

CHAIRMANS URGENT ITEM

THE VALE OF GLAMORGAN COUNCIL PLANNING

COMMITTEE 26 JUNE 2019

REPORT OF THE HEAD OF REGENERATION AND PLANNING

MATTER WHICH THE CHAIRMAN HAS DECIDED IS URGENT BY REASON THAT THIS APPLICATION WOULD NORMALLY BE DETERMINED UNDER DELEGATED POWERS BUT HAS BEEN 'CALLED IN' BY THE LOCAL MEMBER. THE COUNCIL HAS ENTERED INTO A PLANNING PERFORMANCE AGREEMENT TO ENSURE THE APPLICATION IS DEALT WITH PROMPTLY IN LIGHT OF THE POTENTIAL ECONOMIC BENEFITS IT PROVIDES, AND AS ALL MATTERS HAVE BEEN CONSIDERED TO ENABLE A RECOMMENDATION TO BE MADE, IT IS CONSIDERED EXPEDIENT TO REPORT THE MATTER TO THE FIRST AVAILABLE COMMITTEE TO PREVENT UNNECESSARY DELAY.

2019/00532/FUL

Received on 23 May 2019

Mr Stephen Leeke J H Leeke & Sons Ltd.,, Hensol Castle, Hensol Castle Park, Hensol, Vale of Glamorgan, CF72 8JX
Mr Stephen Leeke J H Leeke & Sons Ltd.,, Hensol Castle, Hensol Castle Park, Hensol, Vale of Glamorgan, CF72 8JX

Hensol Castle, Hensol Castle Park, Hensol

Change of use of part of the approved bar / restaurant building for the hotel, for use as a gin distillery

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Councillor M. Morgan because he regards the proposal as a matter of public interest.

EXECUTIVE SUMMARY

This is an application for full planning permission to use part of an existing basement at Hensol Castle as a gin distillery and warehouse in association with the approved hotel and restaurant use. The application documents present the distillery as an employment use (a mix of B2 and B8 uses) and a tourist attraction.

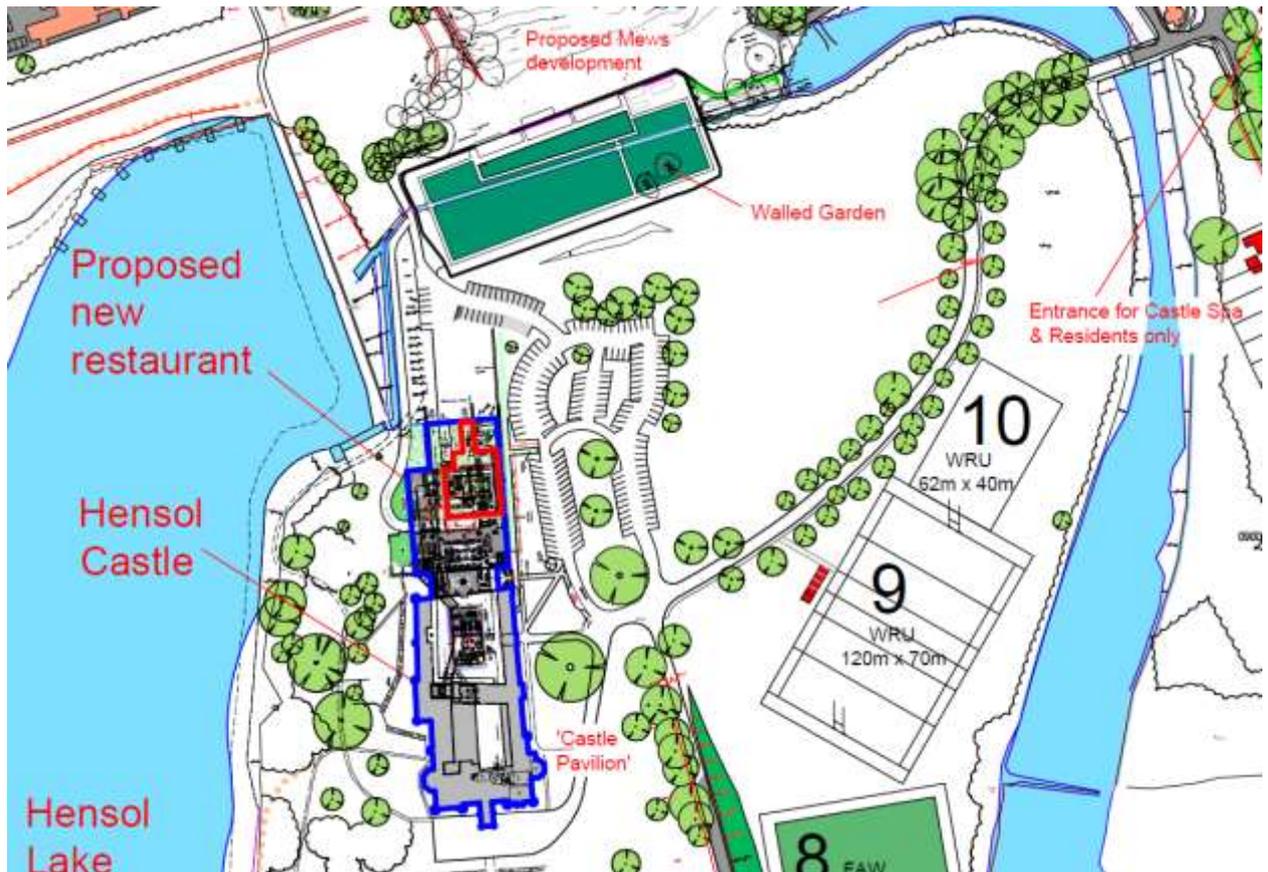
An objection has been raised by Pendoylan Community Council on the grounds that the proposal would have adverse traffic implications for Hensol, it is an overdevelopment of the resort, that the distillery should not be open to the public (it should be a place of production only) and the applicant has not held 'community engagement' events.

