

PENWITH DISTRICT COUNCIL

Planning Committee: 24th March 2009

REF: 08 – 0613. Redevelopment of harbour and land to north and north east to provide a mixed use development incorporating retail space, business space, residential, general industrial, storage & distribution, creation of marina and commercial harbour & associated access works. (this proposal affects the setting of listed buildings) : Hayle Harbour, Hayle : ING RED UK (Hayle Harbour) Ltd

Major Development

EXECUTIVE SUMMARY:

This is an application for outline planning permission with all matters reserved, for the redevelopment of Hayle Harbour and development of land to the north east of the harbour for residential use.

The application was presented to the Planning Committee on 13 January 2009 when Members gave a resolution of 'minded to grant conditional approval' - a copy of the previous report to Members is attached as Appendix A and the Committee minute is attached as Appendix B.

Since January much negotiation has taken place between the County and District Councils, statutory bodies, the applicant (ING) and their consultants. The position at this time is much advanced but additional work is required to reach a point where it will be possible for all parties to sign up to their relevant Section 106 agreements.

COMMENTS OF TOWN/PARISH COUNCIL:

Hayle Town Council, at its meeting on the 8 January 2009, resolved to approve the application with the request that the following matters be addressed:

- 1) To include a condition to ensure that at least repairs to the major damage on South quay are completed before full occupancy of Riviere Fields and Hill Top is allowed.
- 2) Require evidence that the renovation and use of the existing Swing Bridge is not possible.
- 3) Require a statement from ICOMOS that none of the elements of the development will jeopardise the WHS inscription.
- 4) Require a restrictive covenant to be given to Hayle Town council requiring a unanimous approval of the Council prior to any development taking place on the TV2 land between the Riviere Fields development and Phillack.
- 5) Require permanent protection of all ING land between Hayle Railway Station and Hayle Terrace from development and ideally develop as a footpath and an open space for residents.
- 6) Require the continuation or appropriate re-routing of footpaths, insofar as they are on ING land, with appropriate signage.
- 7) Alternative provision to be made for sites for community facilities which had been

proposed to be located on Foundry car park.

8) Require a financial penalty should ING or successors fail to deliver development on South Quay within seven years of outline permission being given.

The above will be addressed in more detail in a separate section, however, a letter has been sent to Hayle Town Council setting out a response to the eight points and is appended for Members information (see Appendix D).

PLANNING/ENFORCEMENT HISTORY:

89/P/0547: Construction of harbour barrage sluice gates & locks harbour control office, pump house & culverts. Withdrawn.

89/P/1103: Construction of barrage, lock, sluices, control buildings, culvert, dredging & associated works. Conditional Approval.

98/P/0390: Redevelopment of harbour and adjoining land to include retail, leisure, industrial, residential and business use. Withdrawn.

00/P/0436: Redevelopment of harbour and adjoining land to include retail, leisure, industrial, residential and business use. No decision made.

08-1721: Detailed planning application for infrastructure works.

CONSTRAINTS:

- Area of Great Scientific Value(AGLV)
- Site of Special Scientific Interest (SSSI)
- County Wildlife Site
- Open area of local significance
- Tree Preservation Order
- Grade 2/3a agricultural land
- Conservation Area
- World Heritage Site
- Listed Buildings
- Public Right Of Way (diversion required)
- Flood Zones 2 and 3a.

DEVELOPMENT PLAN POLICY:

The proposals are subject to the policies within the following development plan documents:

- RPG10.
- The draft Regional Spatial Strategy (RSS). The RSS is due for adoption and as such should be accorded weight.
- Cornwall Structure Plan (2004).
- Penwith Local Plan (2004).

GOVERNMENT ADVICE:

The proposals are also assessed in the light of national advice within the following planning policy statements (PPS) and planning policy guidance notes (PPG).

PPS1 – Delivering Sustainable Development

PPS3 - Housing

PPS6 - Town Centres

PPS9 - Biodiversity and Geo-conservation

PPS23 - Planning and pollution control

PPS25 - Development and Flood Risk

PPG13 - Transport
PPG15 - Planning and the Historic Environment
PPG16 - Archaeology and Planning

DESCRIPTION OF SITE AND PROPOSAL:

The site encompasses the main quays within the harbour and extends north towards the dunes and beaches and north east to include agricultural land to the rear of Clifton Terrace. The harbour is set within an open estuarine environment and is part of the Hayle Conservation Area as well as being one of the ten core areas of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS). At present the harbour is under used and the fabric is in poor condition in places and in general has an air of neglect.

The main part of Hayle town is to the east with Foundry Square to the south and Penpol Terrace to the immediate east. To the north are the beaches whilst Carnsew Pool and Lelant Water are located to the west.

