Penderfyniadau Cynllunio ac Amgylchedd Cymru
Planning & Environment Decisions Wales

Asesiad o Ddatganiad Amgylcheddol

Assessment of Environmental Statement

gan Declan K Beggan BSc (Hons) MSc DipTP DipMan MRTPI
Arolygydd a benodir gan Weinidogion Cymru

by Declan K Beggan BSc (Hons) MSc DipTP DipMan MRTPI
an Inspector appointed by the Welsh Ministers

Dyddiad: 12.06.23

Date: 12.06.23

Ref: CAS-02641-G8G7M5
Site address: Land at Model Farm, Port Road, Rhoose, Vale of Glamorgan.

- The Environmental Statement which is the subject of this assessment has been submitted in relation to the above case in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended).
- The application is made by Legal & General (Strategic Land) Ltd.

Introduction/Background

1. The Environmental Statement which is the subject of this assessment has been submitted in relation to planning application Ref. 2019/00871/OUT. The application dated 1 August 2019 was submitted to the Vale of Glamorgan Council and seeks planning permission under Section 57 of the Town and Country Planning Act 1990 (as amended) [the Act] for a 'Hybrid application comprising an outline application for the demolition of existing buildings and erection of 44.75 ha 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'.

2. On 12 October 2021 the Planning Directorate of the Welsh Government issued a holding direction under Article 18(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) preventing the Council from granting planning permission to allow further consideration as to whether the Welsh Ministers should 'Call-In' the planning application. The application was presented to the Council's Planning Committee on the 1 March 2023. The case officer's report presented to the Planning Committee recommended that the application be approved subject to conditions and a Section 106 Legal Agreement. The Planning Committee voted against the officer's recommendation. Members of the Committee were unable to provide reasons for refusal in order for the application to be determined. Following the Council's failure to determine the application, on the 29 March 2023, an appeal to Planning and Environment Decisions Wales was made under section 78 (2) a) of the Act.

Proposed Development

3. The proposed development as amended is described as a 'hybrid application comprising an outline application for the demolition of existing buildings and erection of 44.75 ha 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'. The proposed primary access would be at the eastern end of the site, via a new arm off the existing Port Road/A4226 junction, with secondary access available from the existing Holiday Inn roundabout at the western end.

4. This Environmental Statement (ES) dated July 2019 was prepared in support of the planning application. The ES should be read alongside an Addendum to Volumes 1 and 3 dated April 2021. A series of parameter plans that will form the framework for the future development of the site illustrate the proposal's relationship to land use and storey heights, movement and access, and green infrastructure (included at Fig. 2.8-2.10 of the ES Volume 1 Addendum). An indicative 'Concept Masterplan' detailed at Fig. 2.11 of the ES Volume 1 Addendum illustrates: access points and internal road layout; approximate position of development blocks and uses; pedestrian and cycle links; landscaping zones; drainage features including attenuation areas and swales; and, an extension to Porthkerry Country Park to the south.

Completeness of Environmental Statements

5. The aim of an ES is to provide a systematic and objective account of the significant environmental effects likely to arise from the proposed development, including sufficient information to verify the conclusions and identify the source of the information provided. Regulation 17 and Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended) (the Regs) specifies the information to be included in an ES. My assessment of completeness is based on these requirements.

6. However, a judgment as to the overall adequacy of the ES can only be made by the Welsh Ministers after considering all the evidence presented for consideration of the application, including any other environmental information.

Completeness of Environmental Statements

7. The ES comprises the following documents:

   - Environmental Statement Volume 1: Main Report & Figures July 2019
   - Environmental Statement Volume 2: Appendices July 2019
   - Environmental Statement Volume 3: Non-Technical Summary July 2019
   - Environmental Statement Addendums to Volumes 1 and 3 dated April 2021

8. The ES has been prepared using the following structure:

   • Chapter 1: Introduction
   • Chapter 2: Site Description and Development Proposal
   • Chapter 3: Planning Policy Context
   • Chapter 4: Highways and Transportation

- Chapter 5: Landscape and Visual Character
- Chapter 6: Built Heritage
- Chapter 7: Socio-Economics

9. The appellant has provided a copy of the Vale of Glamorgan's EIA Screening Opinion dated 15 May 2019 which sets out the Council's reasoning for finding that the proposal was 'EIA' development. The ES is supported by a number of other separate documents that form part of the application submission for planning permission such as: A separate, standalone ecological assessment in the form of a 'Preliminary Ecology Appraisal A' dated May 2019 & 'Ecology Surveys Report A' of October 2019 (although ecology has been scoped out of the ES); Flooding and hydrology has been scoped out although the application is accompanied by a separate standalone 'Sustainable Drainage Assessment' dated July 2019; An 'Archaeological Desk Based Assessment' dated May 2019; a 'Built Heritage Statement' dated July 2019; 'Preliminary Ecology Appraisal' dated February 2023; 'Baseline Ecology Review' dated November 2022; 'Air Quality Assessment' dated June 2019; 'Tree Survey & Impact Assessment Report' dated June 2019; a 'Technical Note: The Protection of Ancient Woodlands' dated August 2022; a Design and Access Statement of July 2019; a Design Brief July of 2019; a 'Transport Assessment' dated July 2019'; and, a 'Framework Travel Plan' dated July 2019.

Description of the Development

10. The application site and its surroundings are described in Chapter 2 of the ES and as updated in the ES Addendum Volume 1: Main Report & Figures dated April 2021. This includes details in relation to the location of the site and its physical characteristics, and the presence of any public rights of way crossing the site. It also provides details of the application site context, including the characteristics of the surrounding area, the historical use of the site, site drainage matters and the proximity to designated landscapes and proximity of heritage assets.

11. Chapter 2 of the Addendum highlights the site as edged in red has been increased with the overall site area increasing from 44.79 hectares to 93.20 hectares to allow for the inclusion of land that would form an extension to Porthkerry Country Park (amended description referred to in paragraph 1 above). The chapter describes the proposed development, specifying the various key components of the scheme. The chapter highlights that proposed primary access will be at the eastern end of the site, via a new arm off the existing Port Road/A4226 junction, with secondary access available from the existing Holiday Inn roundabout at the western end.

12. It also refers to a series of parameter plans that will form the framework for the future development of the site and illustrate the proposal's relationship to land use and storey heights, movement and access, and green infrastructure and an indicative 'Concept Masterplan' illustrating features such as access points, approximate position of development blocks and uses, pedestrian/cycle links, landscaping zones and drainage features and an extension to Porthkerry Country Park to the south. Figures 2.8-2.10 of the revised parameter plans, and Figure 2.11 of the revised Concept Plan as detailed in the Addendum documents readily identify the key components of the development and correspond with that described and explained in the relevant chapters of the ES.

13. The chapter highlights the aims and objectives of the proposal i.e., to make a major contribution to the St. Athan-Cardiff Airport Enterprise Zone which the site falls within and its connectivity with the wider enterprise zone.

14. In view of the above, I am satisfied that the description of the proposal is adequate.

Description of the reasonable alternatives

15. Chapter 2 of the ES includes reference to reasonable alternatives considered by the appellant which are relevant to the proposed development. Schedule 4 of the Regs refer to a description of the reasonable alternatives studied by an applicant/appellant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the development on the environment. Consideration of alternatives could include development design, technology, location, size, and scale. The Regs also refer to the proposed development's specific characteristics including a comparison of the environmental effects.

16. In consideration of alternatives, the appellant refers to the location of the site within the St. Athan-Cardiff Enterprise Zone and that zone's incorporation into the adopted Vale of Glamorgan Local Development Plan (LDP). It is noted that the LDP recognises the enterprise zone's regional importance and that it would provide a significant opportunity to bring about aerospace related inward investment to the area. It is argued that to locate the development proposal outside of the 'Gateway Development Zone' or the wider enterprise zone would not fulfil the requirements of the planning policy framework and therefore there are no reasonable alternatives within which to locate the proposed development. However, other supporting documents submitted with the appeal bundle i.e., the Design and Access Statement and the Design Brief, suggest that in fact other alternatives to the scheme as presented in the ES were considered with the final scheme evolving over time in response to technical information and input from other parties. It therefore appears that reasonable alternatives were considered to the scheme comprising the ES but not formally documented within it; this is not acceptable, and the appellant should update the ES to reflect this matter.

17. Overall, the inadequate consideration of likely reasonable alternatives renders the ES incomplete and therefore unsatisfactory (refer to Annex 1 below for a summary of requested further information).

Description of the aspects of the environment likely to be significantly affected

18. The Regs list the aspects of the environment likely to be significantly affected as population, human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage, and landscape.

19. In this case, the appellant chose not to request a Scoping Opinion to inform the contents of the ES, and it appears they have relied on the Council's EIA Screening Opinion (SO) to set out the likely significant effects i.e., transportation, landscape/visual and heritage impacts; these topics along with socio-economic considerations formed the basis of the ES.

20. In regard to these issues, the ES confirms what was to be scoped in:

- The SO notes that the development is of a significant size and the associated landscape impact would require an Environmental Impact Assessment (EIA) - landscape and visual assessment is therefore scoped in and the application is also accompanied by a separate, standalone 'Landscape and Visual Appraisal';

- The SO notes that notwithstanding the potential for mitigation measures, the development is likely to result in significant impacts relating to traffic and transportation that could extend beyond the immediate locality and as such, the impact on the wider highway network is considered to require an EIA - highways and transportation is therefore scoped in and the application is also accompanied by a separate, standalone 'Transport Assessment' and a 'Framework Travel Plan'; and,

- The SO notes the development could be visible from some of the Scheduled Ancient Monument sites that lie within a 5km radius of the site. Furthermore, there are other structures in close proximity that could be permanently affected and further assessment of the extent of their setting would be required. Overall, in view of the size, density and scale of the development, assessment of the impact on built heritage assets was considered to be necessary through EIA - built heritage assessment is therefore scoped in, and the application is also accompanied by a separate, standalone 'Built Heritage Statement'.

21. In addition to the above scoped in topics, the appellant has scoped in a further topic i.e., socio-economic impacts. The appellant has scoped this topic in due to the application site being allocated for employment uses and therefore it was considered socio-economic matters were a main potential impact. It is noted that the baseline data sources utilise information the bulk of which are at least 4 years old; this needs to be updated in the interests of the robustness of the ES findings in regard to socio-economic impacts.

22. Therefore, in most respects I am satisfied that the listed aspects of the environment likely to be significantly affected by the proposed development, which includes baseline data where necessary, have been sufficiently identified in the ES and in any various stand-alone supporting reports.

23. However, there is one other area that the various topic sections have not adequately addressed and that is the cumulative effects. Regarding cumulative effects the appellant states at paragraph 1.3.4 of the ES that as there were no outstanding planning applications, approved or committed development on allocated land to the north of the application site, it could, feasibly proceed in isolation to the remainder of the allocation and it was appropriate to consider its impact in isolation of the remainder of the allocated land. The appellant highlights this stance was confirmed by the Council who stated it would not expect an ES to consider cumulative impact on the basis there are no other development proposals under consideration in the vicinity of the application site; as a result, consideration of cumulative impact was scoped out. Whilst it is appreciated that at the time of the writing of the ES this may have been the case however that is now some 4 years ago and matters may well have changed; this issue needs to be addressed via an updated assessment of the situation, the absence of which would cast significant doubt on veracity and robustness of the findings of the ES.

24. Also setting aside the above requirement for an updated assessment, the appellant has not adequately or clearly addressed/explained the rationale within the ES as to why the proposed development should not in cumulative terms be considered against existing/other approved projects in the general or wider locality i.e., not just the enterprise zone or its immediate environment; this matter needs further clarification/explanation, the absence of which once again casts doubt on the robustness of the ES. I note that the various topic areas touch on the subject of cumulative impact albeit very briefly, however for the reasons given above, I do not consider at this point in time the information given, or the level of material provided on this matter to be complete for the purposes of the Regs.

25. The appellant scoped out the following topics:

- Ecology Matters - The SO notes the site is not in an ecologically sensitive area but has the potential to support protected species. The Council's Ecologist has advised that in their opinion, the development is not likely to give rise to significant effects on the environment and that any impact of the development in relation to ecology can, in likelihood, be mitigated (ecology has therefore been scoped out, although the application is accompanied by a separate standalone ecological assessment with more recent updates);

- Ground and other conditions - The SO notes any impact on local receptors in relation to ground conditions, noise, vibration and air quality would be no more than of local significance (air quality, noise and vibration and ground conditions have therefore been scoped out); and,

- Flooding/Hydrology - The application site is not in an area identified as being at risk from flooding. The SO notes the planning application should be supported by a drainage strategy to identify how foul and surface water from the development would be managed. The permanent nature of the impact is acknowledged, but the SO notes it is likely the impacts of the development can be mitigated and reduced to such a degree that it is not significant having regard to the Regs (flooding and hydrology has therefore been scoped out although the application is accompanied by a separate, standalone 'Sustainable Drainage Assessment'). However, since the initial decision to scope out flooding/hydrology matters, on 30 November 2022 NRW updated its flood maps. Whilst NRW's 'Flood Map for Planning' is not expected to be formally implemented through Planning Policy until later in 2023, nonetheless the data is currently the best available information NRW have on flood risk to inform decision making. In light of the updated flood maps, and the findings of this ES assessment, this matter needs to be addressed as to whether or not the appellant still considers it is appropriate to scope out matters relating to drainage and flood risk. Bearing the above in mind, at this stage I am not satisfied that flooding/hydrology should be scoped out of the ES.

26. The appellant states at paragraph 1.3.5 of the ES that no separate chapter is proposed in respect of climate change [as referred to in Schedule 4 of the Regs]. The rest of the ES is bereft of any detailed or meaningful reference/engagement to the issue of climate change and how the proposed development would address the issue. Climate change and addressing its potential impacts in regard to new development are central matters in terms of Future Wales The National Plan 2040, Planning Policy Wales Edition 11, and the Well

Being of Future Generations Act 2015. In the absence of any significant reason/explanation as to why these issues should not be addressed within the ES as a separate topic area or as detailed integral elements to the various chapters, I am not satisfied a key aspect of the environment likely to be affected by the proposed development has been adequately addressed.

27. Based on the above, whilst on the whole I am satisfied that important aspects of the environment likely to be significantly affected by the proposed development have been adequately identified in the ES and in any various stand-alone reports, nonetheless there are significant gaps/omissions as discussed above that still need to be addressed. The lack of adequate consideration of other specific matters as referred to above, and itemised in Annex 1 below, means that in overall terms aspects of the environment likely to be significantly affected by the proposed development have not been sufficiently identified in the ES.

Description of the likely significant effects of the development on the environment.

28. In most regards the separate topic chapters of the ES generally provide reasonable descriptions of the likely significant effects of the scheme in regard to the scoped in topics and their assessment and includes methodology used, legislative background and existing baseline conditions. Effects on landscape character and visual amenity, the historic environment with regard to designated assets such as listed buildings, and highway and socio-economic factors have been included.

29. Whilst in broad terms the ES main topic chapters take into account the construction and operational phases, nonetheless, it lacks any substantive explanation in terms of the effect of the proposal on the landscape and visual character during the construction phase. The Regs at Schedule 4 refer to a description of likely significant effects of a proposed development in regard to its construction. The fact that this issue has not been addressed within the landscape/visual character chapter is not acceptable and undermines the thoroughness of information presented within the ES; this needs to be addressed in an updated assessment or alternatively a clear explanation given as to why this matter does not need to be covered.

30. The cumulative effects of the development in conjunction with other proposed schemes, has been considered in the sperate topic chapters however for reasons previously stated I do not consider this has been adequately addressed and therefore needs to be subject to further to clarification/updates.

31. The Regs refer to an assessment within the ES of the risk of major accidents and/or disasters which are relevant to the project concerned, however apart from reference to such issues in the highways/transportation topic, the ES has little to say of substance on the matter. This needs to be addressed with further clarification under the various topic headings.

32. The major effects of the development on the environment in most respects have been methodically assessed and described. Nonetheless, the lack of consideration of other specific matters as referred to above means that in overall terms significant effects of the development on the environment have not been systematically and adequately

assessed/sufficiently described or addressed. Please refer to the request for further information in Annex 1 below.

Prevention and / or mitigation measures

33. To avoid or reduce the environmental effects, a number of mitigation measures have been designed into the proposed development [in this regard the appellant should bear in mind and address the comments in paragraph 16 regarding how the final scheme evolved over time in order to minimise/mitigate any potential impacts of the development]. Details of these can be found within each topic chapter of the ES, e.g., Chapter 5 (Landscape and Visual Character) refers to including extensive woodland belts, tree and hedge planting along the southern boundary in association with the new attenuation areas that would create screening of the development proposal from views in from the south, Porthkerry Road and the residential properties associated with Upper and Lower Porthkerry Farms along the western boundary.

34. Mitigation measures primarily relate to the operational phase. In broad terms mitigation measures include; those comprised as part of the layout of the scheme, those to be adopted during construction to avoid and minimise environmental effects, or those to be implemented when the scheme is operational.

35. The mitigation measures in the ES are satisfactorily described.

Indication of any difficulties in compiling the required information

36. The Regs at Part 5 (17) 4 (a) & (b) state that a ES **must** be prepared by persons who in the opinion of the relevant planning authority or the Welsh Ministers, as appropriate, have sufficient expertise to ensure the completeness and quality of the statement, and contain a statement by or on behalf of the applicant or appellant describing the expertise of the person who prepared the environmental statement. In this regard the ES at Volume 1, Paragraph 1.5.1 highlights the assessment team, however this section and any other section of the ES fail to adequately describe the expertise of those involved e.g., their professional qualifications/expertise/background in the specific topic areas. This is not acceptable and casts doubt as to the completeness, quality and thoroughness of the submitted ES and as a result runs contrary to the aforementioned Regs.

37. The ES has been compiled using established methodologies. In broad terms each topic chapter sets out any limitations/assumptions identified in the available baseline data and whether there were any difficulties encountered in compiling the information required e.g., access to third part land in terms of the landscape/visual assessments or when the ES highlights there are no formal measures of effect of significance for economic receptors and therefore it has been informed by the professional judgment of the chapter authors. Assumptions made in light of these difficulties are set out in the ES, albeit these issues are not considered to have constrained baseline information gathering in any significant way. Overall, notwithstanding the comments in the above paragraph, the ES methodology in all other respects is therefore adequately described.

Provision of a Non-Technical Summary

38. A non-technical summary (NTS) has been provided and the information contained therein is deemed sufficient for the ES as produced. However, as a review of the ES is required, a new/amended NTS is required.

Overall Conclusions

39. I conclude that further information (set out in Annex 1) must be sought in order to address the shortcomings identified above in the Environmental Statement submitted Legal & General (Strategic Land) Ltd.

Declan K Beggan

Inspector

Annex 1

I hereby formally request further information under Regulation 24 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended) in order for the Environmental Statement to provide the decision maker with a reasoned conclusion on the likely significant effects of the development described in the application.

- The ES needs to be updated and clarified to reflect the design/layout alternatives that were considered as the proposed scheme evolved over time in response to technical information and input from other parties and the appellant's rationale for the final option chosen [with particular regard to mitigation by design].
- The ES chapter dealing with socio-economic matters utilises baseline data sources the bulk of which are at least 4 years old years old; this needs to be updated in the interests of the robustness of the ES findings in regard to socio-economic impacts.
- In terms of cumulative effects, the ES at paragraph 1.3.4 needs to be reviewed in terms of an updated assessment of the situation. In addition, the ES does not adequately address/explain the rationale as to why the proposed development should not in cumulative terms be considered against existing/other approved projects in the general or wider locality i.e., not just the enterprise zone or its immediate environment; this matter needs further clarification/explanation via an update to the ES, the absence of which once again casts doubt on the robustness of the ES.
- Since the initial decision to scope out flooding/hydrology matters, NRW has updated its flood maps. Whilst NRW's 'Flood Map for Planning' is not expected to be formally implemented through Planning Policy until later in 2023, nonetheless the data is currently the best available information NRW have on flood risk to inform decision making. In light of the updated flood maps, additional consideration needs to be given within an updated ES as to whether or not it is still considered appropriate to scope out matters relating to drainage and flood risk.
- It is not considered climate change has been meaningfully addressed within the ES. Further information is therefore required in respect of the proposed development's likely

effects in respect of climate change, as referred to Schedule 4 of the Regs, either as a separate topic area or as integral elements to the various chapters.

- The ES lacks any substantive explanation in terms of the effect of the proposal on the landscape and visual character during the construction phase; this needs to be addressed in an updated assessment or alternatively a clear explanation given as to why this matter does not need to be covered.
- The Regs refer to the ES assessing the risk of major accidents and/or disasters which are relevant to the project concerned, however the ES has little to say of substance on the matter apart from the highways chapter. This needs to be addressed with further clarification under the various topic headings.
- The ES at Volume 1, Paragraph 1.5.1 highlights the assessment team, however this section and any other sections of the ES fail to adequately describe the expertise of those involved e.g., their professional qualifications/expertise/background in the specific topic areas; this needs to be addressed with an update to the relevant sections of the ES.
- A new/amended NTS is required to reflect any changes in the ES.
- In light of the above requested amendments to the ES, a review of the rest of the ES should be undertaken in the event of potential ‘knock-on’ or unforeseen effects e.g., mitigation measures. If there is need to change any other aspect of the ES this needs to be clearly referenced.