. The new permission issued by granting the S73 application, required the submission of applications for the approval of reserved matters to be made before the expiration of two years from the date of the permission i.e. 15 September 2019. It also has the effect of extending the period to commence the development to September 2019.

- (iii) 2017/2641/S73 – A further Section 73 application was submitted in 2017 which sought to vary conditions:
- Condition 1 – Building parameters; and
 - Condition 32 detailed design strategy.

The Local Planning Authority (LPA) approved application 2017/2641/S73 on 12 March 2018.

The current application (2018/0916/RES), which the Welsh Ministers have been requested to call in, is for the approval of reserved matters attached to permission 2014/1946 and relates to the appearance, landscaping, layout and scale of the development. The access to the site was approved as part of the original outline planning permission.

The Welsh Ministers were previously asked to call in application 2014/1946 which sought to vary conditions relating to the original outline planning permission. It was determined not to be appropriate to call in the application as the matters raised were not considered to be of more than local importance. The relevant non-intervention letter is attached.

The proposals included in the current application for the approval of reserved matters, consists of the following elements:

- A coastal strip building which would accommodate 26 residential units within a 4 storey high building incorporating an undercroft car parking area for 32 spaces;
- An area of public realm which will include the creation of a new boardwalk;
- Provision of 61 visitor car parking spaces; and
- A headland building to accommodate a range of retail/ food and drink/ gallery uses at ground and first floors with a 69 bedroom hotel being provided on the upper floors. The building would be 5 floors.

The approved outline planning permission (2017/2641/S73) included similar proposals for the coastal strip building although it included two options for the Headland building. Option 1 proposed 32 residential units and option 2 propose a 70 bed hotel in a six storey building with commercial/leisure and entertainment uses.

The proposals the subject of this application result in an increase in height of the coastal strip building (residential flats) by 1.2 metres which is to accommodate a pitched roof which the LPA acknowledge is higher than previously proposed but represents a betterment in design terms. Only the upper section of the pitches project beyond the upper limit previously set out in the building parameters and the LPA consider the scheme as now proposed is substantially in accord with the outline planning permission. The Headland Building, proposed to accommodate the hotel and other commercial uses would be lower than previously illustrated by 1.86 metres.

The proposals to develop the area are extremely controversial locally. Requests for the application to be called have been received from nine members of the public five

AM's, Dr Dai Lloyd, Rebecca Evans, Suzy Davies, Bethan Sayed and Caroline Jones and Antonia Antoniazzi MP based on the following issues:

1 Visual and environmental impacts on:

- Swansea Bay Coastline;
- Gower AONB;
- Mumbles Head and associated protected coastline;
- Bracelet Bay Nature Reserve;
- Swansea Bay SSSI; and
- View of Mumbles Lighthouse from the village

2 The proposal will impact on the following policies in the Swansea UDP:

- EV20 New dwellings in the countryside
- EV21 Rural development
- EV26 Gower AONB
- EV27 SSSI & National Park Reserves
- EV29 Common Land
- EV31 Protection of the Undeveloped Coastline
- EV9 Conservation Areas
- EC16 Swansea Bay Recreational & Tourism Facilities
- HC1 Housing Sites

3 Other concerns

- Concerns the AONB boundary has been amended from the original boundary at some point without following the necessary legislative procedure;
- The need to take into consideration the views of the Design Commission for Wales;
- Impact on tourism;
- The strained relationship between the developers, the Local Authority and the community;
- Concerns with disabled parking which will limit disabled people from visiting the area
- Impact on listed building;
- Scale of the development could impact on views;
- Lack of parking and emergency access;

- Loss of strategic views;
- The site would be better used for educational purposes;
- Lack of opportunity for the community to comment on the proposals;
- Loss of local heritage;
- The increase in height of the building represents a departure from the previously approved parameters;
- There is no guarantee the Pier will be protected;
- Issues relating to common land;
- Loss of protected landscape;
- Ecological impact;
- Disposal of a public right of way;
- Implications of Sandford principle;
- Potential change of use to flats in near future;
- Developer drawings manipulated in scale and colour;
- Potential for traffic disruption; and
- Light pollution impacting on shipping.

