

Date 09/12/2024
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Dear Inspector,

Town and Country Planning Act (As Amended) – S78 Appeal

LPA Reference: 2019/00871/OUT

PEDW Reference: CAS-02641-G8G7M5

Land at Model Farm, Port Road, Rhoose, CF62 3BT

Further to numerous observations submitted on behalf of Mr and Mrs Stevens (The Stevens Family) of The Old Rectory relating to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT), Boyer have been instructed to provide written comments in relation to the current submitted Appeal Ref: CAS-02641-G8G7M5.

This correspondence does not seek to repeat the overall comments submitted, rather addresses points where there has been a change in national policy, or where further information has been submitted as part of the Appeal process.

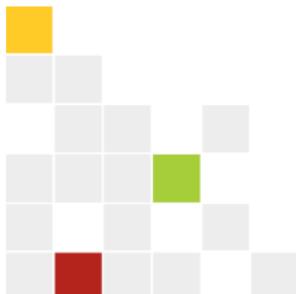
Planning Policy Wales (12th Edition – 2024)

The Inspector will be aware of the recent publication of Planning Policy Wales (12th Edition 2024), and that this national planning document has been updated since the original application and Planning Committees, and also following the submission of the Appeal.

The Stevens Family draw attention to the fact that Planning Policy Wales was updated to address the nature emergency reflected in a revised Chapter 6 'Distinctive and Natural Placemaking and Well-Being'. These changes to national policy came into immediate effect and impact on all planning applications and Appeals.

The main policy changes in Chapter 6 relate to:

- Green Infrastructure
- Net Benefit for Biodiversity and the Step Wise Approach
- Protection for Sites of Special Scientific Interest
- Trees and Woodlands



These are of significant importance to the current Appeal and the correct due diligence is required to accord with the updates of Planning Policy Wales.

One key change is the requirement for all planning applications to be submitted with a 'Green Infrastructure Statement' (paragraph 6.2.5). The Green Infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the 'Step-wise Approach' (Paragraph 6.4.21) has been applied.

It is noted that a Green Infrastructure Statement has been provided as part of the Appeal documentation by RPS, however this has not been assessed by the Authority as compliant. It is noted that this work will be undertaken through the Appeal process, however given the importance of Chapter 6 and the impact that the proposed development will have on both green infrastructure and ecology then The Stevens Family consider this needs to be a priority.

From review of the Green Infrastructure Statement provided, and given the scale and impact the proposed development has, then The Stevens Family consider it frustrating that the detailed green infrastructure proposals and the appropriate delivery and aftercare are being pushed further along the determination process. It is considered that a Detailed Biodiversity Management Strategy and comprehensive Green Infrastructure Statement should be provided now.

This is in the context of the updated Chapter 6 and in particular paragraph 6.4.5 which requires a net *benefit for biodiversity and that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site.*

Moreover, paragraph 6.4.39 outlines that *Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function. Planning authorities should consider the importance of trees and woodland, particularly native woodland and valued trees, and should have regard to local authority tree strategies.*

The updated national policy also strengthens the protection of all trees linking back to the Step-Wise Approach and outlining the:

- Functional importance of trees, woodlands, groups of trees and areas of woodland restated;
- Ecosystem resilience function of native trees and hedgerows outlined;
- Recognition given to the importance of trees within the countryside;
- Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows identified as irreplaceable natural resources, with significant landscape, biodiversity and cultural value.

This is further supported by the:

- New requirement for the planting of new trees, hedgerows, groups of trees, areas of woodland as part of new development;
- New policy requirement on the adoption of canopy cover targets for local planning authorities;
- Retention of trees to be identified within all planning applications (significant trees to be retained & protected);

- 'Service lines' to the site should be included within the application (identifying tree loss);
- Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits;
- Compensation planting ratio for trees lost set at 3 for 1, equivalent to the quality, environmental and ecological importance of the tree(s) lost - this must be preferably onsite or immediately adjacent to the site; and
- Higher compensation planting ratios set for woodland and shelterbelt areas.