To date 3 letters of representation have been received expressing concerns over the effect on local traffic levels, pollution created by additional traffic, overdevelopment of the resort, noise from the resort, light pollution, creating a tourist attraction in a place with poor transport links, access arrangements, lack of information about delivery vehicles, traffic levels, air quality, noise pollution, ecology, facilities for water and waste, the effect of additional tourism on the area, and the cumulative effects of development in and near Hensol, and the process / procedural issues.

Using an existing basement as a distillery to enhance the facilities of an *established* tourism and leisure use in the countryside is considered to be acceptable in principle. The distillery would be a small part of the existing business, it would not have a substantial effect on local traffic levels, and it would create jobs and make the existing resort more attractive to tourists throughout the year. The development proposal, controlled by conditions, would comply with all other relevant policies (such as those on highways, residential living conditions, and waste management) and is recommended for approval.

SITE AND CONTEXT

The application site relates to part of the site adjacent to the Grade I Listed Hensol Castle, which has been partially been converted to a hotel use. The wider site encompasses approximately 63ha (155 acres) and includes sport pitches, a private hospital, apartment buildings and a golf club/hotel (the Vale Resort) within the grade II registered historic park and garden at Hensol Castle, (Cadw ref: PGW (Gm) 41(GLA)). The site does not lie within a settlement for the purpose of the Local Development Plan.



The application site, approximately 715 square metres in area, is a part of the basement of Hensol Castle. The basement was built, with planning permission, as a spa but never used for that purpose. It is a small part of the Hensol Castle/Vale Resort leisure and tourism complex.

The application site is between two and three kilometres from the nearest defined settlements in the Vale of Glamorgan (Ystradowen and Pendoylan). It is in the countryside for policy purposes, and is not allocated for a particular land use in the Local Development Plan (LDP). It is also in the Ely Valley & Ridge Slopes Special Landscape Area (SLA) and Flood Zone A, where there is little or no risk of flooding from rivers and the sea.

The nearest entrance to the castle grounds is on the adopted highway to the east. More than 10 houses are within 500 metres of the site. No public rights of way are especially near the site (the red-line area). The site is near two Sites of Importance for Nature Conservation (SINC): Hensol Lake and Mill Ponds.

DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission to use part of an existing basement as a gin distillery and warehouse. A distillery is a B2 use, and a warehouse is a B8 use, so the proposed use is a mix of these employment uses.

The application documents indicate the distillery would be below a bar/restaurant on the ground floor (approved under planning permission 2017/01333/FUL), the outside of the building would not change and no excavation or building work would be necessary. Much of the basement in this part of the castle would be left as circulation space, with a view to conducting tours of the distillery. The proposal would create the equivalent of seven full-time jobs. The gin produced by the distillery would be sold at Hensol Castle and elsewhere.

In terms of traffic generation it is expected that no more than six deliveries (in and out) are likely to be made in a typical day and the distillery's deliveries would be made during the same hours as the hotel's deliveries.

