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11/04/2023

Annwyl Sarah / Dear Sarah,

BWRIAD / PROPOSAL: HYBRID APPLICATION COMPRISING:

- 1. OUTLINE PLANNING PERMISSION IS SOUGHT FOR THE CREATION OF A NEW 400-BERTH MARINA WITH FLOATING PONTOONS WITHIN THE NO. 1 DOCK AT BARRY WATERFRONT.**
- 2. FULL PLANNING PERMISSION IS SOUGHT FOR ENGINEERING WORKS TO RAISE THE EXISTING GROUND LEVELS OF THE MOLE SITE TO A MINIMUM OF 9.00M AOD IN ORDER TO- MITIGATE AGAINST POTENTIAL FUTURE FLOOD RISK.**
- 3. ON THE EASTERN PART OF THE SITE OUTLINE PLANNING PERMISSION IS SOUGHT FOR THE DEVELOPMENT OF A MARINA OFFICE BUILDING WHICH WILL INCLUDE FACILITIES FOR VISITORS/ MEMBERS AND A RESTAURANT.**
- 4. ADJACENT TO THE MARINA BUILDING OUTLINE PLANNING PERMISSION IS SOUGHT FOR AN INCUBATOR WORKSPACE BUILDING COMPRISING OFFICES, SMART INNOVATION SPACE, BREAK-OUT SPACE AND A CAFÉ.**
- 5. ON THE WESTERN PART OF THE SITE OUTLINE PLANNING PERMISSION IS SOUGHT FOR RESIDENTIAL DEVELOPMENT COMPRISING TOWNHOUSES AND APARTMENTS.**

THE APPLICATION ALSO PROPOSES ANCILLARY DEVELOPMENT INCLUDING ACCESS, PARKING, LANDSCAPING AND PUBLIC OPEN SPACE AND OTHER ASSOCIATED INFRASTRUCTURE

LLEOLIAD / LOCATION: 1 DOCK AND THE MOLE, NEPTUNE ROAD, BARRY WATERFRONT, BARRY

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 2nd March 2023.

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding foul drainage. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding protected sites and flood risk should be attached to any planning permission granted and the document identified below should be included in the approved plans and documents condition on the decision notice:

Condition: Construction Environment Management Plan (CEMP)

Condition: Environmental Management Plan (EMP)

Condition: Biosecurity Risk Assessment

Document: Flood Consequence Assessment by JBA Consulting Ref: DND-JBAU-XX-ML-RP-Z-0001-S3-P02, dated February 2023

Without the inclusion of these conditions and document we would object to this planning application.

Foul Drainage

We note that the main extent of the site is not crossed by any mains sewer, with the nearest being located along the access road of the site (Neptune Road). Further information should be submitted to demonstrate that either the foul drainage will be discharged to the main sewerage system or that it is not reasonable to connect to the mains.

No information has been submitted regarding the disposal of foul waters from the proposed development. We refer you to Welsh Government Circular 008/2018 on the use of private sewerage in new development, specifically paragraphs 2.3-2.5 which stress the first presumption must be to provide a system of foul drainage discharging into a public sewer. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. We note the proposed development is in a publicly sewered area and as such, we would expect the site to connect to the mains sewerage system.

We therefore advise that if they haven't already done so, the Applicant should thoroughly investigate the possibility of connecting to the foul sewer by taking the following steps:

- Approach the sewerage undertaker to reach an agreement for a connection to the foul sewer.
- If the sewerage undertaker refuses connection to the public sewer, request that they adopt the proposed treatment system.
- If the sewerage undertaker refuses both of the above, you must appeal the refusal with Ofwat.

For further details please see [Natural Resources Wales / Private sewage treatment in an area with a public sewer](#)

The Applicant should be aware that should a connection to the mains sewer not be feasible, they will also need to demonstrate that the proposal would not pose an unacceptable risk to the water environment. Welsh Government Circular 008/2018 advises that a full and detailed consideration be given to the environmental criteria listed under paragraph 2.6 of the Circular, in order to justify the use of private sewerage.

As stated above, we expect developers discharging domestic sewage to connect to the public foul sewer where it is reasonable to do so. We will not normally grant a discharge permit for a private sewage treatment system where it is reasonable to connect to the public foul sewer. We also expect discharges of trade effluent to connect to the public foul sewer where it is reasonable to do so and subject to the sewerage undertaker granting a trade effluent consent or entering into a trade effluent agreement.

Applicants wishing to operate a private sewerage system will need either to apply to us for an environmental permit or register with us for an exemption from the permit requirement. Septic tanks and small sewage treatment works that meet certain criteria may be registered as exempt.

A step by step guide to registering an exemption can be found on our [website](#).

If the septic tank or private sewage treatment system is not eligible for an exemption, the Applicant will need to apply for an environmental permit, further details can be found [here](#). Should a permit be required further information may be needed as part of that application process. The Applicant is therefore advised to contact us for pre-application advice at the earliest opportunity to try to ensure that there is no conflict between any planning permission granted and the permit requirements. Further details on how to access our pre-application advice service can be found [here](#).

It is important to note that a grant of planning permission does not guarantee that a permit will be granted. A proposal may be deemed unacceptable either because of environmental risk or because upon further investigation, a connection to mains sewer was feasible. Applicants are encouraged to ensure they have all the required permissions, consents, permits and any other approvals in place prior to commencement of works on the site.

Please note, lack of capacity or plans to improve capacity in the sewer is not a valid reason for a sewerage undertaker to refuse connection under Section 106 of the Water Industry Act 1991 and we may refuse to issue an environmental permit for private treatment facilities in such circumstances.