Six letters supporting the application have also been received by the Welsh Ministers. They consider the proposal would safeguard an important part of heritage if allowed to proceed.

In order for the Welsh Ministers to have more time to consider the issues raised by the requests to call in the application a 'Holding Direction' was issued on 2 November which prevents the LPA from granting permission. It does not prevent the Local Authority from continuing to process the application. The application was reported to the Planning Committee of Swansea Council on Tuesday 6 November and Members agreed with the recommendation the reserved matters should be approved, subject to conditions.

The officer's report identifies relevant national and local planning policies as set out in Planning Policy Wales, Technical Advice Notes (TAN's) and the adopted Swansea UDP. It assesses the specific impact of the proposal in terms of landscape character and visual impact, socio economic effects, transportation, ecology, archaeology, flood

risk/drainage, ground conditions and water resources, services and utilities. It considers the impacts and effects against the Supplementary Planning Guidance for the site - The Mumbles Pier and Foreshore Development Framework - adopted by the Council in May 2009.

The report concluded:

“that in coming to a fully balanced recommendation and decision on the application, it is necessary to weigh the acknowledged adverse impacts of the development against the positive benefits the scheme will deliver. In that respect it is considered that the new residential development should be considered as enabling development which whilst not fully in accordance with adopted national and local planning policy applicable to the development, is justified because of the benefits it delivers, in particular the restoration of the pier which itself enables the new RNLi lifeboat station and slipway. The provision of the Headland Building will contribute to the tourism facilities in accordance with the Swansea Bay Strategy which aims to promote the regeneration of the Bay maximising the potential of the seafront location. Having regard to the Swansea Unitary Development Plan (November 2008) and all material planning considerations it is concluded that this reserved matters application is acceptable

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Part 2, Section 3 of the Well-Being of Future Generations (Wales) Act 2015 (“the WBFG Act”). In reaching this recommendation, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WBFG Act and consider that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the public bodies' well-being objectives set out as required by Part 2, Section 9 of the WBFG Act”

A decision on the merits of the planning application is not being taken at this stage, only on who should determine the planning application, either the Welsh Ministers or the LPA.

An application should only be called in if the proposed development appears to raise planning issues of more than local importance. Consideration has been given to the six examples of issues which could cause the Welsh Ministers to call in an application:

- Whether the proposal conflicts with national planning policies;
- Any wide effects beyond the immediate locality;
- Whether the proposal gives rise to substantial controversy beyond the immediate locality;
- The impact of the proposal on sites of scientific, nature conservation or historic interest, or areas of landscape importance;
- Issues of national security; and
- If the proposal raises novel planning issues.

The application falls to be considered under the Swansea Unitary Development Plan which was adopted on 10 November 2008 and covers the period to 2016. While the effective date of the UDP has passed it remains the extant development plan for the area until such time as the Local Development Plan (LDP) is adopted. The LPA submitted the Swansea Local Development Plan 2010 – 2025 to The Welsh Ministers for independent examination in 2017. It is anticipated the LDP will be adopted in 2019.

The LPA is considered to have identified the relevant local and national planning policies against which the proposal should be considered. The LPA has also provided additional information to the Welsh Government setting out their rationale for recommending approval of the reserved matters.

Consideration has been given to the concerns expressed in the call-in requests and the contents of the planning officer's report to the Planning Committee. The principle of the development was considered when outline planning permission was originally granted. It is possible for the Welsh Ministers to call in applications for the approval of reserved matters, however the principle of development has previously been established by the granting of outline planning permission.

