

## **ADDENDUM REPORT PLANNING COMMITTEE 19/10/2006**

**Item: 2**

**Site: HMNB Devonport, Plymouth, PL2 2BG**

**Ref: 06/01198/FUL**

**Applicant: Serco Defence & Aerospace**

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Following the submission of a Geotechnical and Environmental Investigation report, the Environment Agency conclude that activities carried out at this site and its surroundings may have caused contamination of soil, subsoil and groundwater present beneath the site, which may pose a significant risk to the water environment or will pose a significant risk to the water environment as a result of the development.

The Environment Agency comment that the 'Geotechnical and Environmental Investigation Factual Report' carried out by Yeandle Geotechnical Ltd. for the above site in August 2006 does not include a desk study, a conceptual model including potential on and off site sources for contamination, adequate justification of the selected sampling strategy, or the interpretation of the submitted factual data. Hence they are unable to comment on contamination issues on the site based on the provided information.

They therefore suggest that the following conditions be attached to any permission in order to cover their concern in terms of potential land contamination issues.

### **CONTAMINATED LAND**

(3) Development shall not begin until an investigation has been carried out to establish the likely presence, extent and potential impacts of contaminated soils and groundwater at the site. This investigation will include a desk study and development and refinement of the conceptual model, site investigation, risk assessment, and remediation proposals and method statement. This work will be carried out in a phased approach with each phase informing and determining the need to carry out later phases. This work will be carried out in accordance with current good practice and agreed by the Local Planning Authority. Remediation, if required, will be carried out according to the above agreed documents.

### **Reason**

There is a possibility that the site, or parts of it, are contaminated from past activities and, if so, this will need to be dealt with before the development takes place in accordance with Planning Policy Guidance Note PPG23: Planning and Pollution Control (Chapter 4 and Annex 10); and Policy AEV50 of the adopted City of Plymouth Local Plan First Alteration 1996.

### **CONTAMINATION DURING REDEVELOPMENT**

(4) If during redevelopment contamination of ground or groundwater is encountered, then an investigation and assessment shall be carried out and submitted to the Local Planning Authority, detailing how that contamination will be managed. Further work on site will be carried out according to the results of this work.

## Reason

There is a possibility that the site, or parts of it, are contaminated from past activities and, if so, this will need to be dealt with before the development takes place in accordance with Planning Policy Guidance Note PPG23: Planning and Pollution Control (Chapter 4 and Annex 10); and Policy AEV50 of the adopted City of Plymouth Local Plan First Alteration 1996.

The following informative is also suggested:

### INFORMATIVE

#### (1) Guidance

The applicant is reminded that all work and documentation should be undertaken in line with relevant guidelines such as "CLR 11 - The Model Procedures for the Management of Land Contamination" and the "Environment Agency Guidance on Requirements for Land Contamination Reports".

## **ADDENDUM REPORT PLANNING COMMITTEE 19/10/06**

**Item: 3**

**Site: New George Street, Market Avenue, Western Approach and Colin Campbell Court**

**Ref: 06/01236**

**Applicant: Colesbourne Asset Management Ltd.**

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### **Revised Recommendation**

Grant Conditionally subject to S.106 legal agreement – Refer to Government Office South West – Delegated Authority to refuse if S106 Obligation is not completed before application deadline expires.

See addendum report for additional conditions and final S.106 contributions.

### **Additional Consultation responses**

#### **Environment Agency:**

In order to address Environment Agency (EA) concerns regarding predicted future tidal flood risk, the developer proposes a demountable flood protection system for any accesses to the development that are within the predicted flood levels.

The EA maintains its objection in principle on the basis of insufficient information regarding predicted flood levels.

However, The EA acknowledges the existence of an extant planning consent for the redevelopment of the site which does not incorporate any flood protection measures. Under the circumstances, the proposed protection system is considered to be a reasonable response to this matter and an improvement on the previous consent. However its specific details require clarification. Accordingly, an additional condition is recommended to ensure that a reasonable level of flood mitigation measures are implemented on site prior to occupation of the development, in accordance with details which shall have been previously submitted to and agreed in writing.

