

**IN THE MATTER OF AN APPEAL AGAINST NON-DETERMINATION OF APPLICATION REFERENCE
2019/00871/OUT AND IN THE MATTER OF LAND AT MODEL FARM, PORT ROAD, RHOOSE**

STATEMENT OF CASE

INTRODUCTION

1. This statement sets out the case of the Vale of Glamorgan Council ("the appellant") in relation to the appeal, in accordance with Section 78 (2) of the Town & Country Planning Act 1990, against the non-determination of application reference 2019/00871/OUT submitted by RPS Consulting UK & Ireland on behalf of Legal & General (Strategic Land) Ltd.
2. The hybrid application (2019/00871/OUT) comprising an outline application for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and a full application for change of use from agricultural land to country park (Use Class D2) within Area B, was presented before the Vale of Glamorgan Planning Committee on the 1st March 2023.
3. The committee report recommended that the application be approved subject to conditions and a Section 106 Agreement. Following significant deliberation, the Planning Committee voted against the officer's recommendation. It was subsequently agreed by the Committee that the application would be deferred to allow further consideration of the reasons for refusal of the application.
4. On the 29th March 2023, the Authority were notified that the Applicants had submitted an Appeal against non-determination. The formal submission of the appeal against non-determination removed the Authority's ability to make any formal decision on the application, as the application was now within the jurisdiction of Planning and Environment Decisions Wales (PEDW).
5. On the 18th May 2023, a special planning committee was held to provide members with an update on the status of the planning application.
6. Members were informed that the Applicants had submitted an appeal to Planning and Environment Decisions Wales (PEDW), citing the reason for the appeal (Under section F of the Appeal forms) as: '*Failure of the LPA to give its decision within the appropriate period (Usually 8 weeks) on an application for planning permission*'.

7. In line with the advice provided by external consultants at the meeting, members discussed the specific reasons for refusal they would have provided had they had the opportunity to determine the application and subsequently voted on whether they wished to defend the Authority's position at appeal.
8. The motion in support of defending the Authority was passed, and further to the discussion of the application at the Planning Committee meetings on 1st March 2023 and 18th May 2023, the following putative reasons for refusal were agreed:
 - (i) In the absence of an up to date preliminary ecological appraisal, the proposed development fails to appraise the biodiversity interests at this site. Therefore, the proposed development fails to incorporate, conserve or enhance biodiversity interests, as those biodiversity interests have not been quantified in the first instance. As a result, the development is contrary to the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of new development) Criterion 10, MD9 (Promoting Biodiversity) and MG19 (Sites and Species of European importance) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Biodiversity and Development SPG; National guidance contained within Planning Policy Wales (Edition 11, 2021), Policy 9 of the Future Wales National Plan 2040 and the Sustainable Development Principle No.2 of the Well-being of Future Generations (Wales) Act 2015; AND
 - (ii) The proposed development by virtue of its layout, scale and massing would have a harmful impact on the setting of historic assets. The benefits of the scheme are not considered to outweigh the identified harm to the designated heritage assets. The proposed development is therefore contrary to Policies SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Porthkerry Conservation Area Appraisal and Management Plan SPG, National guidance contained within Planning Policy Wales (Edition 11, 2021) and Technical advice note (TAN) 24 (the historic environment).
9. Confirmation of the validation of the appeal was received by the Authority on the 11th November 2024. On review of the appeal documents, it was apparent that the appeal documents included new evidence, which are considered material to the determination of this Appeal.
10. Considering the new evidence relates specifically to the Council's previously agreed putative reasons for refusal, a meeting has been organised with the planning committee members to discuss the merits of the new evidence. The meeting and discussions will be held at the earliest available Planning Committee meeting, namely the 12th December 2024.
11. The Authority reserve the right to provide final comments (Deadline of 23rd December 2024) on the new evidence and their position following the outcome of the Committee Meeting.