Summary of the proposal as amended since the previous Planning Committee meeting.

The built components of the scheme include:

- 1,039 new dwellings of mixed type, and size, of which 175 will be affordable units;
- a new Fishermen's Harbour, incorporating a new Harbour Master's Office and a fishing support building;
- 7,755 sq m of employment space on North Quay, adjacent to both the Wave Hub buildings and the proposed Fishermen's Harbour, providing premises for potential fishing-related processes, marine and energy-related activities;
- space for primary health care facilities and business centre.
- a total of 13,198 sq m of food, drink and retail space;
- a 60 bed hotel and tourist accommodation;
- a fitness gym;
- an information centre;
- a leisure building to support sailing and other water-based activities; and
- opportunities for landmark buildings on the northern tip of East Quay and South Quay.

The infrastructure components of the scheme include:

- refurbishment of existing Listed structures, including all harbour walls;
- excavation and reinstatement of part of the historic dockyard which served Harvey's Foundry;
- reinstatement of the historic sluicing system;
- creation of a new fishing and commercial harbour located at the seaward end of North Quay to serve both the fishing fleet operating from Hayle and vessels supporting the Wave Hub Project;
- provision of a marina and supporting facilities within a deepened and dredged area at the mid Section of the harbour;
- impoundment of Penpol Creek as part of the marina by the provision of a barrier and locking system to allow deeper draught vessels to operate from Hayle;
- construction of a new road bridge to access North Quay from Commercial Road;
- construction of a new road access to South Quay from Carnsew Road;
- construction of a new road along North Quay, up to Hilltop, through Riviere Fields to connect with Churchtown Road and Phillack;
- creation of high quality public open space alongside the harbour throughout South and

North Quays, incorporating a waterside walkway connecting both Foundry and Merchant Curnow's Quay to the beach;

- provision of the new cycle connection between Carnsew Road and Copperhouse Pool;
- incorporation of two new pedestrian bridges over Penpol Creek;
- incorporation of a new pedestrian bridge between East Quay and North Quay;
- creation of new pedestrian routes between North Quay and Hilltop; and
- provision of parking to serve the new development.

The main areas proposed for housing are South Quay (260 units), North Quay (382 units), Hilltop (98 units) and Riviere Fields (300 units). Hilltop is on the higher land above North Quay and between North Quay and the cricket ground and chalet parks. Riviere Fields is the area to the rear of Clifton Terrace.

CONSULTATIONS:

Since the previous meeting, consultation with the many stakeholders has continued and much progress has been made. However, negotiations have not reached a stage where Section 106 agreements or conditions are ready to be signed off.

Updated position:

Cornwall County Council: The full update is attached as at Appendix C. In brief the position of the County Council is that there remain concerns over transport issues of Phillack, local roads, Loggans Moor, travel plans, commitment to St Erth Park and Ride, the need for additional traffic assessment and a site waste management plan. The need to provide compensation / mitigation for loss of inter-tidal habitat and management of the towans still need the S106 resolving. The scale of development within the world Heritage Site should be balanced by the repair of the listed quay walls. The fire service seek a financial contribution.

Environment Agency: Removed objection and request condition for dredging methodology which will be imposed.

English Heritage: At the time of writing they still have strong concerns regarding the potential for South Quay to remain unrepaired, thus there would be insufficient balance between the impacts on the World Heritage Site and the benefits from preservation of the historic aspects of the site.

South West Water: Satisfied with Stage 1 evaluation and have raised no objection but require further evaluation before the residential units are built.

Fire Brigade: Object unless a fire station is provided or a site for a fire station or a financial contribution representing the cost of acquiring a site, construction of the station and future maintenance.

Natural England: Maintains their position that they will remove their current objection provided the S106 agreements relevant to the natural environment are completed.

Government Office South-West: The referral of the application as a departure from the Local Plan has been sent to the Government Office for them to determine whether the application should be called in for the Secretary of State to determine. At the time of writing the Government Office had not responded. It is anticipated that the response will arrive in time to update Members at the Planning Committee meeting.

REPRESENTATIONS:

One additional letter of objection was received with regard to the original public consultation, this raised no new points of concern.

With regard to the advertisement of the application as a departure 27 letters of objection have been received. Main points of concern: loss of agricultural land, development on TV2 land thus loss of part of open area, brownfield land within harbour should be developed, scale of development, character of town and world heritage status, impact on community services, low wage and part time jobs created, additional traffic, drainage system inadequate, multi storey car park, restricted vision at new bridge junction, further development on greenfield land, landscape impact, phasing of development before repairs to harbour walls, second and holiday homes, viability should not be an excuse for greenfield development, vehicles using Clifton Terrace as an alternative route, impact on SSSI and RSPB reserve, access to beaches.