Issues raised by those requesting call-in have been assessed below:

- **Visual impact and loss of protected landscape.** The LPA has assessed the visual impacts of the proposed scheme and has concluded the proposed development has been carefully designed and amended through negotiations to integrate with the iconic landform and to limit the visual impact. Regard was had by the applicants to the comments of the Design Commission for Wales and the scheme was amended to take into account of their comments. The applicants submitted detailed elevation drawings and photo montages to illustrate the potential impact on the wider landscape. The LPA are considered to have undertaken a robust assessment of the application in respect of the impact on the landscape.
- **Environmental impact.** Concern was expressed the application should have been accompanied by an up to date Environmental Impact Assessment (EIA). The officer's report concludes considerable EIA screening, scoping and assessment has been undertaken on the proposed development. The LPA considered the objectors concern in the reserved matters application has not been accompanied by any further addendum. The LPA considered the reserved matters application should be read and assessed in conjunction with the outline planning permission and the two applications cannot be separated procedurally in so far as determining the need for EIA as part of this reserved matters application. The LPA concluded as the proposed development sits within the outer boundary of the extant outline planning permission, no EIA was considered necessary. Regulation 9 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 provides for circumstances when reserved matters applications ("subsequent applications") are not accompanied by environmental information but an environmental statement was provided with the outline application. Where it appears to the local planning authority the environmental information already before them is adequate to assess the

significant effects of the development on the environment, they must take that information into consideration in determining the reserved matters. Ensuring the environmental impacts associated with the reserved matters remain within the 'environmental envelope' set out in Environmental Statement accompanying the outline application is one aspect of ensuring the previously provided information is adequate.

- **Amendment of the AONB boundary.** The LPA has addressed the issue of the boundary of the AONB as part of their consideration of the application and they have sought advice from their Legal Officers and the Gower AONB officers. They conclude the duty to have regard to National Park and AONB purposes applies to activities affecting these areas, whether those activities lie within or outside the designated areas. We have no reason to disagree with the LPA in this regard. The issue of the AONB boundary goes to the heart of the original outline planning permission. We cannot revisit it at this stage. The only redress would be if the outline planning permission were to be revoked which would need to be addressed by the LPA in the first instance.
- **Consideration of Design Commission for Wales (DCfW) view.** The LPA considers the final proposal has been amended to take account of the views of DCfW. We have no reason to disagree with this assertion.
- **Impact on Tourism.** The LPA considers the proposals will reinvigorate Mumbles Pier as a year round tourism destination for Swansea Bay. This is supported by the National Piers Society who concludes the proposed development will ensure Mumbles Pier will continue as a symbol of the contribution of Mumbles to the history and development of tourism in the Swansea Bay area and as an important tourist attraction for the future. The LPA considered EC15 and EC16 policies of the UDP and the guidelines and principles in the Development Framework Supplementary Planning Guidance and considers it is in accordance with these policies. It suggests their assessment is robust and reasoned.
- **Scale of the proposed development.** The visual impact of the development has been assessed from a multitude of locations around Swansea Bay and the LPA concludes whilst views of the Mumbles light house in the Knab Rock area will be diminished, this will be replaced by partial views of the new buildings as the destination. Adequate information was provided to support the application to enable the LPA to make a reasoned assessment of the scale of the proposed development. It is considered the LPA has undertaken a reasonably robust assessment of this issue.
- **Disabled parking issues.** This is considered to be a local issue and is not such as to warrant call-in.
- **Listed Buildings and Loss of Local Heritage.** The LPA consulted with Cadw which considered the information submitted with the application and concluded they have no objection to the impacts of the proposed development on the scheduled monuments and registered historic parks and gardens. Listed buildings adjacent to the site would be retained. It is advised the Council's Design and Conservation Team Heritage Officer has been involved in the assessment

and negotiation of the proposals. It is considered the Council has given due consideration to the heritage issue raised and would not give rise to call-in.