PLANNING HISTORY

There is extensive planning history at the site, the following are of most relevance to this application:

2005/00087/FUL: Comprehensive mixed-use redevelopment including conversion and extension of castle as hotel, conversion of ward blocks to residential use, development of holiday accommodation, new 2 storey staff accommodation and restoration of walled garden - decision: approved

2005/00088/LBC: The conversion of a grade I listed castle and associated service courtyards to a spa hotel and construction of additional serviced accommodation for the spa hotel by the addition of an extension to the immediate North of the castle building – decision: approved

2005/00297/LBC: Conversion of 6 ward blocks and concert hall to residential use – decision: approved

2007/00870/FUL: National training facilities for rugby and football including a two storey sports pavilion, six pitches and a running track - decision: approved

2008/01115/LBC: Amendments to listed building consent 2005/00088/LBC (granted on 12th June 2006) for the conversion and extension of the grade I listed castle and associated service courtyards to a hotel and spa – decision: approved

2009/00965/FUL: Proposed amendments to comprehensive mixed use redevelopment including conversion and extension of castle as hotel, conversion of ward blocks to residential use and restoration of walled garden - decision: approved

2009/00966/LBC: Proposed amendments to previously approved conversion and extension of former southern ward blocks and concert hall to create 59 apartments - decision: approved

2017/01333/FUL: The provision of an amended functions area within the outer courtyard, development to the north of the castle to provide a new restaurant, bar and servicing facilities, along with hard and soft landscaping - decision: approved

2017/01351/LBC: The provision of an amended functions area within the outer courtyard, development to the north of the castle to provide a new restaurant, bar and servicing facilities, along with hard and soft landscaping – decision: approved

2018/00482/HYB - Hybrid planning application as an 'enabling development' to facilitate the restoration of Hensol Castle, comprising of the following: Site 1: Full Application: for the erection of 10 dwellings and associated access and works on land at Gardeners Mews to the north of the Walled Garden, Hensol. Site 2: Outline Application: for the erection of 6 detached dwellings and associated access and works on land to the west of Sail Newydd, Hensol. Approved subject to s106 agreement on 29.05.19.

CONSULTATIONS

Pendoylan Community Council was consulted and objected to the proposal for the following reasons:

- The proposal would have 'huge adverse traffic implications for Hensol';
- Overdevelopment of the resort (Hensol Castle/The Vale);
- The distillery should not be open to the public (it should be a place of production only);
- The applicant has not held 'community engagement' events.

Peterston-super-Ely ward members were consulted, and Cllr M. Morgan asked that the planning committee determine the application.

REPRESENTATIONS

A site notice was displayed on 04 June 2019.

The LPA has received three letters of representation in which members of the public express concern over the following:

- The effect on local traffic levels;
- The pollution created by additional traffic;

- Overdevelopment of the resort (Hensol Castle/The Vale);
- Occasional noise from the resort already disturbs neighbours;
- Light pollution from the resort;
- Creating a tourist attraction in a place with poor transport links;
- The making of a separate planning application for a distillery, when the use might have been included in the application for the bar/restaurant;
- Access arrangements: using the hotel entrance would be preferable to using the Hensol Villas entrance;
- The application lacks information about delivery vehicles, traffic levels, air quality, noise pollution, ecology, facilities for water and waste, the effect of additional tourism on the area, and the cumulative effects of development in and near Hensol;
- An apparent lack of a site notice;
- An apparent lack of correspondence between the LPA and the highway authority;
- An apparent lack of correspondence between the LPA and Cadw (the bridge at the nearest entrance is listed);
- Natural Resources Wales (NRW) does not appear to be involved, even though the site is in the Ely Valley & Ridge Slopes Special Landscape Area (SLA).

REPORT

Planning Policies and Guidance

Local Development Plan:

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 – Delivering the Strategy
POLICY SP10 – Built and Natural Environment
POLICY SP11 – Tourism and Leisure

Managing Growth Policies:

POLICY MG17 – Special Landscape Areas
POLICY MG29 – Tourism and Leisure Facilities

Managing Development Policies:

POLICY MD1 - Location of New Development
POLICY MD2 - Design of New Development
POLICY MD7 - Environmental Protection
POLICY MD8 - Historic Environment
POLICY MD9 - Promoting Biodiversity
POLICY MD13 - Tourism and Leisure
POLICY MD14 - New Employment Proposals

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales,

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)

Supplementary Planning Guidance:

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development (2018)
- Parking Standards (2019)
- Tourism and Leisure Development (2019)

Other relevant evidence or policy guidance:

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

The main issues in this assessment are the principle of development, effect on neighbours, highways impacts, planning obligations, and waste management. Since the distillery would be in an existing basement, and the applicant does not propose to carry out external works, the proposal will have no visual impact on the site or its surroundings.

Principle of development

Policy SP11 seeks to protect or enhance existing tourism and leisure facilities. It says that 'favourable consideration will be given to proposals which enhance the range and choice of ... tourism and leisure opportunities, particularly through the provision of all year round facilities' (see criterion 1 of policy SP11). Policy MG29 echoes this support, saying that the 'provision of all year round tourism and leisure facilities will be favoured'.

Policy MD13 says that new or enhanced tourism and leisure facilities will be permitted where the proposal 'involves sustainable low impact tourism and leisure proposals in the countryside' (see criterion 4).

Policy MD14 says that new employment uses will be permitted where 'it is clearly demonstrated that the nature of the business necessitates a location away from existing settlements and/or employment areas in order to mitigate impact on amenity'.

The application documents present the distillery not only as an employment-generating use (a mix of B2 and B8 uses) but also as a tourist attraction associated with the existing hotel and proposed restaurant. The distillery would join an existing tourism and leisure use (Hensol Castle and the Vale Resort) in the countryside. In other words, it would not be a new, standalone employment-generating or tourism use. Making this distinction is important for policy purposes.

Hensol Castle is not easy to reach for non-drivers. The nearest railway station (Pontyclun) is roughly four kilometres away, and services to and from the bus stops next to the resort's eastern entrance are not especially frequent (the no. 320 service appears to depart in each direction every two hours). What's more, dedicated infrastructure for people walking or cycling is very limited in the area. For these reasons, the site might not be a 'sustainable' location for a *new* tourism or leisure use (see paragraph 7.11.3 of the Tourism and Development SPG for the characteristics of typical 'sustainable low impact tourism and leisure proposals').

However, the proposed distillery would be a small part of an existing business. Its location might prevent it from being a textbook example of 'sustainable low impact tourism', but the distillery would not have a substantial effect on local traffic levels in either absolute or relative terms. It would create jobs and make the existing resort more attractive to tourists (including visitors from elsewhere in the Vale). Not being a seasonal use, moreover, it would do both of these things throughout the year. Clearly, the proposed distillery could not enhance the tourism side of the existing resort if it were built elsewhere. This justifies the creation of a small, ancillary employment-generating use in the countryside. A condition (3) is recommended to 'tie' the distillery to the resort and to prevent it from being used as anything other than a distillery.

Using an existing basement as a distillery (a place of production and storage) to enhance the facilities of an established tourism and leisure use in the countryside is acceptable in principle. The distillery would be a very small part of the existing business, it would not have a substantial effect on local traffic levels, and it would create jobs and make the existing resort more attractive to tourists throughout the year.

Effect on neighbours

The distillery would be confined to 715 square metres of an existing basement. It would not change external light levels at the resort, and any noise made while producing or storing gin would be very unlikely to affect people in houses (the nearest of which are roughly 200 metres away). A condition is recommended (4) requiring the applicant to provide details of any extraction equipment to be used.

The resort, with its various facilities, already receives many visitors. Considered against this backdrop, any increase in activity brought about by a small-scale distillery is very unlikely to have a significant adverse effect on neighbours' living conditions. A condition is recommended (3) to prevent the distillery from being used for any other purpose and to be retained as ancillary to the main resort.

In summary, the proposal, controlled by conditions, would maintain acceptable living conditions for neighbours.

Highways

Section 7 ('When will a Travel Plan be required?') of the Travel Plan SPG establishes a threshold of 2,500 square metres for providing a travel plan. The proposed distillery is well below this threshold. There is no reason to believe that up to six deliveries on a typical day, along with the journeys made by seven employees, would have an unacceptable effect on local traffic or public safety.

The site has an existing access onto the public highway which already serves the wider Hensol Castle resort, and is considered capable of accommodating the increased traffic movements associated with the proposed change of use.

Concerns have been raised about the access arrangements, with representations contending that the Vale Hotel entrance would be preferable to using the Hensol Villas entrance. Given the size and nature of the proposal, the LPA considers the access arrangements acceptable.

Planning obligations

Under the Planning Obligations SPG, the LPA may seek planning obligations from applicants whose commercial proposals create 1,000 square metres of floor space or take place on a site which is one hectare or more in area. Having only 715 square metres of floor space, the proposal falls below these thresholds.

Waste management

The application documents state that any waste generated by the distillery would be disposed of in the same way as the rest of the resort's waste. They also say that the distillery would produce some trade effluent ('standard cleaning effluents' and trade waste such as packaging). A condition (5) is recommended to obtain more information about arrangements for disposing of liquid waste.