Where private sewage treatment/disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations. We also refer the Applicant to Guidance for Pollution Prevention 4 on the NetRegs [website](#), which provides further information.

Protected Sites

We note that the site is within proximity to the Severn Estuary Special Area of Conservation (SAC), Special Protected Area (SPA) and Ramsar site.

Pollution Prevention

To minimise the risk of pollution entering the marine environment during and post construction, and prevent the potential spread of invasive non-native species (INNS) through the anticipated increase in vessel movements, we would request the following conditions are attached to any planning permission granted:

Condition: Construction Environmental Management Plan (CEMP)

No development or phase of development, including site clearance, shall commence until a site wide or phase Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed.
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Ground Stability: Details on how the proposed development plateau will be stabilised to prevent ground slippage into the surrounding dock, for example during heavy rainfall.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration, and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures;
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater, and energy use.
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities.
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Surface Water Management Plan detailing how surface water would be minimised and managed during the construction phase.

- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development or phase of development and implemented for the protection of the environment during construction.

Condition: Environmental Management Plan

Prior to the operation of the marina an Environmental Management Plan (EMP), detailing strategies for the management and maintenance of the controlled water features at the site shall be submitted to and approved in writing by the Local Planning Authority. The EMP shall be carried out in accordance with the approved details.

Justification: An EMP should be submitted to ensure necessary environmental or ecological protection measures are agreed prior to pre-occupation or operation and implemented to secure: requisite mitigation, maintenance or management requirements, delivery of any offsetting proposals and any monitoring proposals.

Condition: Biosecurity Risk Assessment

No development or phase of development shall commence until a Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of any invasive non-native species both during construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Justification: To ensure that an approved Biosecurity Risk Assessment and Management Plan is implemented to secure measures to control the spread and effective management of any invasive non-native species at the site.

Further information and guidance on how to produce a Biosecurity Risk Assessment and Management Plan can be found at the following links:

https://naturalresources.wales/media/681171/marine_biosecurity_planning_guidance_for_wales_and_england_november_2015.pdf

https://www.nonnativespecies.org/assets/Document-repository/How_to_Write_a_Marine_Biosecurity_Plan_-_Large_Scale-1.pdf

Habitat Regulations Assessment

Due to the location of the development, we have concerns that a significant effect from the proposed development on the Severn Estuary Special Area of Conservation (SAC) and Ramsar site cannot be ruled out.

We advise that further information is submitted to assess any impacts on the protected site and their features and to enable a Habitats Regulations Assessment under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) to be undertaken by your Authority.

Due to the potential operational impact of the new marina, which may increase or change the distribution of vessel movement in the Severn Estuary and Inner Bristol Channel, we would advise that information is submitted to inform any subsequent HRA. Depending on the nature of the vessels which will use the proposed marina, their movements may cause disturbance or potential injury/mortality to the diadromous fish features of the Severn Estuary SAC and Ramsar site, as well as other upstream SACs.

Surface Water Drainage

The following report has been reviewed:

'Outline Surface Water Drainage Strategy – The Mole, Barry Docks – dated February 2023, Version 1'

We note that during operation of the site, surface water shall be discharged into the surrounding dock. We welcome the applicant's proposal to supply rainwater butts to each residential property, which will encourage re-use before it is discharged.

Notwithstanding, we will require a detailed plan of how site surface water will be minimised and managed during the construction phase of the development, given the high risk of pollutants entering the surrounding dock during this phase. We therefore advise that this information is included within the required CEMP, the condition for which is detailed above.

Flood Risk

The planning application proposes highly vulnerable development in the form of a mixed-use scheme. Our Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning identifies the application site to be at risk of flooding and falls into Flood Zone 3 and partially Flood Zone 2 for Sea.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA that the potential consequences of flooding can be managed to an acceptable level.

The following report has been reviewed:

- Flood Consequence Assessment by JBA Consulting Ref: DND-JBAU-XX-ML-RP-Z-0001-S3-P02, dated February 2023

It is noted that the proposals include raising the existing site to a level of 9mAOD, to form a development plateau which will mitigate the risk of flooding within the proposed development site.

The proposed increase in site levels to 9mAOD is 0.44 metres above the predicted 0.5% (1 in 200-year) event (plus climate change) tidal flood level. The site is therefore designed to be flood free and complies with Section A1.14 of TAN15.

It is also 0.10 metres above the predicted 0.1% (1 in 1000-year) event (plus climate change) and is therefore A1.15 compliant.

In addition, we note that all criteria (relevant to this proposal) under A1.12 of TAN 15 has been complied with. This is detailed within Section 6 (Table 6-1) of the FCA.

The FCA therefore shows that the risks and consequences of flooding can be managed to an acceptable level. We recommend the submitted FCA is included within the approved documents and plans condition on the decision notice, as detailed below:

Flood Consequence Assessment (FCA) produced by JBA Consulting Limited, Ref DND-JBAU-XX-ML-RP-Z-0001-S3-P02, Dated February 2023

Without inclusion of this document, we would object to the planning application.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend that you consider consulting other professional advisors on the acceptability of the developer's proposals, on matters that we cannot advise you on such as emergency plans, procedures and measures to address structural damage that may result from flooding. We refer you to the above information and the FCA to aid these considerations. Please note, we do not normally comment on or approve the adequacy of flood emergency response and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](https://www.naturalresourceswales.gov.uk). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Eleanor Sullivan

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales