

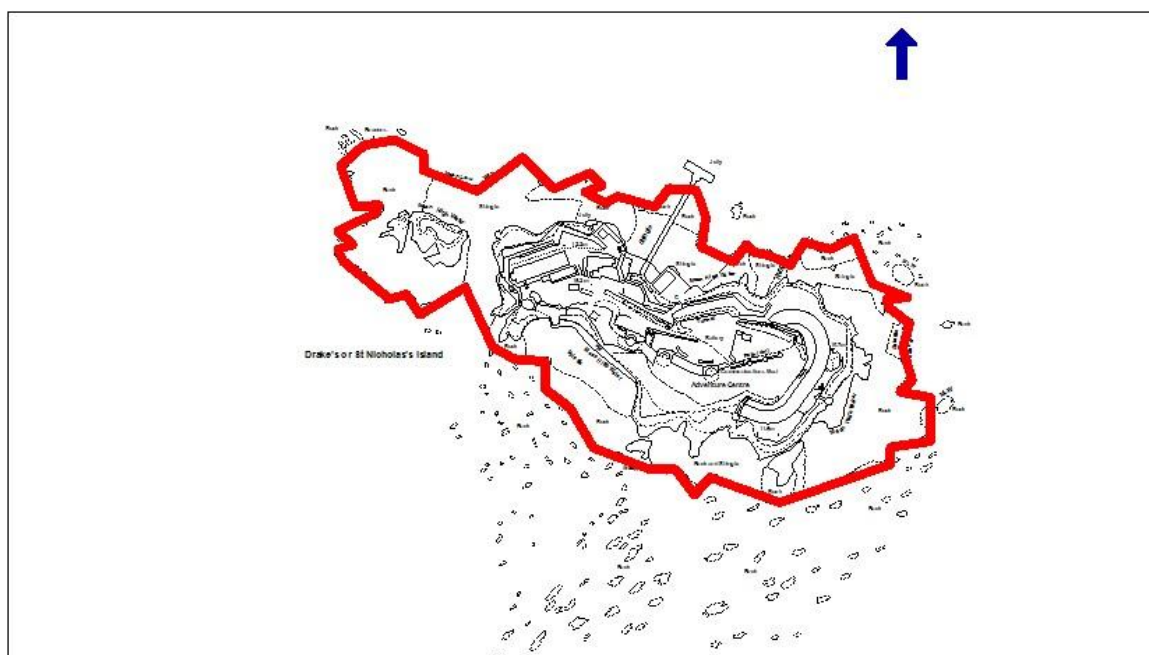
PLANNING APPLICATION REPORT



Application Number	14/00001/FUL and 14/00002/LBC	Item	05
Date Valid	02/01/2014	Ward	St Peter & The Waterfront

Site Address	DRAKE'S ISLAND PLYMOUTH		
Proposal	Hotel development including conversion of Grade II listed Island House, Barracks and Ablutions Blocks, Scheduled Ancient Monument casemated battery and landscaping, refurbishment of jetty and infrastructure works		
Applicant	Rotolok (Holdings) Ltd		
Application Type	Full and Listed Building Application		
Target Date	30/01/2015	Committee Date	Planning Committee: 15 January 2015
Decision Category	Major - more than 5 Letters of Representation received		
Case Officer	Matt Coombe		
Recommendation	Minded to refuse subject to final negotiation with the applicant on issues related to the impact on protected species and flood risk		

Click for documents	www.plymouth.gov.uk
----------------------------	--



Site Description

Drake's Island is located in Plymouth Sound, about 600 metres south of the Hoe. It extends to about 2.6 hectares and is formed of limestone and volcanic rock rising to a height of some 29 metres.

Formerly known as St Nicholas Island, its strategic position on the approach to Sutton Harbour, the Cattewater, Hamoaze and Dockyard led to it being fortified from at least the 16th century. Military use of the island continued until after World War II. From 1963 to 1989, Plymouth City Council obtained a lease from the Crown and operated a youth adventure training centre there. The current owner bought the island from the Crown in 1995. Since then the island buildings have been unused, and have fallen into disrepair.

A large proportion of the island is a designated Scheduled Ancient Monument (SAM 12614), comprising three designated areas. At the western end of the island, the designated area includes the main entrance, coastal walls and the western gun battery. A small area in the north-east of the island encloses a small area believed to contain remains of a 16th century artillery tower. The largest area includes the majority of the central and eastern parts of the island, enclosing the casemated batteries of 1860-1, and most of the later artillery batteries and magazines. Although excluded from the Scheduled Monument, the group of four principal buildings occupying the north-west end of the island are Grade II listed. These buildings comprise the 18th and 19th century former Barracks, Ablution Blocks, Commanding Officer's House and Guardhouse.

The range of remains and fortifications, and the prominent location of Drake's Island, make it a heritage site of national importance.

