
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 11/05/17
Ymweliad â safle a wnaed ar 10/05/17

**gan Richard E. Jenkins BA (Hons) MSc
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 29.06.2017

Appeal Decision

Hearing held on 11/05/17
Site visit made on 10/05/17

**by Richard E. Jenkins BA (Hons) MSc
MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 29.06.2017

Appeal Ref: APP/B6855/A/16/3164052

Site address: Plot A1, Kings Road, SA1 8PH

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by NMJ Property Developments Limited against the decision of City and County of Swansea Council.
 - The application Ref 2016/1511, dated 27 July 2016, was refused by notice dated 11 November 2016.
 - The development proposed is the construction of purpose built student accommodation between 7 and 9 storeys (500 bedspaces) with ancillary community facilities/ services, 1No. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaped public realm.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of purpose built student accommodation between 7 and 9 storeys (500 bedspaces) with ancillary community facilities/ services, 1No. Class A3 ground floor unit, car and cycle parking, servicing area, refuse store, associated engineering, drainage, infrastructure and landscaped public realm at Plot A1, Kings Road, SA1 8PH in accordance with the terms of the application, Ref 2016/1511, dated 27 July 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matters

2. During the processing of the planning application, amended plans were submitted. The Council determined the application based on the amended plans and I shall consider the appeal on the same basis. I have also taken the description of development from the Council's Notice of Decision as it reflects the changes made through the planning application process and, therefore, provides a more accurate description of the development proposed.

Main Issues

3. These are: the principle of the development proposed having specific regard to the adopted development plan and masterplanning framework for the Swansea Waterfront area; the effect of the proposed development on the character and appearance of the area; and the effect of the proposed parking arrangements on highway safety.
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Reasons

4. The appeal relates to a site known as Plot A1 which is located within the Swansea Waterfront area. The site is currently utilised as a temporary surface level car park and forms part of the wider SA1 regeneration area. The site sits within a heavily urbanised context with a number of large scale buildings within the wider vicinity. The appeal proposal seeks planning permission to construct a substantial building for use as purpose built student accommodation. The building would incorporate between 7 and 9 storeys and would accommodate some 500 student bedspaces. Ancillary community facilities, including a Class A3 unit, would be located on the ground floor, whilst car and cycle parking, a servicing area and refuse store would also be provided. Associated engineering, drainage and infrastructure works would also form part of the development, as would a landscaped public realm.

Principle of Development

5. Policy EC1 and Policy EC2 of the adopted City and County of Swansea Unitary Development Plan (UDP) (2008) are relevant to the appeal proposal. Specifically, they allocate the Swansea Waterfront area for a mix of employment and residential development together with supporting leisure, tourism, community and ancillary uses. Policy EC2 states that the development of the area should be comprehensive, integrate with the Maritime Quarter, complement and not compete with the City Centre, be of a high standard of design, embrace principles of sustainable development, provide high quality employment opportunities, increase the range of housing choice, make appropriate provision for a network of pedestrian and cycle routes and safeguard the potential canal route corridor.
6. The Council objects to the proposed development on the basis that it would not make provision for high quality employment opportunities and that it would fail to complement the existing business uses that are located within the area. In this respect, it refers to the masterplan approved as part of the outline planning permission granted under Ref: 2002/1000 and that subsequently approved under application Ref: 2008/0996 (SA1 Swansea Waterfront Design and Development Framework August 2004 Version 5). Specifically, the approved masterplan indicates that the appeal site should be brought forward as a high quality employment site.
7. Within this context, it is clear that the proposed development would represent a clear departure from the masterplan work approved under the aforementioned planning applications. Nevertheless, it is notable that the application to which this appeal relates comprises a full planning application, rather than an application submitted pursuant to a previous outline. As such, whilst the approved masterplan is clearly an important material consideration, the current proposal needs to be considered on its particular merits and is not, therefore, bound by the parameters and conditions imposed therein.
8. Policy EC2 requires the development of the Swansea Waterfront area to be, amongst other things, comprehensive and integrated and I acknowledge that the failure to comply with the approved masterplan causes a degree of tension with the policy framework in this respect. However, as set out above, the general thrust of Policies EC1 and EC2 is to reserve the SA1 area for a mix of employment and residential uses, together with supporting leisure, tourism, community and ancillary uses. For this reason, providing the use would effectively integrate with the other uses within SA1 and not undermine the overarching vision for the area, I do not consider that it would represent a fundamental departure from the policy position set

out in the adopted UDP, or indeed the forthcoming Local Development Plan (LDP) which also allocates SA1 as an area of mixed use development.

9. A number of concerns have been raised in relation to the compatibility of the proposed use with existing employment uses within the vicinity. However, I have not seen anything in terms of robust evidence to support the assertions that the proposed use would have an adverse effect on existing uses. Moreover, the proposed purpose built student accommodation would be entirely consistent with the recent shift in focus at wider parts of the SA1 area, including the University of Wales Trinity St. David (UWTSD) led development comprising the 'Innovation Quarter'. In fact, there is little doubt that the proposed development would complement such proposals and serve to increase the activity and vibrancy of the area. On this basis, I find the use to be compatible with the existing uses and the overall vision for the area.
10. It is clear that the appeal site represents a sustainable location, within walking distance of a number of facilities and services as well as being relatively well served by sustainable modes of transport. Indeed, the relative proximity and ease of access to the city centre serves to support the appellant's contention that the site represents an appropriate location for student accommodation. Moreover it is notable that, despite active marketing, an employment use has not been forthcoming since the original grant of planning permission back in 2003. This raises questions over the viability of an employment use at the site and also supports the appellant's contention that demand for such uses in this location is relatively low. Such matters add further weight to the argument that the development is acceptable in principle.
11. Therefore, whilst I acknowledge that the development would represent a clear departure from the approved masterplan, I consider the general principle of locating the proposed purpose built student accommodation at the appeal site to be acceptable and in accordance with the general thrust of Policies EC1 and EC2 of the adopted UDP.

Character and Appearance

12. The Council considers that, by virtue of its scale, form and design the proposed development would impact to an unacceptable degree upon the character and appearance of the area. It also states that it would fail to integrate effectively with adjacent spaces and that it would not represent an appropriate high quality design solution given its context as a prominent gateway to Swansea. Accordingly, it is submitted that the development is contrary to the illustrative masterplan for the area and Policies EV1, EV2 and EC2 of the adopted UDP. In contrast, the appellant considers that the design of the proposed building is appropriate to its context and that it accords with the Council's overarching vision of creating a 'gateway' building on a key approach into the City.
13. Despite concluding above that the development should not necessarily be bound by the approved masterplan, it is notable that the footprint of the proposed building would be not be entirely consistent with that of the illustrative masterplan, with the principal difference being the fact that the proposed development would be sited some 10 metres north of that previously approved. Moreover, rather than narrowing to a point at the northern end of the development, as per the masterplan and the neighbouring Technium building, the proposed scheme would widen to form a 9 storey block aspect at the gateway into Swansea. Nevertheless, whilst I recognise the fact that the proposed development would introduce a significant mass of development at the northern end of the site, I do not consider that its scale or mass would be excessive in the street scene, particularly given the wider urban context. Indeed, I

consider the waterfront location to have capacity to accommodate such a building and I have no doubt that the proposed scale and block aspect would serve to reinforce the sense of arrival into the City and represent an appropriate gateway development.

14. A number of objections have been submitted in relation to the proposed height and slab like proportions of the building relative to that identified within the approved masterplan. In terms of height, the SA1 masterplan illustrates a 6 storey building at the northern end of the plot and a 4 storey structure at its lower southern end. In contrast, the proposed building varies between 9 storeys to its north and 7 storeys to the south. Nevertheless, it is important to note that the 4 to 6 storeys referred within the approved masterplan relate to an office use which would typically be higher than that of a residential development. Indeed, the approved masterplan provides clarity in this respect, confirming that the proposed floor to floor heights would vary depending on the proposed use.
15. Within this context, the appellant has advocated an approach that extrapolates the site's potential for office use using a storey height of 4.5m and compares it against a typical residential use incorporating a storey height of 2.8m. Whilst objections have been submitted to this approach, I do not consider it to represent an unreasonable starting point in the design process and neither do I consider it to be disingenuous. Indeed, whilst I acknowledge the fact that the Council has calculated the average floor to floor height of the office buildings referred in the appellant's evidence to be closer to 4 metres high, two of the listed developments include heights in excess of that assumed by the appellant. More importantly, I have not seen anything within the local policy framework, or from the particular characteristics of the area, that would necessitate an office use at the appeal site incorporating floor to floor heights below that assumed by the appellant.
16. On this basis, the 6 storeys referred within the approved masterplan would equate to approximately 27 metres and that can be compared and contrasted to the northern end of the proposed development which is approximately 26 metres high. The 4 storey office development referred within the masterplan would equate to approximately 18 metres, with the same section of the proposed building incorporating a height of approximately 21.85 metres. A number of specific concerns have been expressed regarding the increase in height at the southern end of the proposed development relative to the approved masterplan. However, the masterplan should not be treated as determinative and, in this respect, I consider that it should be the overall impact on the street scene that is decisive.
17. I have fully considered the local context, including the scale and siting of the existing buildings, and I consider the modest increase in height relative to the masterplan to represent an acceptable variation. More critically, I consider the increase in scale relative to the adjacent Ethos building, which I am informed is approximately 17.2 metres in height, to represent a gradual step increase that would be acceptable. I recognise the fact that the proposed building would be significantly higher than the existing Technium building. I also acknowledge that there would be an inevitable change to the character of the immediate environs. However, I consider the design details set out below, as well as the visual separation between the proposed site and the Technium building created by Kings Road, to sufficiently mitigate against any material harm.
18. In terms of design detailing, the proposed building would occupy a linear footprint that would run north-south alongside the Tawe. However, by virtue of its form and siting, it would adequately respect the existing curve along Kings Road. The linear building

would be 'bookended' by cross wings that would add visual interest when the building is viewed within the street scene, whilst its substantial length would be effectively broken up by an intermediate cross wing. The materials utilised would be consistent with the surrounding townscape and would be reflective of the site's cultural and historic relationship with the docks. The use of materials and recessed detailing would also serve to successfully break up the development and soften the perceived bulk and mass at street level.

19. The proposed development would also incorporate a significant amount of high quality and landscaped public realm that would serve to further reduce the visual impact, with important new spaces provided along the river frontage. Such measures, alongside the proposed transparent ground floor elements of the design, would ensure that the building would effectively integrate with the immediate and wider environs, providing an overall improvement to the character and appearance of the area relative to its existing context. Indeed, despite the Council's submissions, I agree with the appellant that the existing site is largely seen as a cluttered space comprising scrub, street signage and both parked and moving vehicles.
20. Based on the foregoing, and having considered all matters raised, I conclude that the proposed development would be appropriate to its local context in terms of its scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density. I also consider that it would integrate effectively with adjacent spaces, create a good quality townscape and represent a suitable design solution given the overall vision of creating a mixed use urban place through the SA1 regeneration, whilst also creating a 'gateway' building upon a key approach into the city centre. Accordingly, I find no conflict with Policy EV1 which seeks to ensure that new developments accord with the principles of good design. For the same reasons, I also find no conflict with Policy EC2 which, amongst other things, seeks to ensure that developments within SA1 Swansea Waterfront area integrate with existing areas and are of a high standard of design. As agreed in the submitted Statement of Common Ground (SoCG), there would be no conflict with Policy EV2.

Parking and Highway Safety

21. The Council objects to the proposed development on the basis that the extent of the parking provision proposed would result in increased pressure for on-street parking to the detriment of highway safety, including in St Thomas and Port Tennant which currently experience the effects of parking pressures. As such, the Council considers that the development would be contrary to the requirements of Policy AS6 of the adopted UDP and the adopted Supplementary Planning Guidance (SPG) entitled '*Parking Standards*' (2012).
22. Despite some uncertainty over the exact requirements of the parking standards, the Council clarified at the hearing that, in order to be SPG compliant, 20 parking spaces would be necessary to meet the needs of future residents and an additional 50 parking spaces would be needed to meet the needs arising from visitors to the development. The proposed development would make provision for 23 parking spaces and, in this respect, the development would make sufficient parking provision to meet the operational needs of the resident students. Nevertheless, there is no doubt that the levels of parking provided would fall short of the overall requirements of the adopted parking standards, having particular regard to the need arising from anticipated visitors to the development.

23. It is however important to note that the approved parking standards represent maximum standards, as set out in Policy AS6. It is also important to recognise that the SPG document containing the exact standards comprises guidance only and should not, therefore, be treated as determinative. Indeed, such standards should be applied to the specific circumstances of the case, with the overall issue of highway safety in mind. In considering such matters, it is also worth noting the fact that car parking can be a major influence on people's choice of transport. Specifically, Planning Policy Wales (PPW) (Edition 9, 2016)¹ states that "*local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past*", before going on to clarify that "*minimum parking standards are no longer appropriate*". The same document also advises that new developments should be consistent with the overall objective of "*minimising the need to travel and increasing accessibility by modes other than the private car*"².
24. There is no doubt in my mind that the site occupies both a sustainable and accessible location, with the SoCG setting out agreement that the site is well located in terms of proximity to a wide range shops and services within the locality. There are also frequent public transport options in the vicinity of the site and the topography of the local area and the dedicated network of footpaths and cycleways are conducive to walking and cycling meaning that sustainable methods of transport represent a viable alternative to the use of the private car, including for trips to the respective higher education institutions. A financial contribution executed through a unilateral undertaking under section 106 of the Town and Country Planning Act (1990) would make provision for financial contributions towards highway infrastructure, including improvements to both pedestrian and public transport options. The works funded by such a contribution and the undertaking of a Travel Plan would further improve the offer of sustainable modes of transport. Moreover, the relative sustainability of the site will no doubt further increase with the delivery of the aforementioned UWTSD proposals.
25. There is clearly potential for the development to result in an increase in indiscriminate parking within the immediate and surrounding areas. However, I have already clarified above that the operational requirements of the residents would be adequately covered by the proposed provision of 23 parking spaces and I do not, therefore, consider that demand arising from such means represents a justifiable reason for refusal. Indeed, given the proposed levels of parking and the aforementioned sustainability credentials of the site, there would be very little incentive or need for students to utilise a private car. Moreover, the availability of convenient long term parking opportunities would be a key factor for students in deciding whether or not to choose the proposed development as their choice of residence.
26. I recognise the fact that the proposed parking arrangements fall short of the standards in respect of parking provision for visitors. However, it is clear from the SoCG that there are a wide range of existing and proposed car parks within relative close proximity to the site which could be utilised by those visitors wishing to use a private car. Indeed, whilst reliance on such facilities would not represent an appropriate long term solution for residents, I see no reason why such facilities could not meet the needs arising from anticipated visitors, particularly given the fact that sustainable modes of transport represent a realistic alternative. Notwithstanding this,

¹ Paragraph 8.4.2

² Paragraph 4.7.4

a significant proportion of visitor trips would comprise those made at the beginning and end of term for pick-up and drop-off purposes and I am satisfied that such trips could be adequately regulated through an effective Travel Plan and/ or Operational Management Plan. Specifically, the appellant has referred to the fact that the proposed basement parking facility could function on a controlled time slot basis over a number of days to prevent overspill to the public highway on such occasions.

27. On the basis that the arrival and departure of students, as well as on-going traffic, cycle and pedestrian matters could be adequately regulated by an approved Travel Plan, and that issues of indiscriminate parking could be effectively enforced through civil enforcement processes, I see no reason why the proposed development would give rise to levels of indiscriminate parking that would represent a material threat to highway safety. Consequently, I find that the proposed development would accord with the general thrust of Policy AS6 of the adopted UDP which is framed within the context of preventing developments that would give rise to vehicle congestion and/ or highway safety concerns. I note the conflict with the adopted parking standards. However, for the reasons set out above, I consider the departure from such standards to be wholly justified in this case.
28. In considering the effects of the development upon highway safety, I have given weight to the financial contributions sought through the executed unilateral undertaking. Indeed, I am satisfied that such requirements meet the statutory and policy tests required of planning obligations.
29. The same unilateral undertaking also incorporates a covenant that seeks to restrict the occupancy of the student accommodation. Amongst other things, it states that no student accommodation shall be occupied other than by persons who have entered into a tenancy licence or similar requiring that the occupier shall not keep a motorized vehicle of which they have use as a driver within three miles of the boundary of the property save where: (a) the vehicle is parked within a public car park; and/or (b) where the vehicle is parked within such three mile zone solely for the purposes of loading and unloading the vehicle when moving in or out of the accommodation. Concerns have been raised as to whether such a covenant is reasonable and enforceable and I share such concerns. However, no firm evidence has been provided to demonstrate that such covenants have failed to provide an adequate solution in other cases where they have been used. Indeed, there is no objection from the Council in this respect. Nevertheless, given that I have already concluded that the effect of the proposed development upon highway safety is acceptable in its own right, I do not consider this particular element of the covenant to meet the statutory and policy tests. As such, I have not attributed it any weight in determining the appeal.

Other Matters

30. The need for the proposed student accommodation has been questioned by some parties, although I have not seen any robust evidence to support such assertions. Indeed, on the balance of the evidence available, it would appear that there is a clear need for student accommodation within the City and this is supported by the fact that there is on-going pressure for Houses in Multiple Occupation (HMO). It is also supported by the fact that the appeal proposal is being progressed as a market led development.
31. Concerns have been raised in relation to the impact of the proposed building on neighbouring properties, including the occupants of the Ethos and Technium buildings. However, given the siting, orientation and overall design, as well as the heavily

urbanised context, I am satisfied that matters of privacy, outlook and overshadowing would not be so substantial as to justify the dismissal of the appeal. Indeed, given the uses of the adjacent buildings I do not consider that the development would cause material harm to the amenity of the occupiers of neighbouring buildings. The living conditions of the future occupiers of the proposed building could be adequately safeguarded through the imposition of suitably worded planning conditions.

32. Concerns have been submitted regarding extant legal covenants that could act as an obstacle to the development of the site. However, I have not been provided with full details of such legal covenants and, in any event, I have not seen anything to indicate that such matters cannot be adequately addressed outside of the planning system. Similarly, whilst I acknowledge the concerns regarding the health and safety of students, I have not seen any cogent evidence to render such concerns justified. All other matters can be adequately addressed through the imposition of suitably worded planning conditions.

Overall Conclusions

33. Based on the foregoing, and having considered all matters raised, including those raised by interested parties, I conclude that the appeal should be allowed subject to the conditions set out below.
34. In coming to this conclusion, I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Richard E. Jenkins

INSPECTOR

Schedule of Conditions

35. I have considered the suggested conditions and, having had regard to the advice in Welsh Government Circular 016/2014: *The Use of Planning Conditions for Development Management* (October 2014), have adjusted their wording in the interest of clarity and precision. In addition to the statutory time commencement condition, I have imposed a condition listing the approved plans and documents for the avoidance of any doubt. Conditions Nos. 3, 4, 5, 13, 22, 23 and 24 are necessary in the interests of visual amenity, with particular reference to ensuring that there would not be any harm to the character or appearance of the area. Similarly, Condition No. 25 is necessary to ensure an active, attractive and transparent frontage that will maintain and enhance the vitality of the area at street level. Condition No. 6 is necessary in the interest of ensuring that necessary wind mitigation measures are appropriate and that they do not have an unacceptable impact on visual amenity.
36. Condition No. 7 would ensure that a coherent plan for the provision of waste management is implemented. Condition Nos. 8, 9 and 10 are necessary due to the high environmental sensitivity of the site and its adjacent waters having particular regard to the fact that contamination strongly suspected at the site due to its previous industrial uses. Condition No. 11 is necessary in order to protect residential amenity and to prevent pollution of controlled waters from inappropriate methods of piling. Condition No. 12 would ensure that the site is adequately drained, whilst Condition No. 14 would ensure that features of archaeological interest are protected.
37. Condition No. 15 requires a Construction Pollution Management Plan to be prepared and implemented and is necessary to manage environmental pollution issues. Condition Nos. 16, 17 and 18 are necessary having regard to air quality objectives and the living conditions of future occupiers of the building. Conditions No. 19, 20 and 21 would ensure that the development would provide acceptable living conditions for the proposed occupiers, having particular regard to levels of noise. Condition Nos. 26, 27 and 28 are necessary in the interests of ensuring a sustainable development and maintaining highway safety. Finally, Condition No. 29 requires an Operational Management Plan to be submitted and agreed to ensure that the operational implications of the development are acceptable.
38. The Council has suggested conditions requiring the developer to notify the Local Planning Authority and display a site notice indicating the initiation of the development, as required under Section 71ZB (2) of the Town and Country Planning Act 1990 (as amended). However, given that this is a requirement of legislation, I do not consider that it is necessary to duplicate the requirement as part of the planning permission. Similarly, No. 13 of the Council's suggested conditions has not been imposed given that it is adequately covered by Condition No.12 below.
- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans and documents:
Site Location Plan AP100/A, Existing Site Plan AP101/A, Existing Block Plan AP102/A, Proposed Site Plan AP103/B, Proposed Lower Ground Floor Plan AP104/F, Proposed Ground Floor Plan AP105/H, Proposed First Floor Plan AP106/F, Proposed Second Floor Plan AP107/F, Proposed Third Floor Plan AP108/D, Proposed Fourth Floor Plan AP109/D, Proposed Fifth Floor Plan

AP110/D, Proposed Sixth Floor Plan AP111/D, Proposed Seventh Floor Plan AP112/D, Proposed Eight Floor Plan AP113/D, Proposed Roof Plan AP114/C, Proposed Roof Plan AP114/C, Elevation A including Context AP115/C, Elevation B including Context AP116/C, Elevation C including Context AP117/C, Elevation D including Context AP118/D, Sectional Elevation AP120B, Sectional Elevation C AP121B, Sectional Elevation D AP122/C, Proposed Block Plan AP123/B, Elevation Sectional Detail AP132, Landscape Section AA EDP3244-09B, Landscape Masterplan EDP3244-07c, Landscape Section BB EDP3244-10A, Landscape Section CC EDP3244-11A.

- 3) Prior to the development of any superstructure works, samples of all external finishes together with their precise pattern and distribution on the development shall be submitted to and approved in writing by the Local Planning Authority. Composite sample panels shall be erected on site for the duration of the works and the development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of any superstructure works, details of the following at a scale of 1:10 or other appropriate large scale shall be submitted to and approved in writing by the Local Planning Authority:
 - *Typical window in its opening, including vent and spandrel panel;*
 - *Colonnade, including soffit;*
 - *Parapet;*
 - *Inset top floor including cap;*
 - *Typical external door opening.*

The development shall thereafter be carried out in accordance with the approved details.

- 5) Prior to the commencement of any superstructure works, details of all public realm works, including details of the parking for a refuse truck, shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter take place in accordance with the approved details.
- 6) Notwithstanding the details shown on the approved plans, details of all wind mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The proposed mitigation measures shall be referenced to a revised wind analysis and shall be implemented in accordance with the approved scheme prior to the first beneficial occupation of the building hereby permitted and retained thereafter for the lifetime of the approved development.
- 7) Prior to the occupation of the development, a Refuse and Recycling Strategy (including the provision of storage facilities within the site) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented and operated in accordance with the approved Refuse and Recycling Strategy for the lifetime of the development.
- 8) Prior to the commencement of development approved by this planning permission or such other date or stage in development as may be agreed in writing with the Local Planning Authority, the following components of a scheme to deal with the risks associated with contamination of the site shall

each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 9) Prior to occupation of any part of the approved development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- 10) Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
- 11) Prior to the commencement of construction works on the application site detailed plans of any piling operations to be carried out shall be submitted to and approved in writing by the Local Planning Authority. The submitted plans shall contain an assessment of vibration with regard to the neighbouring premises. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority which may be given for those parts of the site where

it has been demonstrated that there is no resultant unacceptable risk to groundwater.

- 12) No development shall commence until the developer has prepared a strategy for the comprehensive and integrated drainage of the site showing how surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained thereafter to serve the development.
- 13) Notwithstanding the submitted information provided in the DAS Addendum that confirms that PV panels will be concealed on the areas of roof behind the parapets full, or the provisions of Part 43 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales), full details of all PV panels and their siting shall be submitted to and approved in writing by the Local Planning Authority. The panels shall be retained thereafter in their approved position.
- 14) No development shall take place until the developer has secured agreement for a written scheme of historic environment mitigation which has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.
- 15) Prior to the commencement of construction works a Construction Pollution Management Plan (CPMP), as referred to in the Air Quality Assessment, shall be submitted to and approved in writing by the LPA. The CPMP shall include the following:
 - a. Construction programme and timetable;
 - b. Detailed site plans to include indications of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas;
 - c. Traffic scheme (access and egress) in respect of all demolition/ construction related vehicles;
 - d. An assessment of construction traffic generation and management in so far as public roads are affected, including provisions to keep all public roads free from mud and silt;
 - e. Proposed working hours;
 - f. Principal Contractor details, which will include a nominated contact for complaints;
 - g. Details of on-site lighting (including mitigation measures) having regard to best practicable means (BPM);
 - h. Details of on-site dust mitigation measures having regard to BPM;
 - i. Details of on-site noise mitigation measures having regard to BPM;

- j. Details of on-site vibration mitigation measures having regard to BPM;
- k. Details of waste management arrangements (including any proposed crushing/screening operations);
- l. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; and
- m. wheel washing facilities.

The development shall be implemented in accordance with the approved CPMP.

- 16) Prior to the beneficial use of the development, a quantitative assessment of NO₂ pollutant concentrations at the façade of the proposed development shall be undertaken (in line with National Air Quality Objectives) in parallel with the assessment of the on-site combustion plant to ensure that the combined effects of both pollution sources on future residents are fully assessed and mitigated if required. The assessment shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial occupation of the building hereby approved.
- 17) Prior to the beneficial use of the development, a scheme which specifies the provisions to be made for the control of ventilation and fume extraction shall be submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the premises are occupied and retained thereafter to serve the development.
- 18) Prior to the beneficial use of the development, a scheme which specifies the provisions to be made for any condensing units relating to refrigeration and freezing of products shall be submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the premises are occupied.
- 19) Prior to commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following:

All habitable rooms exposed to external road traffic noise in excess of 63 dBA Leq 16 hour (free field) during the day (07.00 to 23.00hrs) or 57 dBA Leq 8 hour (free field) at night (23.00 to 07.00 hours) shall be subject to sound insulation measures. These measures should ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night as set out in BS 8233:2014 Guidance on sound insulation and noise reduction for buildings.

The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with mechanical ventilation units so that future residents can keep their windows closed. No habitable room shall be occupied until the approved sound insulation and ventilation measures have been installed in that room and the approved scheme shall be retained for the lifetime of the development hereby approved.
- 20) Prior to the beneficial use of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority that restricts the flow of sound energy through party walls and floors between the commercial and

residential class uses within the development. The scheme supplied shall achieve a minimum DnT,w - (Ctr) of 50dB for the ceiling/floor between the commercial and residential uses and be verified by the appropriate testing methodology upon completion.

- 21) Prior to commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following: All building services plant noise shall be designed to achieve a rating level (dBLArTr) that does not exceed the representative night time background sound pressure level (LA90,15min) in accordance with BS4142:2014: Methods for rating and assessing industrial and commercial sound. The building services plant shall thereafter be installed and maintained in accordance with the approved scheme.
- 22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or amending that Order), Part 24 of Schedule 2 shall not apply to the development hereby permitted.
- 23) Notwithstanding the details submitted as part of the application, no superstructure works shall take place until there has been submitted to and approved in writing by the Local Planning Authority a fully detailed scheme of landscaping including species, spacings and height when planted of all new planting.
- 24) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first beneficial occupation of the building(s) or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 25) No vinyls or other obscure glazing shall be applied at any time to the ground floor A3 unit glazing or space listed as Ancillary Space on the approved plans.
- 26) The development shall be carried out in accordance with a Travel Plan to be submitted to and approved in writing by the Local Planning Authority prior to any beneficial use of the development.
- 27) Notwithstanding the submitted details, the development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall thereafter be retained in perpetuity.
- 28) Prior to the first beneficial occupation of the development, car parking arrangements shall be clearly demarcated within the site in accordance with the approved Plan Ref. AP104/F: *Proposed Lower Ground Floor Plan*. The parking spaces shall remain available for the designated use in perpetuity.
- 29) Prior to the first beneficial occupation of the development, an Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Operational Management Plan shall specify:

- a) The arrangements for the general maintenance and management of the site, including external amenity/ landscape space;
- b) The arrangements for servicing deliveries;
- c) The parking and traffic management incentives and arrangements, with particular reference to the beginning and end of term pick-up and drop-off arrangements;
- d) Measures proposed in relation to site safety and security; and
- e) The Procedures in place for minimising and managing community complaints, a point of contact for each academic year and full details of the community complaint procedures.

The development hereby permitted shall thereafter be implemented in accordance with the approved Operational Management Plan for the lifetime of the development.

APPEARANCES

FOR THE APPELLANT:

Mr Geraint John	Agent – Geraint John Planning
Mr Joe Ayoubkhani	Geraint John Planning
Mr Jeremy Osbourne	
Mr James	NMJ Property Developments Limited
Ms Melanie James	NMJ Property Developments Limited
Mr Matt Thomas	Vectos
Mr Andrew Cook	Inspire Design
Mr Dai Lewis	EDP - Landscape

FOR THE LOCAL PLANNING AUTHORITY:

Ms Amanda Pugh	Highways Authority
Ms Ann Williams	Planning Technician
Mr Huw Jenkins	Urban Design
Mr Andrew Ferguson	Local Planning Authority

INTERESTED PERSONS:

Mr Richard Banks	JCR Planning
Mr Meirion Howells	Ethos
Mr Nick Parkes	Ethos
Ms Carola Parkes	Ethos
Mr Jon Rance	Ethos
Mr Henry Anderson	Ethos
Mr Henry Evans	Ethos
Ms Chrissy Evans	Ethos
Mr Rowland Jones	Ethos
Mr Clive Lloyd	Ward Member
Mr Kevin Thomas	

DOCUMENTS

- 1 Appellant's 3-D Computer Generated Images of the Proposed Development
- 2 Appellant and LPA – Proposed Operational Management Plan Condition
(submitted via email dated 12 May 2017)
- 3 WG Dear Chief Planning Officer Letter (1 February 2016)
(submitted via email dated 12 May 2017)
- 4 Unilateral Undertaking under Section 106 (dated 15 May 2017)
(submitted to Planning Inspectorate, Cathays Park Cardiff)