#### **Representations**

As a result of the additional publicity undertaken following receipt of the revised details, 2 Letters of representation have been received. Those representations not previously covered within the officer's report together with the Officer's response are summarised below:

1. Concern regarding the placement of two new bus stops on a very busy and potentially congested area of the city and that the proposed measures will not be fully integrated to the existing as well as the new infrastructure.

**Response:** The introduction of bus lay-bys would undoubtedly be a significant improvement upon the existing situation as the considerable number of buses that currently pass the site would have a dedicated area for setting down/picking up passengers. The Local Transport Plan 2 focuses much attention on increasing bus patronage levels in Plymouth and reducing bus journey times. Providing the dedicated bus lay-bys as part of the scheme would ensure that there is no restriction on the movement of buses along the existing bus lane, especially in view of the fact that the development is likely to lead to an increase in passengers boarding at these existing stops.

2. The existence of the extant consent is acknowledged, however it is considered that this is a new planning application which needs to be considered on its own merits in the context of the impact of the development upon the local highway networks.

**Response:** As previously stated, the principle of the removal of the car park has been agreed following the granting of Outline Planning Permission in 2002. Contributions will be sought from the development towards a package of improvement measures for Western Approach Multi-Storey Car Park (MSCP) to provide a better environment for shoppers using this car park along with the provision of a new at-grade signal controlled crossing facility on Western Approach to aid pedestrian movements between the site and the MSCP. The actual increase in walking distance from the exit from Western Approach MSCP to the centre point of the development, by comparison to that which currently exists with the Colin Campbell Court Car Park would be an extra 135m, which is not considered to be excessive.

3. Concern about the level of highway analysis undertaken. It is considered that in the absence of a wider city centre parking strategy the Transport Assessment should have included city wide parking surveys and further assessment as to how the Colin Campbell Court (CCC) development would impact on it.

**Response:** The suggestion to undertake further City wide parking surveys and a maximum accumulation assessment would not demonstrate how the potential removal of the Colin Campbell Court Car Park would impact upon existing City Centre parking stock. The majority of shoppers visiting the City Centre are likely to park as close as they can to the shops they are visiting and not in the areas outside the City Centre area. The opening of the 1,270 space car park serving Drakes Circus is considered to represent a substantial increase in the number of shopper car parking spaces serving the City Centre (20% increase upon the current total). The Plymouth City Council (PCC) Parking Strategy includes specific reference (Chapter 11) to the potential closure of the Colin Campbell Court car park and does not consider that its' removal would give rise to concerns relating to the level of car parking serving the City Centre.

4. Concern is expressed about the safety of pedestrians crossing Western Approach particularly if major works are proposed to the Western Approach / Union Street junction providing linkage through to Millbay. Suggestion is made that it may also be appropriate to request a financial contribution to future works at the junction and Western Approach in general for improved pedestrian crossings identified as part of the Mackay Vision.

**Response:** Adequate visibility will be provided at both of the proposed access points onto Western Approach as part of the proposed highway improvements, with the use of the Northern Service Route and activation of the rising bollard potentially being linked to the operation of the adjoining at-grade pedestrian crossing facility on Western Approach. It is accepted that the new scheme could result in additional mileage on the highway network but likewise the junction layout of the existing Colin Campbell Court (CCC) car park would also have generated additional mileage due to the fact that Western Approach is a dual carriageway and as such it is not possible to right turn into and out of the CCC car park from Western Approach. Therefore vehicles exiting the car park and wishing to head north would have to drive down Western Approach and u-turn around the Western Approach/Union Street junction before heading north. Vehicles re-assigning to the Western Approach MSCP from CCC would not need to undertake this manoeuvre.

The current development proposals associated with Millbay will result in a major re-design of the Western Approach/Union Street junction. These works will need to pay special attention to the pedestrian 'desire lines' and in particular pedestrian movements between the CCC development and Millbay. Improved crossing facilities at this junction will help deliver the required linkages between these sites. It is important to note that all works associated with improvements to the Western Approach/Union Street junction will be addressed by the Millbay development and not Colin Campbell Court.