Drake's Island has significant wildlife interest and is located within the Plymouth Sound and Estuaries Special Area of Conservation (SAC). There are several designated interest features of the SAC that are relevant to this application including eelgrass (seagrass) beds. Eelgrass beds are essential to the ecological function of the SAC and provide habitat for rare and protected species such as the spiny seahorse. The island also hosts important numbers of breeding and roosting little egrets. The little egret is a designated feature of the Tamar Estuaries Complex Special Protection Area (SPA).

Proposal Description

The proposals seek to carry out conversions and extensions to existing buildings, together with an element of new build, to allow the island to function as a luxury hotel resort. The intention is that the island will be made available not just to hotel residents and guests, but that arrangements will be made to allow controlled access to members of the public.

The proposed development is largely concentrated in three main areas:

- The group of buildings at the western end of the island representing the former residential quarters of soldiers and officers
- The casemated battery at the eastern end of the island
- The arrival point on the north side of the island

In brief, the proposals seek to convert the Barrack Block into 25 hotel bedrooms and suites, to convert Island House into bar and restaurant areas, to convert and extend the Ablution Block, to provide spa, gym and swimming pool facilities and to connect these three buildings with a highly glazed linking element of contemporary architecture that will provide the core services and the main vertical circulation for the hotel as well as space for the bar at ground floor and restaurant at first floor. Space is also allocated for staff and support accommodation and ancillary facilities. Creation of an outside seating area is proposed to the rear of the Barrack Block, together with a circular timber “arbour” and other landscape features. To allow for this space and the Ablutions Block extension it is proposed that the existing ammunitions store here be demolished.

The Napoleonic casemated battery at the east end of the island is proposed for conversion to provide additional hotel accommodation in the form of 18 single and double unit suites, with three “feature rooms” restored to reflect their original historic form and made accessible to the public with displays and information on the island’s heritage and ecology. The three northernmost casemates have been chosen as “feature rooms” in order to provide a “buffer zone” to mitigate the impact on the adjacent little egret roost – the intention being that access to the rooms can be limited to outside the roosting and breeding seasons, minimising the chance of disturbing the birds. Construction of glazed acoustic screen is proposed at the entryway to the casemates from the access tunnel, with the aim of protecting the little egrets from noise disturbance from hotel guests.

The landing jetty at the north side of the island is proposed for repair and refurbishment and the adjacent 1980s Boat House, a dilapidated asbestos-clad structure, triangular in section, is proposed for demolition, to be replaced with a modern “Arrival Building” with a “scenic lift” giving access from the jetty level to the main hotel level at the top of the cliff. A boat store is also proposed within the building.

It is proposed that overgrown vegetation on the island be carefully cut back. On the upper levels it is proposed that historic pathways be uncovered and the area generally be made safe.

Installation of lighting is proposed for the tunnel and store room network beneath the island, which is to be generally cleaned and repaired but with no major changes other than the creation of an ecological enhancement feature in the form of a bat hibernaculum “bat fridge”.

A centralised energy from waste system is proposed to produce electricity and hot water for the hotel. The intention is that suitable waste will be safely incinerated, thereby providing renewable, low carbon energy.

A sewage treatment plant is proposed, including an outfall to the southwest of the island.

Pre-Application Enquiry

A pre-application meeting took place in December, through the Council’s Development Enquiry Service. This followed extensive pre-application meetings on the applicant’s previous scheme (applications 12/00095/FUL & 12/00099/LBC) which was very similar in design. Meetings included detailed discussions on ecology, heritage and flood risk with involvement from Natural England, English Heritage and the Environment Agency. There were two site visits to the island with the previous scheme, together with two further visits with the current proposal. The applicant held a

day-long public consultation event on the previous proposal at the Royal Corinthian Yacht Club on 01/12/11 and conducted further pre-application consultation with the Plymouth Waterfront Partnership and other bodies.

Relevant Planning History

12/00095/FUL & 12/00099/LBC - Refurbishment and extensions to existing redundant buildings to form hotel development to include refurbishment of jetty, refurbishment, part demolition and extensions to Grade II listed Barrack Block, Island House, and Ablutions Block. Refurbishment and part demolition to scheduled Ancient Monument Casemated Battery and general landscaping and infrastructure works - REFUSED

99/00980/FUL & 99/00981/LBC - Change of use of Casemates to visitor attraction with cafe; Officers House to a tavern/restaurant (together with rear extension); Barrack Block to hotel (together with extension) - REFUSED

Consultation Responses

English Heritage

No objection. There have been significant negotiations with English Heritage regarding the proposals for the Casemates building (a Scheduled Ancient Monument) – particularly with regards to the proposed loss of a number of cast iron blast shields. The applicant has sought to remove a number of historic blast shields to create larger windows (and therefore allow more natural light and wider sea views for the proposed hotel rooms within the Casemates building). English Heritage was initially concerned about the number of blast shields proposed for removal. However, further to extensive negotiations and a site visit with English Heritage and the applicant's agents, a compromise was reached. English Heritage suggested a hybrid solution, whereby key Casemate blast screens could remain in place, but have larger openings cut into them, subject to agreement on detail and a structural survey. The applicant agreed to this compromise and revised the Casemates drawings accordingly, whilst also commissioning a structural survey as requested by English Heritage. English Heritage has confirmed their support for the latest version of the proposal in conversations with officers and the applicant's agents. English Heritage intends to submit a formal consultation response when their structural engineers have finished considering this report.