PLANNING ASSESSMENT:

This assessment is in the form of an update from the original assessment made in the January report to Committee. Where a topic is not mentioned then the position remains as before and can be referenced in the January report (which is attached at Appendix A).

Transport:

The Highways Agency (HA) require further refining of the Section106 agreement to make acceptable and more detail is needed to finalise the Loggan's Moor improvements. The HA have not indicated that a solution is not possible and much work between the HA and ING's traffic consultant has significantly moved the proposal towards acceptability with regard to the A30.

County Highways retain significant concerns regarding two aspects, namely, the effect on traffic flows through Foundry Square and the impact on Phillack and the junction of Lethlean Lane with the B3301.

At present work is ongoing to provide a traffic model for Foundry Square whereby thresholds are set to link the level of development to the traffic it generates. This would mean that once a pre-determined traffic flow had been reached then development would cease until mitigation had been put in place to reduce the impact of the traffic. Thus, for example, should that mitigation remove summer traffic by an increased use of the Park and Ride then development could continue.

With regard to the proposed secondary access through Phillack, County Highways require a condition to prevent the access until it can be shown that the secondary access could be successfully managed in terms of its impact on the immediate road network. It is considered that insufficient evidence has been submitted to be able to confidently assess the impact on Phillack residents or traffic flows at this time.

At a late date the applicant has proposed that monitoring of the flows of traffic through Phillack occurs once the new road is opened onto Churchtown Lane. Once a pre-determined level of traffic above current baseline for a particular month has been reached then mitigation measures would be put in place. County Highways are at the time of writing considering this option. The thinking behind both the solutions for Foundry and Phillack springs from the knowledge that firstly the development traffic will build over the next ten years and secondly that it is probable that the new council will introduce transport strategies as part of area action plans and county wide development frameworks that will

aim to manage transport more effectively within Cornwall. A combination of these factors is anticipated to allow management of increased traffic.

Provided the Highways Agency and County Highways are satisfied that traffic in Hayle and on the A30 can be managed and that the mitigation measures to manage a long-term increase in traffic can be included in S106 agreements then the recommendation is as before that the aspect of transport meets policy requirements.

Heritage:

The heritage consultees remain concerned that there is no guarantee that repairs to South Quay walls would occur. The current detailed planning application proposes repairs to the listed East Quay walls as part of the infrastructure package thus a significant repair of the historic harbour wall fabric as well as the unlisted North Quay walls would occur at the outset of the development.

Since the previous report the applicant has made the proposal to repair the breach in South Quay before occupation of the 351st dwelling which would be delivered as part of the North Quay, Hilltop and Riviere Fields residential development. The heritage consultees do not consider that this is sufficient in scope or soon enough to offset the impacts on the World Heritage Site. Also the concern has been raised that there is no guarantee of development beyond the 350th dwelling. However, further negotiation has led to the applicant agreeing to repair the breach on South Quay on occupation of the 351st dwelling but they will be limited by S106 agreement to 150 dwellings of the 300 dwellings on Riviere Fields with the rest being on Hilltop and North Quay. This ensures that once the 351 dwellings are built then there remains sufficient incentive to build out the rest of the sites rather than having built out only the most attractive area.

New design codes for South Quay have been submitted in accordance with the requirement to reduce heights to mainly three storeys and these are currently being scrutinised. The design codes for Riviere Fields have been withdrawn by the applicant to allow consideration of a more sympathetic urban layout to the residential area at the reserved matters stage.

The International Council on Monuments and Sites (ICOMOS) visited Hayle Harbour on the 18th March. ICOMOS are advisors to UNESCO on World Heritage Sites and their comments arising from the visit will be reported to Members during the meeting.

The applicant has committed to maintaining South Quay in its present condition thus will be required to repair any additional deterioration. Also should detailed planning application be granted for the infrastructure works then ING will tidy South Quay to enable current users of North Quay to be relocated whilst the infrastructure works are carried out.

At this time the repairs to South Quay are limited to the breach as discussed above and ongoing maintenance. The applicant has made clear that it is not financially viable for them to carry out further works until a development programme for South Quay is brought forward. This raises the question of whether there is sufficient gain in the preservation of the heritage assets within the World Heritage Site when balanced against the change in character that would occur due to the development. Given the current global economic downturn, it is unlikely that the applicant is able to go further than has been negotiated and additional pressure for repairs runs the risk of the applicant deciding the proposal is not viable and shelving the scheme.

Thus on balance it is recommended that the overall regeneration benefits outweigh the

desire to seek repairs for all the listed harbour walls. To be borne in mind is that should the development of North Quay occur then it is likely that Hayle as a location will become more attractive to businesses and as a residential area, thus bringing forward the development of South Quay sooner rather than later.