In relation to Chapter 6 and the above protection of trees and ancient woodland, The Stevens Family consider that the current proposals are found to be lacking in meeting the requirements of Planning Policy Wales. This is also true in regard to the impacts that the proposed drainage scheme will have on the number of TPO trees within the curtilage of their property and also the ancient woodland.

With regard to the impacts upon existing TPOs, The Stevens Family have grave concern for the direct impact upon the Pedunculate Oak (TPO Ref: 2022-01-T6) located at the confluence of Bullhouse Brook and Whitelands Brook. Further concern is also raised in relation to the 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). Whilst they are on private land the drainage works required in the wider setting has the potential to significantly undermine their protection. The trees are positioned on the banks of the brooks and concern is raised that following the change in such a large area of land from agricultural to built development would cause additional surface water drainage pressure and which would erode the habitat within the Root Protection Zone, upon which the trees are currently thriving.

Drainage

Having reviewed the Appeal submission, The Stevens Family again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in their private ownership including the garden of their private residence. This is of significant concern not only for the landownership but also the impacts upon wildlife, landscape and trees, particularly in the context of Planning Policy Wales.

For the Inspector's convenience, Welsh Water (DCWW) initially objected to the proposals for the following reasons:

- Site layout should take account of the location of the sewer;
- It is unlikely that sufficient capacity exists to accommodate foul flows generated by the development; and
- The proposed development is within an area where there are water supply problems, for which no improvements are currently planned.

The Stevens Family are aware of the ongoing discussion with DCWW and that the previous Committee Reports outlined several conditions, including for the submission of a Hydraulic Modelling Assessment (HMA) prior to the submission of any reserved matters applications. However, it is important to highlight that this is contrary to DCWW's preference for such assessments to be provided up front as part of an application submission, setting out that development should not be supported where there are no known solutions. It is again frustrating that no further works have been undertaken as part of the Appeal process by the applicant.

Notwithstanding the issues raised above concerning capacity, it is reiterated that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership, including the garden of The Steven Family's private residence. Moreover, the route of the proposed foul sewer also crosses through the SINCs and areas of Ancient Woodland previously identified in a number of places.

In the context of updated national guidance in Planning Policy Wales (12th Edition 2024) and in particular Chapter 6 this would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Although this has been highlighted on numerous occasions, no revisions have been made to take account of this and it is not reflected in the submitted Green Infrastructure Statement. This is considered as a significant omission on the applicant's part and needs to be rectified for policy compliance. Without so the proposed drainage scheme is contrary to Planning Policy Wales and raises grave concerns.

The farcical nature of the proposed foul drainage route is also highlighted in DCWW correspondence to The Stevens Family (dated Nov 2021) which states that '*Our initial assessment of the route identifies a host of physical and ecological constraints which would render the route unviable, therefore not able to be adopted by us*'.

As detailed in previous correspondence and within the Committee Reports, DCWW and Natural Resource Wales both maintain that the local drainage infrastructure is considered inadequate to accommodate the proposed capacity of this development.

Noting the lack of plans to improve capacity and risk of overwhelming the public sewerage, DCWW concerns remain where it is '*unlikely that sufficient capacity exists to accommodate the development without causing detriment to the existing services*' that includes the Porthkerry Sewerage Pumping Station adjacent to The Old Rectory. Comments raised by DCWW further highlight the failure to identify a suitable point of communication for the proposed development site to be served by adequate water supply.

During the Authority's determination process the Committee Reports outlined proposed Conditions and it is acknowledged that Condition 8c sought to address the impact of proposed excavation works for the drainage and SuDS proposal on existing trees. However, The Stevens Family continue to raise concern regarding the proximity of the proposed sewer works and risk of direct damage to the Root Protection Area of several old trees located, and the aforementioned TPOs, within the curtilage of The Old Rectory.