Natural England

Objects - as it considers that it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the Tamar Estuaries Complex Special Protection Area (SPA) and the Plymouth Sound and Estuaries Special Area of Conservation (SAC).

With regards to the SPA, *"The SPA qualifies under Article 4.1 of the Directive (79/409/EEC) (as amended) by supporting populations of European importance of little egret (Egretta garzetta) and Avocet (Recurvirostra avosetta).*

It is clear from the information provided in the Environmental Assessment that Drake's Island is of major importance for little egrets using the adjacent Tamar Estuaries Complex SPA and component SSSIs. This is confirmed by existing counts from local and national data sources and from specific surveys undertaken by Engain. The site is, at times, used as an overnight roost by the majority of birds from the Tamar Estuaries Complex SPA. The site also supports a small breeding colony of little egrets.

Whilst the majority of little egrets utilise trees at the far north-eastern end of the island in front of the casemates, there is information to show that birds also utilise trees between the north-eastern corner and the jetty, and small trees behind the casemates. It is possible that birds also use trees on the south side of the island (perhaps mainly when there is a strong northerly wind) though this has not been confirmed by survey work. Birds using trees away from the north-eastern corner would be subject to higher levels of disturbance from human activity as they will be closer to areas accessible by people and will not benefit from the screening measures proposed for trees at the far north-eastern corner of the island.

Given the small size of Drakes Island, there is potential for significant disturbance from loud activities taking place anywhere on the island. This could include fireworks, loud music, shouting or the use of heavy machinery. Work during the construction phase could be timed to avoid periods when the birds are present, as detailed in the CEMP. During the operation of the hotel there is a reliance on education, signage and the assistance of hotel staff to ensure that noise levels are not excessive. Whilst this may be effective in reducing the number of disturbance incidents, given the large number of hotel guests and other visitors to the island it is highly unlikely to prevent all disturbance incidents from occurring.

Any noise associated with human activity close to the trees used by breeding or roosting birds could result in disturbance. The little egrets have selected a roosting and breeding site distant from human activity. Close to the roost/breeding site, limiting noise to below a certain decibel threshold is unlikely to be sufficient to prevent disturbance. If the birds are able to detect any human activity within a few metres of their roost/breeding site then they are likely to be disturbed. For activity close to the roost/breeding site, work during the construction phase could be timed to avoid periods when the birds are present as set out in the CEMP. However, during the operation of the hotel this will be more challenging and, as set out in the OEMP, is reliant on the use of education, signage, low fences and the assistance of hotel staff to ensure appropriate behaviour. As noted above, whilst this is likely to reduce the number of disturbance incidents it is unlikely to prevent disturbance from occurring at times.

Conclusions:

The little egret is sensitive to human disturbance and, for this reason, selects sites that are remote from human activity. It is a highly social species and use of sites for breeding and roosting are based on what may be viewed as a 'group decision' taken by the local population. If the development were to result in disturbance, as we believe is likely even with the proposed mitigation in place, this may result in the complete loss of the breeding colony from this site and communal roost rather than a reduction in numbers of birds present. There is uncertainty about what would happen to the birds in this scenario. The fact that they undertake a daily two-way flight of between 2.5 to 14 km (depending on their location on the SPA) over the open sea to reach Drakes Island strongly suggests that there are no equally suitable roost sites within the SPA or immediately adjacent to it. In the absence of such a site the birds may be forced into roosting at a less suitable location where disturbance is more frequent, requiring them to expend more energy when subject to repeated disturbance. Or they may relocate to another site along the south coast where suitable foraging areas are available in close proximity to suitable disturbance-free roosting habitat. There is the possibility for the Tamar Estuaries Complex SPA to lose the majority of its little egrets as a result of such a redistribution.

The CEMP and OEMP include monitoring of little egrets to assess potential impacts of construction work and operation of the hotel. Whilst this offers reassurance that impacts on the birds will be detected quickly it is not clear that this will prevent further impacts from occurring and the potential loss of Drakes Island as a breeding and roosting site."