- **Relationship between the LPA and Community and Community Involvement in Application.** Any concerns regarding the relationship of the LPA and the community relate to procedural issues and perceived actions and inactions of the LPA are not considered to be matters which are relevant to the consideration of considering whether an application should be called in
- **Lack of parking and emergency access.** This is considered to be a local matter and not one which would warrant the Welsh Ministers calling in the application;
- **The site would be better used for educational purposes.** Outline planning permission has been granted for the redevelopment of the site and the current application is seeking approval of the detailed matters in respect of this outline permission. The principle of the development and its uses have already been approved and, as such, they cannot be revisited as a reason for call-in at the reserved matters stage.
- **The increase in height of the building represents a departure from the previously approved parameters.** The LPA has addressed concerns regarding changes to the scale of the building from that included in the previously approved building parameters. The principle of a development of a scale comparable to this application has been established. The quantum of change is not such as to warrant call-in.
- **There is no guarantee the Pier will be protected.** The S106 legal agreement which forms part of the outline planning permission includes provision for the refurbishment of the Pier. The LPA is considered to have adequately addressed these issues.
- **Issues relating to common land.** The LPA has addressed concerns regarding Common Land. The officer's report clarifies there will be no loss of common land. This issue has been adequately addressed by the LPA.
- **Ecological impact.** The views of NRW were sought and the matter was taken into account by the LPA in their consideration of the application. It is considered the LPA has undertaken an adequate assessment of this issue;
- **Disposal of a public right of way.** This is considered to be a local matter and not one which is of more than local importance;
- **Implications of Sandford principle.** The Sandford principle is a concept in the management of protected landscapes in the United Kingdom. It is called the Sandford Principle after Lord Sandford who chaired the National Parks Policy Review Committee which reviewed national parks of England and Wales between 1971 and 1974. As outline planning permission has been granted for the scheme the principle of development has been established. The only matters which can be considered as to whether the application should be called in are

those matters included in the reserved matters application. The Sandford principle would have been a matter for consideration at the outline application stage;

- **Potential change of use to flats in near future.** Any future proposals would be subject to normal planning controls and would be a matter for the LPA and would not however be a consideration for call-in;
- **Developer drawings manipulated in scale and colour.** The consideration of call in is not based on the merits of a proposal it is concerned with who should make the decision on a planning application. The application was accompanied by the drawings and supporting information considered necessary for the LPA to make a decision.
- **Potential for traffic disruption.** This is considered to be a local matter.
- **Light pollution impacting on shipping.** This is considered to be a matter which should have been considered as part of the principle of development when outline permission was granted.

The application the subject of these call-in requests relates to issues of appearance, landscaping, layout and scale. The principle of this comprehensive redevelopment on Mumbles Head already having been established at the outline planning stage. Having assessed the current application against the Welsh Government's policy on calling in applications which is set out in Planning Policy Wales, it is not considered the proposal raises issues of more than local importance. The proposal is not considered to conflict with national planning policies or have wide effects beyond the immediate locality. While the proposal has given rise to a significant number of representations there is a relatively even mix of those objecting and supporting the application and the majority of those making representations are from the locality. The impact of the proposal on sites of scientific, nature conservation or historic interest, or areas of landscape importance have been assessed by the LPA which has also sought the views of Cadw and NRW in their consideration of the application. The application does not raise issues of national security nor does it raise novel planning issues.

Given the above, the development is not considered to give rise to issues which are of more than local importance and it is recommended the application should NOT be called in for the Welsh Ministers' own determination.

The purpose of this e-mail is to give the Cabinet Secretary an opportunity to request, she, rather than officials decides who should determine the planning application.

Please can you advise whether:

- A) the Cabinet Secretary would like to decide who should determine the planning application; or

B) whether the Cabinet Secretary is content for officials to issue their non-intervention decision and leave the planning application in the hands of the Local Planning Authority to issue their decision.

If option A is preferred, a submission to the Cabinet Secretary will be prepared for her consideration. Please note an Article 18 Direction preventing the Local Authority from issuing planning permission has been placed on the site.

If option B is preferred, a decision should be issued as soon as possible.