Given the significance Chapter 6 now places on trees and woodland then it is considered that the direct impact upon the trees and ancient woodland, within and adjoining The Stevens Family land, should be assessed upfront and is no longer appropriate to be addressed via Condition. This is particularly important as additional surface water drainage carried by the existing streams that may arise from a reduction of permeability of land threaten several of the old venerable oaks as well as the following TPOs: Pedunculate Oak (TPO Ref: 2022-01-T6), 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). These protected trees are located either at the confluence of Bullhouse Brook and Whitelands Brook, or within their banks and concern is raised that if inadequate, the proposed drainage works will have a direct impact on their Root Protection and habitat.

The previous Condition 11 related to whether the scheme can demonstrate that the existing water supply network can suitably accommodate the proposed development site. Condition 12 relates to the proposed SuDS for surface water disposal, where the proposed designated SuDS attenuation areas surrounds the boundary of our client's land. The Stevens Family continue to have reservations regarding the impact any proposed SuDS will have on the TPO's within their curtilage of The Old Rectory and the surrounding ancient woodland. These concerns are relevant to the recent Chapter 6 of Planning Policy Wales.

No doubt the Inspector is aware that where plans seek to go through and surround our client's land, The Stevens Family must be made aware and kept informed in full detail.

Viability/Deliverability

The Stevens Family have previously provided detailed comments on this issue in relation the planning application (Ref: 2019/00871/OUT), however they consider that the matter is of significant relevance to the current Appeal.

The Inspector will be aware there was a published RPS & Sutton Viability as well as the Avison Young independent review provided as part of the application. Both documents form part of the evidence base for the Appeal and it is clear that the proposed development is unviable. It is noted that the original Avison Young assessments are now also historic with dates from 2020 and 2022.

Those original reports highlight that development viability is a material consideration, however the conclusions of the independent Avison Young report are significant in that they show a loss of £10,400,000 (assuming no interest charges) and £34,500,000 (assuming interest is charged at 5%), which demonstrates that the scheme is not only unviable, but that without Government/public sector intervention by way of gap funding, it is unlikely ever to be delivered.

Furthermore, the proposed development would not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The level of reductions within the standard contributions normally sought is both extensive and excessive (in excess of £3,700,000 for sustainable transport alone).

It is also important to highlight that the viability assessments question how attractive the development would be to any potential market, which has implications on its future deliverability. Within the Avison Young Report it is noted that the proposed development is likely to be materially less attractive to tenants than numerous existing sites in S.E Wales, most of which enjoy close proximity to the M4, which is a key consideration.

Moreover, it is noted that the Avison Young report assumes an annual take-up of 50,000 sq ft GIA of manufacturing/warehouse space per annum and a take-up of 8,500 sq ft NIA of office space per annum. However, it is stated that although the annual take-up across other more attractive major Business Parks typically range from 15,000 – 50,000 sq ft per annum, they have applied an annual take-up rate at the top end of this range, which was considered to be optimistic. The conclusion, in Avison Young's opinion, was that such take up rates are highly questionable and if not achieved will further diminish the schemes deliverability and viability.

The Stevens Family consider that given the length of time since the viability information was professionally reviewed then the situation is likely to have worsened. In this regard, they are aware of

the most recently submitted RPS Updated Delivery Report (November 2024), which despite reassessment describes that the proposed scheme would have a significant loss.

It is noted at paragraph 5.4.8 of the Report that again assuming an eight-year marketing period the development would result in a significant '*loss of - £6.86 million based upon total costs in the order of £183.29 million*'. Furthermore, the appraisal did not include any allowance for planning obligations which would increase the loss and also does not appear to provide any figure for the loss assuming interest is charged.