5. It is noted that in respect of the local network there do not appear to be any problems, however concern is expressed that the wider impact has not been modelled and will not be modelled for some considerable time. The question is raised about what Plymouth City Council (PCC) would do should any problem arise with the model as a result of the impact of the Colin Campbell Court development. Furthermore, it is not considered appropriate that PCC should be coordinating the modelling of this network. It is considered that this responsibility should be taken on by the developers working together with PCC's modelling team and preferred consultants SIAS. Whilst the developers are proposing to make a contribution to this modelling exercise the £15k figure is considered insignificant in the likely overall cost of the model.

**Response:** The concerns regarding assessing the impact of the CCC development on the wider highway network, including the traffic movements generated by a number of sites coming forward within this area of the City (Millbay, Mount Wise etc) are acknowledged. However the modeling work undertaken by the Denis Wilson Partnership clearly shows that the CCC development would have a minimal impact upon the highway network in terms of additional trips. The major development sites which are proposed are not yet 'committed' and the scale of these sites are such they are likely to have a considerable impact upon the operation of the local highway network. Clearly it would not be justified to request financial contributions from this development towards highway infrastructure improvements which may be required due to the additional trip movements generated by other much larger developments.

The Waterfront Model will be used to assess the cumulative impact of additional traffic movements on the highway network generated by a number of developments and that the final results of this modeling exercise will be included within the Plymouth Travel to Work Area Model (TTWA). It is considered to be completely appropriate for Plymouth City Council to co-ordinate this area of work to ensure consistency with the various assumptions and work that has been undertaken in building the TTWA Model. Contributions will be sought from the above-mentioned developments towards building the model and testing the various development proposals and subsequent highway changes. Based on quotations received from SiAS for the undertaking of this work, a contribution of £15k is considered appropriate in view of the contributions which will be received from further developments in the area.

6. With reference to the proposed car park, it is suggested that a planning condition should refer to the agreement of a car park management plan prior to commencement on site which will detail, circulation, parking regime, layout, signing strategy etc. in order to avoid conflict with pedestrians and cyclists using the facility.

**Response:** A condition is recommended regarding the delivery and management of the undercroft car park.

7. Concern whether, given the late modification in the predicted traffic flows, these details have been included in the local capacity analysis and the wider SIAS modelling?

**Response:** The revised trip rates mentioned (arising from the inclusion of the additional sites in TRIC's) have been used in the revised TRANSYT runs produced by the Denis Wilson Partnership, which are considered to be acceptable. The TRANSYT results produced will be included within the wider Waterfront Model.

8. In order to mitigate the risk that future residents own more than one car it is suggested that a planning condition is included that specifies that future residents will not be permitted on street parking permits. It is also suggested that the development should be supported by a residential Travel Plan identifying measures by which to reduce the car ownership and maximizing the use of public transport. It is suggested that a planning condition be included whereby a Residential Travel Plan is agreed with PCC prior to commencement on site.

**Response:** An Informative is recommended that any grant of consent excludes the residential units from obtaining permits for the Permit Parking Zone in operation within the area.

9. A number of queries have been raised regarding the information provided within the Transport Assessment. These include whether there has been any consideration for pedestrians and cyclists; Has any modelling been undertaken on the width of future pedestrian routes, particularly along Western Approach; Has there been any assessment on the number of trips to be made by cycle and hence the number of cycle parking spaces that should be provided;

**Response:** With regard to pedestrian and cycle provision, 111 secure and covered cycle parking spaces have been proposed to serve the retail development (64 for use by staff and 47 for customers) along with a further 80 spaces in the undercroft car park for the residential units. The level of cycle parking proposed is considered to be more than adequate and is in accordance with the minimum cycle parking standards outlined in the draft Local Plan.

In terms of pedestrian provision, a new at-grade signalised crossing is being provided on Western Approach to cater for pedestrian movements being made to and from the site. Financial contributions are sought towards City Centre wide improvements to existing pedestrian signage. These measures are considered appropriate to the scale of the development to address the pedestrian needs arising from the development.

10. It is suggested that a planning condition specifying the detail of the rising bollard system be submitted for the approval of the local highway authority regarding the provision and the control of the Northern Service Area prior to commencement on site.

**Response:** The rising bollards controlling the use of the Northern Service Route and the associated highway works will be covered by way of a Section 278 Agreement.

11. Concern is expressed regarding the reliance on VMS signage. This is considered to be a major highway safety concern as it is suggested that people may choose to ignore such systems causing congestion and accidents. This problem is being exacerbated by the closure of the CCC car park. It is recommended that a revised right turn lane with sufficient capacity should be provided. This is considered to be particularly pertinent if Western Approach is narrowed to a single running lane as this will completely block Western Approach.

**Response:** The use of Variable Message Signage (VMS) to manage the movement of traffic to car parks is now established practice in a number of Cities throughout the UK. The use of VMS in Plymouth has been highly successful in re-directing motorists to the nearest available car park should certain car parks be full. Its use does not give rise to major highway safety concerns. Whilst it is acknowledged that some local drivers may choose to ignore VMS signs indicating that a car park is full, those shoppers being attracted in the City from further afield are likely to take note of what is being stated on the VMS and re-assign to the nearest available car park (as directed).

The Section 278 Agreement will ensure that signage will be provided to inform pedestrians that there is no pedestrian thoroughfare along the Southern Service Route. A defensible space for use by pedestrians will be provided along the southern side of the route to the rear of the existing businesses.

12. The levels of improvements to be secured as part of the S106 are considered to be extremely limited considering that there are also very limited S278 works. As this is considered to be a significant development forming a hub for redevelopment in the western sector of Plymouth, bringing about significant changes to the overall transport and highway patterns, it is suggested that further S106 contributions should be obtained from the developer for the following:-

- Pedestrian improvements works to Union Street / Western Approach junction
- Potential off site highway works to be agreed with PCC to mitigate the likely impact
- Improvements to cycle routing and facilities
- Improvements to Western Approach
- Residential Travel Plan
- Funding of additional bus services and vehicles

It is also considered that the following elements of S106 contributions are too low considering the likely impact.

- Development of Waterfront Traffic Model (should be significantly higher considering the likely traffic impact)
- Improvements to pedestrian signing (should be significantly higher to ensure that the signing includes the whole of the city)
- Variable Message Signing (VMS) (does this also include modifications to other signs in the city and connection into the control room)
- CCTV to monitor rising bollards (does the control room have the capacity to monitor the service yard – should there not also be a continuing control fee for these?)
- Amendments to the City Centre Signing Strategy (it is considered that this could be better dealt with by way of a planning condition whereby the developer agrees to implement a city

wide signing strategy for the site the detail of which needs to be agreed prior to commencement on site)

**Response:**

With regard to the further Section 106 Contributions suggested the level of Section 106 Contributions requested are deemed appropriate and are justifiable from the development as proposed. The pedestrian improvement works to Union Street/Western Approach Junction will be addressed by the Millbay Development which is proposing a complete re-design of this junction. This is not required from the Colin Campbell Court Development.

Potential off-site highway works will be addressed by other development proposals within the area which will have a significant impact upon the operation of the local highway network in terms of extra trips, based upon outcome/results of the Waterfront Model tests.

Improvements to cycling routes and facilities - Adequate cycle parking provision is provided on-site. It is not considered that there is a need for further improvements to cycle routes, as Plymouth City permits cyclists to use the bus lanes etc.

Improvements to Western Approach - Contributions are sought towards the 'greening' of the ring road.

Residential Travel Plan – A condition is recommended.

Funding of additional bus services and vehicles - As all bus routes inbound into the City Centre use the existing bus lane on Western Approach (in excess of 85 vehicles per hour), no improvements are considered necessary.

13. The site is considered to be within a low lying area which could leave the site exposed to drainage and tidal flood risks which should be assessed. It is considered that a detailed Flood Risk Assessment is required. Questions are raised as to whether the future increase in tide levels as a result of global warming has been taken into account. In addition it is questioned whether this application is being brought forward in advance of the “imminent” publication of PPS25 which may provide the EA with powers of direction and why the Planning Authority is making decisions against a national guidance body.

**Response:** The response to the EA objection is listed above. The third party question regarding the timing of the application is not an over-riding material planning consideration. For the record, it is not accepted that the application has been “brought forward now in advance of the imminent publication of PPS25”.

**Other Matters**

Under the Town and Country Planning (Shopping Development) (England and Wales) (No.2) Direction 1993, the application will be referred to the Government Office South West.

In terms of concerns expressed regarding the mechanism of delivery of the S106 Obligation, the Council will ensure that the section 106 agreement is thoroughly considered legally and that all relevant parties are included. It will establish through investigation of title and consideration of other relevant legal documentation such as the development agreement the most effective way to cover the provisions of section 106 of the Town and Country Planning Act 1990. This will make sure that there is compliance with the obligations included in the agreement. It is not unusual for an applicant of a planning permission to not own or have a majority interest in land covered by a proposed planning application.



An additional condition is recommended to ensure that all parties with any legal or equitable interest in the site have been joined as parties to the S.106 Agreement on the basis of which this permission is granted and the title to such land shall have been properly deduced to the Council.

An additional condition is recommended to secure the satisfactory delivery of the required affordable housing units.

Typing Correction – Words “non-material” to be deleted from paragraph 1 of “Other Matters” section of Officer’s report, (page 38).

### **S106 Obligation**

The following financial contributions and on-site affordable housing provision have been agreed:

1. 40 affordable housing units to be provided on site;
2. £300,000 towards highway infrastructure improvements, highway signage improvements and towards the upgrade of the adjoining Western Approach Car Park. This can be broken down as follows:
  - (a) Provision of Bus Boarders and Real Time Passenger Information at three existing bus stops (£30,000)
  - (b) Development of Waterfront Traffic Model to test development on wider highway network (£15,000)
  - (c) Improvements to pedestrian signage in the City Centre (£20,000)
  - (d) Provision of 2 Variable Message Signs (Intelligent Transport Solutions - £50,000).
  - (e) CCTV Camera to monitor operation of rising bollards in Northern Service Route (£15,000)
  - (f) Amendments to City Centre Direction Signing (£20,000)
  - (g) Improvements to Western Approach Car Park arising from increased use. (Improvements are required towards upgrade to the car park and stairwell lighting, provision of CCTV cameras, repainting and general refurbishment) (£150,000)
3. £60,097 towards primary and secondary education within the catchment areas of Pilgrim Primary School and Stoke Damerel Community College;
4. £131,820 towards the provision, upgrade and refurbishment of play space in the City Centre and on the Hoe;
5. £300,000 towards public realm tree planting along Western Approach, Market Avenue/New George Street;
6. £49,192 administrative fee.

## **ADDENDUM REPORT PLANNING COMMITTEE 19/10/2006**

**Item: Item 7**

**Site: East Quays Boatyard, Sutton Road, Sutton Harbour, Plymouth**

**Ref: 06/01368/FUL**

**Applicant: Sutton Harbour Company**

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Since writing the Committee report, one letter of representation has been received. This comments that the proposed multi-storey vertical slats would be out of keeping with the Sutton Harbour area and aesthetically displeasing; The Shipwrights Arms should not be re-opened as the noise and behaviour of a minority of patrons would be detrimental to the residential area.

### **Environment Agency:**

In order to address Environment Agency (EA) concerns regarding predicted future tidal flood risk, the developer proposes a demountable flood protection system and Flood Management Plan for the development.

The EA maintains its concerns that demountable flood gates are not considered to be the most appropriate solution for new developments and recommends that a permanent defence level to 4.6mAOD is provided. However the EA confirms that the proposal for flood boards does offer a reasonable level of protection if fitted in time.

Taking into account the wider regeneration issues supporting the redevelopment of the site in accordance with adopted Local Plan Policy, the proposal for a demountable flood system is considered to be a reasonable response to the predicted flood risk. Accordingly, an additional condition is recommended to ensure that a reasonable level of flood mitigation measures are implemented on site prior to occupation of the development, in accordance with details, including a detailed management regime, which shall have been previously submitted to and agreed in writing.

### **S106 Obligation**

The following financial contributions and on-site affordable housing provision have been agreed:

- (i) 30% Affordable Housing. To be delivered as 20 residential units on site and a capital sum equal to 10 off-site residential units for family housing in the East End area. The mechanism of delivery to be agreed.
- (ii) Contribution of £20,000 towards provision of a puffin crossing facility and associated works at the Exeter Street/Sutton Road junction, payable upon commencement of development.
- (iii) Contribution of £50,000 towards the Sutton Road Local Safety Scheme, which comprises refuge islands, carriageway marking and other street works, payable upon commencement of development.
- (iv) Contribution of £10,000 towards provision of improved bus stop facilities at the two stops adjacent to the site on Sutton Road. This would involve provision of bus boarders, timetable cases, flags and poles, payable upon commencement of development.
- (v) Contribution of £10,000 towards provision of suitable pedestrian signage infrastructure and interpretation boards, as part of Barbican/City Centre strategies, payable upon commencement of development.
- (vi) £114,840 towards the upgrade, improvement and provision of play and park facilities in the locality, payable upon commencement of development.

- (vii) £54,665 towards secondary education, payable upon commencement of development.
- (viii) £50,000 Percent for Art Contribution as supported by adopted policy.
- (ix) Administrative fee of £25,951.

**Recommendation**

Grant Conditionally subject to satisfactory completion of the S.106 legal agreement. Delegated Authority to refuse if S106 Obligation is not completed before application deadline expires.

## **ADDENDUM REPORT PLANNING COMMITTEE 19/10/2006**

**Item: 8**

**Site: The Hillside Centre, Station Road, Plympton**

**Ref: 06/01386/FUL**

**Applicant: McCarthy & Stone (Dev) Ltd**

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Update

### **Clarification**

The Committee report, in the affordable Housing section of the Analysis, contains a quote from Strategy Team Leader of Community Services. He refers to the Plympton Library scheme. It needs to be clarified that this is one example of a local affordable housing project where the contribution could be used for delivering affordable housing (above a new library –but not for books or library services etc).

The applicants have been advised of the concerns of residents and point out that the amount of traffic generation can be expected to be at least that of the former use, and further limitations on traffic use of Station Road is not necessary, and that they would monitor the condition of the road during construction.

### **Access Statement**

The applicants have also been advised of the Council Access Officer's concerns about the adequacy of the submitted Access Statement and have now submitted an addendum. I will report further on this at your meeting.

### **Essential need for S106 Agreement**

The applicants are questioning the level of S.106 administrative fee. They consider that the levy should relate to the degree to which a particular requirements might be complicated and that a 10% levy is not "fair and reasonable" on their affordable housing contribution that would be larger, and easier to administer than other S106 contributions. They are considering their position on the matter, and have elected to speak at Planning Committee on this issue.

Members may be aware that the City Council's policy, adopted in 2003, has been to include an administrative fee on all S.106 agreements, based upon a 5% - 10% of the total contributions included in the agreement. This level of contribution was established as a reasonable amount to cover the resources necessary to deal with the variety of tasks necessary to ensure that S.106 agreements are delivered, and was introduced in response to the failure of many developers to honour such agreements and thus the failure of contributions or works being delivered.

- Whilst the applicant may consider such a level of contribution to be unreasonable, it must be remembered that those applicants who provide contributions instead of undertaking the work themselves i.e. providing off site affordable housing contribution as opposed to building the accommodation themselves, are required to pay such an administration fee as the administration of contributions require more work on behalf of the authority. Furthermore, it is for the Authority to identify the level of contribution in each case, dependent upon a number of factors relating to each planning application.

If the applicant is unwilling to pay the administration fee it is unlikely that the requirements of the legal agreement can be delivered and therefore the application would have to be refused.

In view of the above the following revised Recommendation is made:

**Recommendation**

Grant subject to S106 Obligation –defer pending completion of S.106 legal agreement - Delegated Authority to refuse it if S106 Obligation not completed before the application deadline expires