With regards to the SAC, “Natural England’s advice is that the development is likely to increase recreational boat traffic around the island, which has the potential to lead to negative impacts on the seagrass beds particularly through anchoring on top of the seagrass. We agree that a voluntary no-anchor zone could be implemented as a first step to mitigation, however, it is not sufficient mitigation on its own as it is not enforceable. A formal commitment consisting of additional measures will need to be in place prior to the commencement of the operational phase of the works, should the voluntary no-anchoring zone be proven ineffective. [...] Natural England also has concerns regarding the potential impacts from the energy from waste plant. Until further information has been provided it is not possible to determine whether or not this will have a likely significant impact on the seagrass or other designated features of the SAC.”

Environment Agency

Objects – due to;

- i. concerns about vulnerability of Torpedo Room hotel accommodation to waves and flooding, and
- ii. insufficient information regarding foul drainage and discharges from the proposed on-site energy from waste plant.

Transport

No objection – subject to conditions on travel plan, parking and transfer details.

Ministry of Defence (MOD)

No objection – subject to detailed design requirements to address MOD explosive safeguarding concerns which can be controlled by condition.

Public Protection Service

No objection – subject to conditions on;

- i. land quality
- ii. Construction Environmental Management Plan (CEMP)
- iii. outside entertainment, and
- iv. kitchen staff changing areas and welfare facilities.

Police

No objection.

Marine Management Organisation (MMO)

No objection. MMO requests that applicant submits an enquiry so they can advise whether a marine license is required.

Queen’s Harbour Master

No objection.

Royal Society for the Protection of Birds (RSPB)

Objects – due to concerns that adverse impacts on statutorily protected wildlife, particularly little egrets, cannot be avoided during the construction and operational phases.

Devon Wildlife Trust

No objection – subject to;

- i. provision of independent on-site ecological warden to monitor species and habitats for the lifetime of the development, and
- ii. eradication of rat populations to benefit ground nesting birds and roosting and hibernating bats.

Cornwall Wildlife Trust

Object – due to concerns about impacts on the little egret colony.

Representations

At the time of writing the Officer's report, 14 representations have been received.

One representation supports the proposal provided its historic environment, ecology and landscape are protected.

Twelve representations object to the proposal, and the following list summarises the comments and issues of concern raised:

1. Impact on protected wildlife including protected birds (notably, little egrets) and bats.
2. Impact on the seagrass beds.
3. Concerns that environmental mitigation measures will be insufficient.
4. Drake's Island should not just be for the rich, but an affordable, accessible place for all.
5. A luxury hotel can be put anywhere but the "destruction of heritage cannot be reversed".
6. The success of the proposed venture cannot be guaranteed.
7. Suggestion that if the Council or a heritage organisation "bought back the island and preserved it, it would serve a much greater purpose for the city of Plymouth than a hotel."
8. "Giving consent would seriously damage, if not completely destroy, any future chance of developing the island's potential as a 'top tourist attraction'".
9. The casemates should be set up as a museum.
10. A cable car service could be provided as a major attraction – linking the island to the Hoe.

One representation neither supports nor objects to the proposal, but makes the observation that the heritage of Drake's Island should be protected.

Analysis

1.0 Planning Policy Position

In the First Deposit Local Plan (FDLP) Proposal 113, Drake's Island was allocated for leisure, recreation and tourism uses, with development to make provisions including for "sensitivity to and enhancement of the island's historic, architectural and nature conservation interests". The FDLP has now been superseded by the adopted Core Strategy, and the Hoe Area Vision in this document provides general planning policy guidance relevant to Drake's Island:

Core Strategy Area Vision 4 - The Hoe

To enhance the civic quality and focus of The Hoe, including its foreshore and related spaces, promoting in particular its tourism, leisure and residential functions.

To create a balanced neighbourhood at West Hoe, encouraging sustainable mixed-use development including new community facilities.

The Council's objectives to deliver this vision are:

1. To maintain a unique, high quality, well-resourced and engaging tourist and leisure destination.
2. To enhance the built environment and address regeneration needs through new development.
3. To improve the range and quality of public facilities and information.
4. To provide a more memorable link between The Hoe and the city.
5. To improve pedestrian movement across The Hoe to its attractions and foreshore.
6. To provide high quality public, water and sustainable transport facilities serving The Hoe and its neighbourhood.

Drake's Island is not shown in the Hoe Vision Diagram. The emerging Plymouth Plan may include a more detailed proposal to replace the FDLP Proposal 113, but the planning issues and objectives are likely to be similar.

The following Core Strategy policies are relevant:

CS01 - Sustainable Linked Communities

CS02 - Design

CS03 - Historic Environment

CS04 - Future Employment Provision

CS12 - Cultural / Leisure Development Considerations

CS13 - Evening/Night-time Economy Uses

CS18 - Plymouth's Green Space

CS19 - Wildlife

CS20 - Resource Use

CS21 - Flood Risk
CS22 - Pollution
CS28 - Local Transport Consideration
CS32 - Designing out Crime
CS33 - Community Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS22 - Pollution

The following Supplementary Planning Documents are relevant:

- Planning Obligations and Affordable Housing Supplementary Planning Document (Second Review 2012)
- Design Supplementary Planning Document (2009)
- Development Guidelines Supplementary Planning Document (2010)

The NPPF - National Planning Policy Framework (March 2012) – is also a key consideration. The National Planning Policy Framework seeks to actively encourage and promote sustainable forms of development. It replaces all previous Planning Policy guidance issued at National Government Level.