It is also significant to note that the most recent RPS Report is yet to have any independent review to provide a balanced assessment. As with the previous it is anticipated that the actual loss will be even higher than suggested. The Stevens Family consider this an important stage that needs to be completed and published prior to the Inquiry.

Overall, it is maintained that the demand, and indeed the appetite to construct such a development is highly questionable. Moreover, again it is noted that The Stevens Family have considerable business/commercial experience and seriously question why such an unviable and undeliverable proposal would be maintained, unless it was for a future alternative use.

Employment Need

The Inspector may be aware of the current ongoing Replacement Local Development Plan (RLDP) Review being undertaken by the Local Authority. Whilst The Stevens Family completely appreciate that this Appeal is not specifically related directly to the RLDP, there is relevant information within the evidence base.

The Vale of Glamorgan Employment Land Study (March 2023 BP12 – RLDP [https://valeofglamorgan.oc2.uk/docfiles/26/BP12%20Employment%20Land%20Study%20\(BE%20Group\).pdf](https://valeofglamorgan.oc2.uk/docfiles/26/BP12%20Employment%20Land%20Study%20(BE%20Group).pdf)), questions the need for such a large employment development. It is understood from the Study that over the last decade, 145 industrial deals have been recorded in the Vale of Glamorgan, within which a total of 83,950 sqm of floorspace has been transacted. This equates to only half of the 161,834 sqm proposed as part of the Model Farm and raises the question as to whether the demand for such an amount is sustainable. At this rate it would be 20+ years until the proposed floorspace would be let, and this is if it was the only site available. This, also combined with the clearly unviable nature of the scheme, is of significant concern.

It is important to highlight that over the decade there was only one unit transacted of more than 5,000 sqm in the timeframe. Given the parameters as set out in the Outline application for the plot sizes it is noted that some are significantly more than 5,000 sqm (including 11,200 sqm, 14,000 sqm and 16,150 sqm). Again, the demand for such large-scale units is questioned given the distinct lack of transactions over a 10 year period.

Whilst the Study does outline that there is an absence of options in excess of 5,000 sqm, the transaction evidence suggests that these are only rarely required in the Vale. Again, the need and delivery of the allocation is a significant concern.

The demand for the units is further questioned given that in 2022, a total of 12,766 sqm of industrial floorspace was being marketed within Vale of Glamorgan and comprised of 16 individual premises. Whilst the marketed floor space is less than 10% of that proposed, it is important to note that an

average take-up per year over the last decade, equates to 8,395 sqm/year, meaning it would take almost 20 years to let the units (again if this was the only site).

In the surrounding context, the updated RPS Delivery Report (November 2024) looked at the wider Cardiff Capital Region (CCR) and noted that there is a lack of development of new Grade A accommodation in both the office and industrial markets. Whilst in the wider context this is correct, it is noted about the acquisition of the Aberthaw coal fired power station site by CCR City Deal. The Report suggests *that this will bring a renewed public sector focus to this part of the Vale of Glamorgan which can only benefit the subject site* (paragraph 4.1.5).

However, The Stevens Family suggest that the report does not consider that the £36 million investment at Aberthaw Power Station, would in fact bring into doubt the desirability of the proposed Model Farm development. Currently CCR have received a range of suggestions from business for uses on the site and is ultimately a more attractive opportunity for businesses and operations than the proposed Model Farm development. Whilst it is acknowledged that there are ongoing works required, the clear investment is evident at Aberthaw, which is in stark contrast to Model Farm and L&G's stance of a very long term view about when the scheme might, if ever, come forward.

Technical Constraints

There are a number of technical constraints which have been highlighted in relation to the planning application, but which remain relevant to the Appeal.

Drainage

Without repetition on the information provided above, drainage remains a significant concern with the Appeal and given that it is unresolved from the application, questions are raised as to how the site can be brought forward.