Natural Environment:

Discussions and negotiations regarding compensation and mitigation for impacts on the natural environment have reached a point where agreement on the detail of the S106 agreements and delivery of the inter-tidal habitat will result in objections from the environmental consultees being removed. At this time ING are offering to use 'reasonable endeavors' to secure a site whereby inter-tidal habitat can be created to compensate for that lost to the development. A number of potential sites have been identified, however it is not accepted that a reasonable endeavor is sufficient and at this time no site has been secured, although work to acquire a site has commenced. PPS9 - Biodiversity and Geological Conservation requires that where important habitat is lost or harmed then there should be compensation in the form of new habitat.

As such it is requested that should Members be minded to grant conditional approval then this will be on the basis that officers continue to work with the applicant to ensure that a suitable site is delivered and that the delivery is subject to the agreement of the environmental consultees and the completion of a S106 agreement. In my opinion this gives sufficient surety that a site will be delivered in accordance with national guidance before any development commences.

Community Facilities:

The provision of community facilities that were to have been at Foundry has been secured with the applicant. Initially space will be made available on North Quay allowing the business centre to be brought forward at an early stage after the infrastructure works have been completed. The applicant has also made the commitment to provide additional space on South Quay once the development there is commenced. The combination of sites equates to the original proposal set out in the planning statement. The provision of two sites allows flexibility in uses as well as making provision now for the lower demand during the market downturn and permitting growth at a later date once demand increases.

A site is offered for a health facility along with a contribution of £180 per dwelling. This is somewhat below the current and requirement of £250 per person set by the Primary Care Trust (PCT). The applicant will not offer more than the original proposal and notes that to do so would result in a reduction in provision elsewhere as the budget limit has been reached.

This aspect of financial limitation also applies to contributions towards a fire station for which no contribution is currently offered and the fire service have been made aware of this position. Whilst a greater provision towards the PCT and a financial contribution to the fire service would be desirable, the limiting factor of the viability of the project is a material consideration that weaves through all aspects. Given that the Regional Spatial Strategy allocates a significant housing growth in Penwith and that Hayle is likely to see a substantial proportion of the growth, the provision for health and fire services will need to be dealt with at a strategic level irrespective of whether Hayle Harbour is developed or not. Also, contributions through other new development could feed into community facilities over a period of time so it is unlikely that the regeneration of the harbour or further development elsewhere in Hayle will overwhelm community services and additional need

can be assessed on an ongoing basis.

Issues Raised by Hayle Town Council:

Part of January's Planning Committee meeting resolution included a requirement to consider the views of Hayle Town Council. In voting to approve the OPA, Members of the Town Council raised eight issues which have been the subject of discussions involving the Hayle Ward Members, district and county council officers and the applicant's consultants.

A response has been issued to Hayle Town Council which was tabled at their meeting on 19 January 2009 (see Appendix D).

CONCLUSION:

Significant progress has been made since the Planning Committee considered this application in January. Whilst the number of outstanding concerns have been reduced there are still issues to be addressed through the S106 and conditions, particularly in relation to the impact of traffic over the course of the next 10 years. However, this is a major regeneration scheme and will not be delivered overnight thus traffic can be monitored and controls of S106 agreements will ensure mitigation is put in place or development ceases until solutions can be found.

The negotiations since January have moved matters forward significantly and the application remains the most significant opportunity to realise aspirations for the harbour and Hayle. The balance between economic regeneration, environmental and heritage protection, transport and community aspirations is still a difficult one to find which is unsurprising given the special qualities and constraints of the site and its surroundings.

It must be stressed that the recent negotiations on the Section 106 agreement has resulted in a more positive picture than in January and the fine balance has moved significantly towards a positive outcome, although it should not be down-played that the development will still have its impacts.

Again, as set out in the conclusion to the previous report, the long-term view needs to be taken in assessing whether the benefits outweigh the negative impacts and that there will be a new policy framework for Cornwall which will also steer development in the county and thus effect Hayle.

My opinion remains that this application represents the most realistic opportunity at this time for the redevelopment of the site and the potential medium and long-term benefits make the application acceptable.

The completion of S106 agreements and finalising of conditions will ensure the future development delivers the benefits to Hayle and protects the town from undue harm over the long term. Failure to complete the S106 agreements will still result in the likelihood of the application failing as the agreements are essential to the acceptability of the proposals.

As such, and providing the Secretary of State does not call in the application before the Planning Committee meeting, the recommendation to Members is as follows:

***** Recommendation: Defer and to delegate authority to the Head of Planning and Regeneration to grant Conditional Approval on the satisfactory completion of Section 106 agreements and planning conditions.**