Impact on Hensol Castle (a Grade I listed building)

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority (LPA), when considering whether to grant planning permission, to have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

This development proposal does not involve any works to Hensol Castle, which is a grade I listed building. The distillery would be created by using existing space in a basement which is not an original feature of the castle (it was built, with planning permission, in the last 10 years). For this reason, the proposal is compatible with the LPA's general duty to preserve the features and settings of listed buildings.

Other matters

Concerns have been raised by the community council and local residents and are addressed below.

Overdevelopment of the resort (Hensol Castle/The Vale) – Being confined to an existing basement, the distillery would not increase the developed area of the resort. It would have no effect on the appearance of the resort, and no substantial effect on day-to-day activity. Concerns about earlier development at the resort are not relevant to this assessment.

The making of a separate planning application for a distillery - Applicants are free to decide how best to pursue their development projects and this is not a material consideration in the determination of this application which must be considered on its own merits having regard to the context and planning history.

Concerns have been raised that the application lacks detailed technical information. However, the level of detail in the application documents is commensurate with the size and nature of the development proposal. The LPA can assess this application without seeking additional information from the applicant.

Concerns were raised that Natural Resources Wales (NRW) does not appear to be involved, even though the site is in the Ely Valley & Ridge Slopes Special Landscape Area (SLA). However, the development proposal would not affect the Ely Valley & Ridge Slopes Special Landscape Area (SLA) and NRW do not comment on SLA impacts. Nor does the development affect any designated ecological sites. For this reason, the LPA has not sought advice from NRW.

Finally, concerns were raised that the applicant has not held 'community engagement' events. Planning law requires an applicant to conduct a pre-application consultation exercise only when a development proposal constitutes 'major' development (see the Town and Country Planning (Development Management Procedure) (Wales) Order 2012). The proposed gin distillery does not constitute 'major' development.

RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development shall begin no later than five years from the date of this decision.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- PHC0001/DGLP3 Rev C (Location Plan);
- PHC0001/19021 Rev A (Lower Ground Floor);
- e-mail from Mr Stephen Leeke to Vale of Glamorgan Council (subject: 'Hensol Castle change of use', date: 10 May 2019, time: 15:43);
- e-mail from Mr Stephen Leek to Vale of Glamorgan Council (subject: 'Hensol Castle change of use', date: 05 June 2019, time: 15:49).

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. The application site (identified by the red outline on drawing 'PHC0001/DGLP3 Rev C', dated 09.05.2019) shall be used only as a gin distillery (production and storage). No other land uses, including those in use classes B2 and B8 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any piece of legislation that might replace it, are permitted. At all times, the gin distillery must be ancillary to the use of Hensol Castle as a tourism /leisure /hospitality facility.

Reason:

The application site is not a sustainable location for new, standalone employment-generating or tourism uses, and a different use of the basement might have an unacceptable effect on highway safety, traffic levels, and the living conditions of neighbours. This approach is required by policies SP1 (Delivering the Strategy), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD13 (Tourism and Leisure), and MD14 (New Employment Proposals) of the Vale of Glamorgan Local Development Plan 2011 – 2016 (June 2017).

4. Before the approved distillery is brought into use, details of any extraction equipment to be installed in or on the building shall be submitted to, and approved in writing by the local planning authority. These details shall show where in or on the building the equipment would be installed, and shall account for noise levels outside the building. The approved equipment shall be installed before the distillery is brought into use. The equipment shall thereafter be retained and maintained at all times in accordance with the approved details.

Reason:

To protect the character and appearance of a historic asset (Hensol Castle), and to safeguard existing public and residential amenity, in accordance with policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), and MD8 (Historic Environment) of the Vale of Glamorgan Local Development Plan 2011 – 2016 (June 2017).

5. Before the approved distillery is brought into use, details of arrangements for the disposal of any liquid waste produced by the distillery shall be submitted to, and approved in writing by, the local planning authority (LPA). The liquid waste produced by the distillery shall thereafter be disposed of in accordance with the approved details for as long as the distillery exists.

Reason:

To ensure that the approved development would not have an unacceptable impact on people, residential amenity, or the natural environment, in

accordance with policy MD7 (Environmental Protection) of the Vale of Glamorgan Local Development Plan 2011 – 2016 (June 2017).

REASON FOR RECOMMENDATION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), SP11 (Tourism and Leisure), MG17 (Special Landscape Areas), MG29 (Tourism and Leisure Facilities), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD8 (Historic Environment), MD9 (Promoting Biodiversity), MD13 (Tourism and Leisure), and MD14 (New Employment Proposals), the LPA concludes that the development proposal is acceptable.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.