As noted previously Dwr Cymru Welsh Water (DCWW) initially objected to the proposals and raised concerns over several points. It is still maintained that there is insufficient capacity within existing infrastructure to accommodate foul flows from the development hence a suitable point of communication for water supply has not been identified. This information needs clarifying to allow any proposed continued allocation.

As part of the evidence base and to provide deliverability then a Hydraulic Modelling Assessment (HMA) should be undertaken as this is a major constraint on a large scheme where capacity is essential to the proposed business.

Notwithstanding the issues raised above concerning capacity, we again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of The Stevens Family, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINCs and areas of Ancient Woodland previously identified in a number of places which would be contract to Planning Policy Wales, in particular Chapter 6.

Concern is also raised regarding the impact that the proposed drainage will have on TPOs within The Stevens Family curtilage, including, Pedunculate Oak (TPO Ref: 2022-01-T6), 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). These protected trees are located either at the confluence of Bullhouse Brook and Whitelands Brook, or

within their banks and concern is raised that the proposed drainage works will have a direct impact on their Root Protection and habitat. These direct impact of these works needs to be assessed.

Clearly this is wholly unacceptable and would have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Whilst this has been highlighted on numerous occasions, it appears no further evidence has been requested to take account of this.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport and these remain valid for the Appeal.

Previously, The Stevens Family noted that within the planning application Transport Assessment it was highlighted that the site is '*notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car*', yet it is indicated that the development would fail to deliver the footway and cycle way itself. Furthermore, that due to the lack of viability, the Authority would not be seeking a financial contribution from developers toward sustainable transport, which would equate to in excess of £3,700,000. Rather it is considered that a transfer of a 10m strip of land to the Council across the site frontage with Port Road via the s106 Legal Agreement would be acceptable to compensate for the fact that the development would fail to deliver any sustainable links itself. Clearly this needs much further consideration as an evidence base for any allocation of the land.

Further consideration is also needed to fully explain how the land transfer would equate anywhere near to the required financial contribution the development generates and if this is sufficient to adhere to the Sustainable Transport requirements set out in Future Wales, Llwybr Newydd and Planning Policy Wales.

Ecology

Reservations remain regarding the impacts of habitat loss and hedgerow loss from the Appeal and on the number of rare species that have been recorded on site. In fact, the ecological information previously provided to the planning application, on behalf of The Stevens Family, noted that in their review it was highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as the proposed allocation site itself.

Summary

In summary, The Stevens Family continue to have strong reservations regarding the Appeal proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined. The route of a sewer across our client's land must be addressed urgently and we must be kept informed as the issue is addressed.

Overall, the proposed development continues to raise concerns regarding drainage, transport, and ecology, and in particular the impact on the recently updated national planning policy – Planning Policy Wales (12th Edition 2024) and the impacts of Chapter 6.

Furthermore, a review of the viability within the RPS Updated Delivery Report (November 2024), confirms that the proposed development continues to be unviable and would result in a significant loss

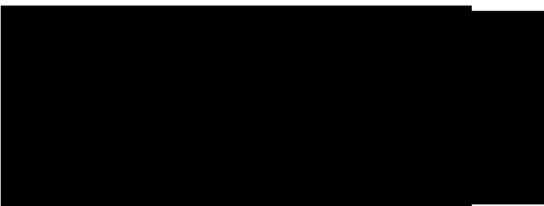
of - £6.86 million based upon total costs in the order of £183.29 million. Moreover, this is not including any allowance for planning obligations which would increase the loss and also does not appear to provide any figure for the loss assuming interest is charged.

Whilst this updated report is yet to have independent review (such as the previous versions by Avison Young) it is clearly evident that this scheme is wholly unviable and has considerable impacts upon the required s106 contributions levels to be provided. There are serious questions as to how such an unviable scheme can even be considered.

Overall, The Stevens Family raise a number of concerns for the Inspector to consider in their determination of the current Appeal.

Please also note that The Stevens Family would wish to be observers of the Appeal Inquiry.

Yours sincerely

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