

**ITEM: 5**

**Application Number:** 10/01270/FUL

**Applicant:** English Cities Fund

**Description of Application:** Change of use of Quay from commercial use to public use incorporating construction of new pedestrian access routes, associated surfacing works and landscaping, construction of seating and information boards (temporary 5 year consent)

**Type of Application:** Full Application

**Site Address:** CLYDE QUAY PLYMOUTH

**Ward:** St Peter & The Waterfront

**Valid Date of Application:** 23/07/2010

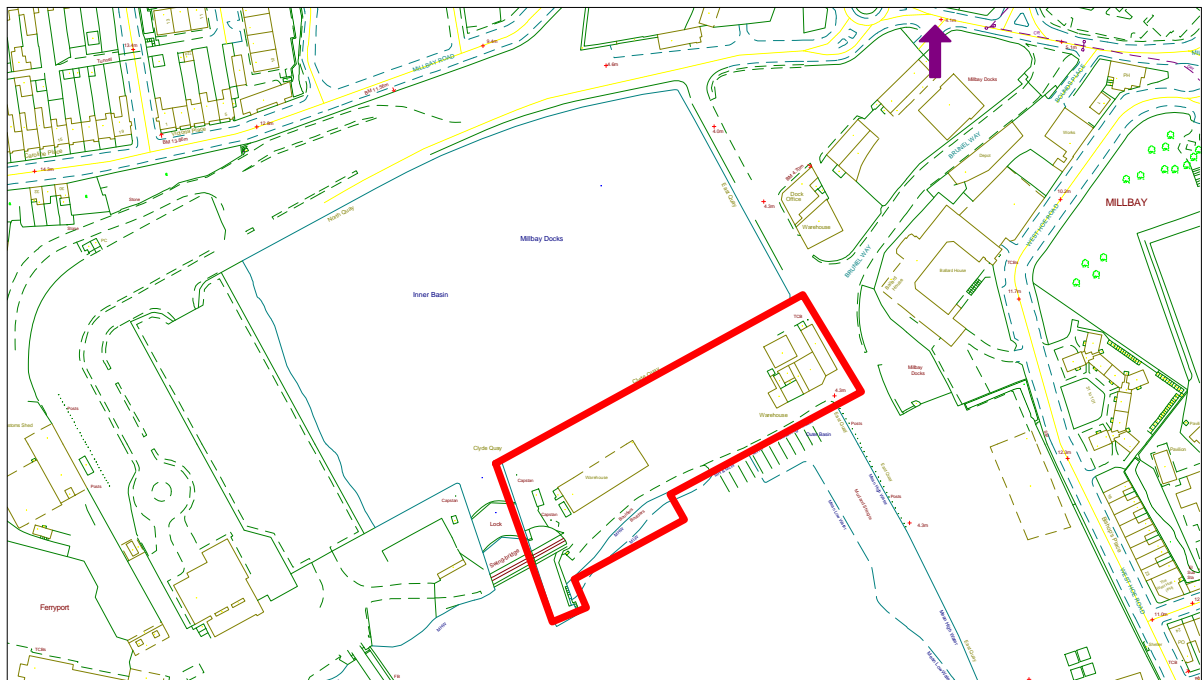
**8/13 Week Date:** **22/10/2010**

**Decision Category:** Major Application

**Case Officer :** Mark Evans

**Recommendation:** Grant Conditionally

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## **OFFICERS REPORT**

### **Site Description**

The application site comprises an unkempt, derelict area of redundant quay within the Millbay basin. The site area is 1.3 hectares.

### **Proposal Description**

Change of use of Quay from commercial use to public use incorporating construction of new pedestrian access routes, associated surfacing works and landscaping, construction of seating and information boards (temporary 5 year consent).

### **Relevant Planning History**

09/01507/FUL – Engineering operations for the repair and refurbishment of quay walls and revetments at the Millbay inner basin and Clyde Quay - APPROVED

06/01533/OUT – A mixed-used development comprising residential development (Use Class C3) of up to 1,232 dwellings, in the form of townhouses and apartments; up to 39 live/work units, maximum of 4,095 sqm; employment use (Use Class B1) up to 40,206 sqm; retail (Use Class A1) up to 9,026 sqm; food and drink (Use Classes A3 & A4) up to 13,824 sqm; hotel use (Use Class C1) up to 9,209 sqm; associated alterations to the Arena retained within Plymouth Pavilions (Use Class D2) up to 10,448 sqm; ground remediation, highway improvements and associated landscaping – APPROVED

### **Consultation Responses**

Highway Authority  
No Objections

Public Protection

No Objections subject to two conditions regarding “Developer’s Code of Construction” and “Land Quality”.

### **Representations**

No letters of representation received.

## **Analysis**

The key issues are:

1. The impact of the proposal on the appearance and character of the Area and adjoining Grade II Listed quay walls;
2. The impact of the proposal upon neighbouring properties;

The application should be assessed primarily against adopted Local Development Framework Core Strategy. This report therefore has due regard to the following policies: CS01 (Sustainable Linked Communities); CS02 (Design); CS03 (Historic Environment); CS34 (Planning Application Considerations).

Consideration should also be given to PPS1 - Delivering Sustainable Development, PPS5 – Historic Environment, PPS23 – Pollution Control, adopted Design Supplementary Planning Document (2009) and the adopted Development Guidelines Supplementary Planning Document (2009).

### The impact of the development on the appearance and character of the Area and adjoining Grade II Listed quay walls

The proposed development will visually improve the appearance and character of the area by enabling the existing unkempt, derelict area of this redundant quay to be attractively landscaped with a public access route around the quay edge and a large expanse of level area laid to grass creating an open amenity area in the centre of the quay, prior to the future development of the site and wider area as part of the wider Milbay re-development as approved under planning consent (06/01533/OUT).

The refurbishment of the quay will enhance the setting of the adjoining Grade II Listed quay walls.

The development is fully in accordance with adopted Local Development Framework policies CS01, CS02, CS03, CS18 and CS34, together with the Council's adopted Design Supplementary Planning Document (2009), adopted Development Guidelines Supplementary Planning Document (2009) and Government guidance contained in PPS1 and PPS5.

### The impact of the proposal upon neighbouring properties

The proposed use of the quay by the public and associated landscaping improvements will not have a material impact upon the residential amenity of neighbouring properties. The development is therefore acceptable and accords with adopted Core Strategy policies CS02 and CS34 and Government guidance contained in PPS1.

### Human Rights Act

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

### **Section 106 Obligations**

Not applicable in this case.

### **Equalities & Diversities issues**

The benefits to all groups will be positive as the development will provide accessible public access to the quayside benefitting all equality groups.

No negative impact on any of the equality groups is therefore anticipated.

### **Conclusions**

The provision of fully accessible public use of the quayside is fully supported and the associated landscaping, surfacing materials and finish of the proposed temporary quay refurbishment are considered to be acceptable and would visually enhance the appearance and character of the site and wider area in the interim period prior to its future re-development.

The re-development of this site would not have a significant adverse impact upon neighbouring properties and will contribute to the regeneration of the area as a whole. It is therefore recommended that the development be conditionally approved.

### **Recommendation**

In respect of the application dated **23/07/2010** and the submitted drawings, **414.2318.0001.GA.001, 414.2318.0001.GA.003, Plan 1 (Proposed Furniture Suite)** , it is recommended to: **Grant Conditionally**

## **Conditions**

### **DEVELOPMENT TO COMMENCE WITHIN 3 YEARS**

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

### **CODE OF PRACTICE DURING CONSTRUCTION**

(2) Prior to the commencement of the development hereby approved, a detailed management plan for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the management plan.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

### **LAND QUALITY**

(3) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until points 1 to 3 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until point 4 has been complied with in relation to that contamination.

#### **1. Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a desk study characterising the site and identifying potential risks from contamination;
- (ii) a survey of the extent, scale and nature of contamination;
- (iii) an assessment of the potential risks to:  
human health,  
property (existing or proposed) including buildings, crops, livestock, pets,  
woodland and service lines and pipes,  
adjoining land,  
groundwaters and surface waters,  
ecological systems,  
archeological sites and ancient monuments;
- (iv) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

## 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of point 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of point 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with point 3.

#### Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring and are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### LANDSCAPE DESIGN PROPOSALS

(4)No development shall take place until full details of soft landscape works and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.

Notwithstanding the submitted design and materials of the proposed litter bins, no litter bin shall be placed on site until details of the siting, design and an appropriate flame retardant material have been submitted to and agreed in writing with the Local Planning Authority. Such agreed details to be strictly adhered to during the course of development.

#### Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### SOFT LANDSCAPE WORKS

(5)Soft landscape works shall include [planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; the implementation programme].

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### MAINTENANCE SCHEDULE

(6) No development shall take place until a schedule of landscape maintenance for a minimum of five years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason:

To ensure that satisfactory landscaping works carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### TEMPORARY USE: REINSTATEMENT

(7) The use hereby permitted shall be discontinued and the land restored to its former condition on or before five years from the date of this permission in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority before any works commence on site.

Reason:

In the opinion of the Local Planning Authority the temporary use to which this permission relates will by the said date have fulfilled its required purpose. This condition is imposed to comply with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### INFORMATIVE - CODE OF PRACTICE DURING CONSTRUCTION

(1) The management plan required in connection with the "Code of Practice During Construction" Condition should be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web-pages, and shall include sections on the following:



- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information.
- b. Construction traffic routes, timing of lorry movements, weight limitations on routes, initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, wheel wash facilities, access points, hours of deliveries, numbers and types of vehicles, and construction traffic parking.
- c. Hours of site operation, dust suppression measures, and noise limitation measures.
- d. details of an area to be created within the site or on an adjoining area for the parking of contractor's equipment and materials.

#### INFORMATIVE - LISTED QUAY WALLS

(2) For the avoidance of doubt, this permission does not authorise any works to the adjoining Listed quay walls and is not a grant of Listed Building Consent. Under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is an offence to execute or cause to execute any works for the demolition of the listed structure or its alteration or extension in any manner which would affect its character as a building/structure of special architectural or historic interest, unless the works are authorised by and executed in accordance with the terms of a Listed Building Consent and any conditions attached to it.

#### **Statement of Reasons for Approval and Relevant Policies**

Having regard to the main planning considerations, which in this case are considered to be: The impact on the appearance and character of the area and adjoining Grade II Listed quay walls; The impact of the development upon neighbouring properties, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (1) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

PPS1 - Delivering Sustainable Development  
CS34 - Planning Application Consideration  
CS18 - Plymouth's Green Space  
CS03 - Historic Environment  
CS01 - Sustainable Linked Communities  
CS02 - Design  
SPD1 - Development Guidelines  
SPD3 - Design Supplementary Planning Document  
PPS5 - Planning for the Historic Environment