This application has been considered in the context of the Council's adopted planning policy in the form of the Local Development Framework-Core Strategy 2007 and National Planning Policy Framework guidance.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007). The development plan is currently being reviewed as part of the Plymouth Plan. The Plymouth Plan-Part One: Consultation Draft was approved by Cabinet for consultation purposes on 9 December 2014. As such it is a material consideration for the purposes of planning decisions.

2.0 Principle of Development

The proposed development is well aligned to planning policy objectives and is considered consistent with spirit of the City Vision - to create "one of Europe's finest, most vibrant waterfront cities". The emerging Plymouth Plan evidence base highlights the need for new high quality hotel accommodation in the city.

3.0 Impact on Historic Environment

3.1 It must be noted that the Council's responsibility as Local Planning Authority, to the historic environment on Drake's Island, extends only to the Listed Buildings and not the Scheduled Ancient Monument (for which English Heritage is the authorising body).

3.2 Refurbishment of the jetty and the proposed Arrival Building are considered to have a minimal effect on the island's historic assets and will significantly improve the existing

arrangements. The Arrival Building's bold angular design and associated landscaping measures are welcomed, as are the proposals for the gateway approach to the main hotel area.

- 3.3 With regards to the main hotel complex proposed for the Barrack Block/Island House/Ablutions Block, there are two key issues - the loss of original historic fabric and the proposal to connect the buildings to form one hotel "core". The proposal requires a significant amount of demolition of existing features and fabric, though the most significant elements to be removed are the three stairways on the southern side of the main Barrack Block. While this is regrettable, this building is only assessed as "moderate" in the Heritage Assessment and the loss is justified in both the Heritage Impact Assessment and accepted by English Heritage as necessary for the viability of the development. It is therefore considered that any loss here, and with the Artillery Store, can be mitigated by recording.
- 3.4 The proposal to connect the buildings with a central glazed "core" is considered to be a sound approach. The front of the glazed "link block" has been pulled back into alignment with the north frontage of the Island House – responding to English Heritage's request with the previous scheme (planning applications I2/00095/FUL and I2/00099/LBC), and allowing the building's historic elevation to be seen in full.
- 3.5 Both with the current and previous planning applications, there have also been significant negotiations with English Heritage regarding the proposals for the Casemates building (a Scheduled Ancient Monument) – particularly with regards to the proposed loss of a number of cast iron blast shields. The applicant has sought to remove a number of historic blast shields to create larger windows (and therefore allow more natural light and wider sea views for the proposed hotel rooms within the Casemates building). English Heritage was initially concerned about the number of blast shields proposed for removal. However, further to extensive negotiations and a site visit with English Heritage and the applicant's agents, a compromise was reached. English Heritage suggested a hybrid solution, whereby key Casemate blast screens could remain in place, but have larger openings cut into them, subject to agreement on detail and a structural survey. The applicant agreed to this compromise and revised the Casemates drawings accordingly, whilst also commissioning a structural survey as requested by English Heritage.
- 4.0 Impact on Natural Environment - Summary
- 4.1 Drake's Island is of great importance in terms of its natural environment on-site and beyond and its redevelopment presents a complex series of challenges in this respect. Officers have worked incredibly hard to find a solution with the applicant, in recognition of the importance of Drake's Island to Plymouth and the unique opportunity presented by the proposal. Unfortunately however, negotiations with the applicant have reached an impasse and officers consider that we have no choice but to draw the conclusion as the 'competent authority' that the development will result in an unacceptable impact on the Habitat Regulation designated site.
- 4.2 Natural England (NE), the RSPB and other bird experts in the area have objected to the scheme on the grounds of potential impacts on the SAC and SPA. In particular NE has stated that "it is the advice of Natural England that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity."

4.3 It has been demonstrated through case law that there is a need for certainty in reaching a conclusion that there will be no adverse effect on a European site before consent is granted. There can be prospective certainty i.e. by the time any possible impact may occur, measures will be in place to ensure that it cannot. Case law has also demonstrated that the Council must accord considerable weight to Natural England advice and must have compelling reasons to depart from it. The “competent authority” must tackle areas of dispute or provide a properly reasoned record of how these have been resolved and how a ‘no adverse effect’ finding has been reached. There are significant obstacles in the way of reaching a conclusion to the standard of proof required for the Council as the “competent authority” to lawfully conclude that the development will not adversely affect the integrity of the SPA and SAC.

4.4 The applicant is willing to provide on-site mitigation as described in detail in their Construction Environment Management Plan (CEMP) and Operational Environment Management Plan (OEMP). However, a major cause of concern to officers is the fact the applicant is not willing to provide off-site mitigation.

4.5 The applicant’s argument is that it is not lawful to seek any off-site mitigation for the little egrets since they argue that no detrimental impact will arise. The applicant’s opinion is that there is already suitable alternative roosting habitat in and around the SPA and that there can be no confidence that any off-site mitigation would work. The applicant concludes that neither they nor the city could rely on the off-site mitigation, and that any consent granted that relied on that off-site mitigation would be challengeable.

5.0 Impact on the Tamar Estuaries Complex Special Protection Area (SPA)

5.1 A key issue in the consideration of this planning application is the level of impact on the island’s little egret colony - both during the construction and operation phase of the proposal. The Local Planning Authority has records of a nationally significant number of little egrets roosting in the trees on Drake’s Island – notably in the hawthorn trees to the north of the Casemates. The little egret is a key species cited in the designation of the Tamar Estuaries Complex Special Protection Area (SPA). A large proportion of little egrets from the SPA make a long journey from their feeding sites (notably on the River Lynher) expending a great deal of energy specifically to nest on Drake’s Island. Any impacts on Drake’s Island’s little egret colony therefore potentially impact on the integrity of the SPA.

5.2 Little egrets are protected under the Wildlife and Countryside Act 1981, and are vulnerable to a number of factors including:

- Scrub clearance/ground redevelopment
- Disturbance during construction
- Disturbance from increased human presence
- Possible permanent abandonment of the site if developed
- Lighting impacts

- 5.3 The applicant commissioned a report by ornithologist, Dr Roy Armstrong. However, the ornithologist's report lacked the objective quantitative data that the Local Planning Authority required before a "lawfully rational decision" could be made on this planning application. The issues with the ornithologist's report can be summarised as follows:
- a. The reason that little egrets are using Drake's Island – Dr Roy Armstrong considers the significance of Drake's Island as a roosting site in his report. However, his caveat of 'if the primary reason is social' leaves an unacceptably high level of uncertainty that this is the main reason that Drake's Island is used by little egrets rather than alternative reasons such as predator avoidance or avoidance of disturbance.
 - b. The availability of other suitable little egret roost sites – Dr Armstrong's report leaves uncertainty as to whether other suitable sites are available.
 - c. The reason why Drake's Island is used for breeding above other sites within the SPA - Dr Armstrong's report does not address this issue specifically, but it is important to have evidence to demonstrate that the little egrets' breeding success will not be impacted by the development.
- 5.4 Dr Armstrong's report provides an opinion on the reason for the use of the site and availability of other sites, but it does not provide sufficient objective evidence to discount other opinions and conclusions drawn from other experts such as Natural England (NE). NE still concludes that the birds have a strong preference for the site due to the lack of disturbance. These competing opinions therefore need to be examined and objective evidence needs to be used to draw a final conclusion. The Local Planning Authority cannot cherry pick the opinion that it would prefer to use.
- 5.5 To enable a conclusive opinion to be drawn and address the issues above, further objective evidence was sought from the applicant on 09/10/14 as follows:
- a. Further information on the nature and extent of the use of alternative roost sites within or adjacent to the SPA that are being used by little egrets currently, both for roosting and breeding.
 - b. The frequency of use at these sites.
 - c. The similarity of these sites and their environmental conditions to the preferred site at Drake's Island.
 - d. The certainty of relocation – i.e. is there enough habitat suitable elsewhere in or around the SPA to accommodate the number of birds that are currently using Drake's Island?
 - e. Would any alternative sites identified be suitable if management works were undertaken? If they are currently suitable, why are the egrets not currently using them?
 - f. A bad weather survey for Drake's Island to demonstrate the area of the island used by little egrets when the weather is coming from a northerly direction (the need

for this was identified in the work to inform the ES this survey information was not received).

- 5.6 In response to the request for this information, the applicant commissioned their ornithologist to prepare an addendum to his report and officers received this on 21/11/14. Unfortunately, officers consider that this addendum does not provide sufficient objective evidence to discount other opinions and conclusions drawn from other experts such as Natural England (NE) and regrettably have to conclude that the proposal would result in a negative impact on the integrity of the SPA.
- 5.7 In the spirit of trying to find a positive way to support the planning application, the Local Planning Authority commissioned Cornwall Environmental Consultants (CEC) to investigate alternative roost sites for little egrets within the SPA. CEC's Drake's Island Little Egret Off-Site Mitigation Strategy was completed in 08/08/14 and found a number of potential sites which it considered potentially suitable around the River Lynher estuary. CEC identified the capital works and ongoing maintenance that would be required to make these sites viable. CEC's findings were discussed in detail with the applicant's agents. Unfortunately, the applicant has been so far unwilling to consider entering into an agreement to secure an alternative roost site.
- 6.0 Impact on the Plymouth Sound and Estuaries Special Area of Conservation (SAC)
- 6.1 Drake's Island is located within the Plymouth Sound and Estuaries Special Area of Conservation (SAC). There are several designated interest features of the SAC that are relevant to this application including eelgrass (seagrass) beds. Eelgrass beds are essential to the ecological function of the SAC and provide habitat for rare and protected species such as the spiny seahorse. Most of the seagrass habitat on Drake's Island is to the north of the island around the jetty and existing moorings where visitors are likely to anchor their boats. Without proper mitigation and management, there is therefore potential for boat damage to this delicate habitat. It is not clear that the proposed mitigation is adequate, given the uncertainty surrounding the number of anchoring private vessels that can be expected. The Ecospan Marine and Intertidal Report identifies that without mitigation the cumulative effect of boat damage to the seagrass beds would be "slight to moderate" but the significance level would be classed as "substantial adverse" and the probability as "near certain" over a longer term.
- 6.2 Whilst a range of mitigation measures are proposed for the construction phase and for guests and visitors arriving by water-taxi, it is considered that there is insufficient mitigation for visitors arriving by private boat.
- 6.3 It should be noted that the marine works associated with the proposal, including works to the jetty, would be subject to a marine licence, which the applicant will need to obtain from the Marine Management Organisation (MMO).
- 7.0 Impact on Bats
- 7.1 Protected bats are present on Drake's Island, including the Lesser Horseshoe species. The mitigation and enhancement measures proposed include a "bat fridge", a "hibernaculum"

located inland opposite the Casemates at the south west corner. These measures are considered positive and it is considered that the impact on bats can be managed appropriately.

8.0 Flood Risk

- 8.1 Hotel bedroom accommodation is currently proposed at the lower level of the Casemates "Torpedo Room". The Environment Agency (EA) position is that, in accordance with the National Planning Policy Framework (NPPF), it would first advocate a 'less vulnerable' or 'water compatible' use in the Torpedo Room due to the flood risks to it from wave action over the development's lifetime.
- 8.2 The EA's principle concern is that sleeping accommodation is proposed in a potentially hazardous location where high energy waves carrying debris are likely to impact the openings of the Torpedo Room, which is part of the island's foreshore. This part of the island has limited protection from the Plymouth Breakwater during storms coming from the south-south-west, which increases the risks and impacts of storms. The EA is concerned that any windows, however engineered, could be broken and cause rapid flooding of the room (which has a floor level below the opening).
- 8.3 The EA acknowledges that a flood warning system is proposed, linked to the warning system at Sutton Harbour, to ensure that occupants are evacuated from the room. However, the EA considers that this is something required for the island as a whole with regard to access to and egress from it and welcomes the proposal. However, it notes that wave action (which is the greatest risk here) is not formally integrated into the flood warning service. Furthermore, the success of the warning is dependent upon a robust and enforced management procedure.
- 8.4 In light of the risks, the EA's preferred use for this space would be to leave it undeveloped. However, the EA has indicated that it would accept a compromise if the use of the lower level Torpedo Room was limited to lounge and bathroom space only. This would remove the risk of people sleeping in this highly vulnerable area and address a key risk of the current proposal.
- 8.5 It is the Local Planning Authority's responsibility to balance the flood risk issue with other material considerations, such as development viability. Paragraph 103 of the NPPF stresses that Authorities should 'only consider development appropriate in areas at risk of flooding where... within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location'. The applicant has submitted a statement which argues that the cost of losing the Torpedo Room lower level bedroom accommodation would make the overall proposal unviable. Unfortunately, officers, having considered this statement, do not consider the justification for not replacing bedrooms at the lower level with a lounge or bathroom convincing. Therefore, in the absence of overriding reasons why the Torpedo Room should remain a bedroom, the EA recommendation that the lower level bedroom be switched to less vulnerable accommodation does not seem unreasonable, to minimise the flood risk. Unfortunately, the applicant is unwilling to make this amendment.

9.0 Transport

- 9.1 All access to Drake's island will be by boat and there will be no car parking on the island. It is proposed that employees and guests will travel to the island by means of a ferry service.
- 9.2 The applicant's intention is that employees will be encouraged to use public transport to access the ferry departure points around central Plymouth. The applicant states that they will be provided with bus passes to facilitate this, and that employees living further afield who are unable to use local bus services will be encouraged to use rail and taxi linkage to access the ferry departure points. For those employees that cannot use public transport to access the ferry departure points (for example because of the need to transport heavy equipment or because of timing mismatches with rail timetables) the applicant proposes that a valet car parking service will be provided at both Millbay and Sutton Harbour.
- 9.3 The proposal is that guests will be provided with information about the opportunities for accessing the ferry departure points in a sustainable manner, whilst recognising that many guests will be travelling with luggage and/or their trips may be linked with visits to other destinations that are not easily accessible by public transport. For those guests, a valet car parking service is proposed to be operated from a 'meet and greet' point at either Millbay or Sutton Harbour. The proposal is that the service will be bookable in advance, with vehicles driven from the meet and greet point to either Millbay or the multi-storey car park at Sutton Harbour.
- 9.4 The applicant has submitted a Transport Statement in support of the proposal and also a draft Travel Plan for staff and customer/hotel guests alike. Although it is accepted that, due to the unique island location, there will be low levels of associated traffic on the mainland, discussions have taken place with regard to parking and transfer arrangements to the island itself.
- 9.5 The applicant has not fully engaged with a third party to establish a permanent parking provision for hotel guests. Day trip visitors will be able to utilise local car parks and ferry terminals to suit their needs. However, long stay parking options are somewhat limited.
- 9.6 A number of car parks, in proximity to public landing stages, have been identified within the Transport Statement but only one offers overnight parking opportunities, at Barbican Approach. This car park is not only within third party ownership but it is circa 550m away from the ferry for pedestrians and nearly 2km for vehicles so would not in itself be suitable to suggest that hotel guests will use this car park (considering luggage for example).
- 9.7 Other options have been suggested at Mount Batten or Royal William Yard. However, both of these sites have existing parking pressures and again are not considered suitable for all long stay hotel guests, but are more appropriate for day visitors or linked trips with other local destinations.
- 9.8 It is noted that the applicant does not wish to obtain third party signatories to any Planning Obligation in relation to securing parking provision before any planning consent is established. This is accepted, and as such discussions have been held with the Transport Consultants, acting on behalf of the applicant, to discuss suitable options. To this end it is suggested that a

Grampian condition should be attached to any consent to ensure that a suitably located car park is sourced and made fully operational prior to opening or use of any facilities on the island. The car park will need to meet the demands of long stay parking for guests and offer 24 hour safe and secure parking. Furthermore, suitable transfer provision must also be included in such a proposal to the agreed point of ferry transfer to the island.

- 9.9 A request has been made to allow the applicant to change the parking provision at any time with prior approval from the Council. This is considered acceptable as future City developments may enable improved parking and berthing facilities which the hotel could make better use of. Such allowance should be secured within the aforementioned suggested condition.
- 9.10 A technical note has also been submitted with regard to staff parking and deliveries. Again there are no firm proposals at this stage but it is accepted that such trips are likely to be minimal, in terms of impacts on the local highway. Staff will be transported to the island by provided ferry transport and it is noted that shift patterns will need to be linked to tide times. Therefore, these times will be subject to changes and will, as a result, sometimes occur outside of highway peak hours. It is in the interest of the hotel operator to ensure staff travel is provided and there is therefore no need to secure this through condition.
- 9.11 A staff travel plan is proposed with an incentive scheme to encourage sustainable travel to the staff ferry embarkation point.
- 9.12 With regard to visitors to the island, access will be restricted and controlled and any such associated mainland parking demand will be minimal.
- 9.13 Deliveries of goods will also be controlled, and again, an operator to provide this service will be arranged by the applicant following any planning consent. However, any such arrangements are unlikely to cause issues of parking or traffic on the mainland and the local highway network.
- 9.14 Although it is unfortunate that exact details for transfer to the island cannot be secured at this time it is accepted that a Grampian condition is appropriate to ensure such provision, in accordance with details to be submitted to and approved in writing by the Local Planning Authority, is secured prior to any use or occupation of the facilities hereby proposed. As such there are no objections to the proposal from a transport perspective.

10. Planning Obligations

Negotiations are ongoing with the applicant, with regards to the proposal's planning obligations – fundamentally pending resolution of the ecological mitigation issues. The planning obligations sought broadly include the following:

- a. An appropriate financial contribution towards the delivery and ongoing maintenance of off-site mitigation in the form of an appropriate alternative little egret roost site.

- b. An appropriate financial contribution towards the provision of an on-site ecological warden tasked with managing, monitoring and safeguarding the island's features of nature conservation interest, including little egrets, lesser horseshoe bats and eelgrass beds – during the construction and operational phases of the development.
- c. A commitment to allow reasonable public access to Drake's Island in perpetuity.
- d. A commitment to provide permanent areas of interpretation on the islands historic and nature conservation interest including in the arrival building and casemates feature rooms.

11. Human Rights

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.

12. Local Finance Considerations

Local finance considerations are now a material consideration in the determination of planning applications by virtue of the amended section 70 of the Town and Country Planning Act 1990. In this case the development will not generate any New Homes Bonus contributions for the authority. Therefore the development plan and other material considerations, as set out elsewhere in the report, are the only matters to be taken into account in the determination of this application.

13. Equalities and Diversities

This development affects people of all ages and from all backgrounds, as it provides hotel, spa, bar and restaurant facilities which will be made available to the general public, as well as a heritage trail and historic and natural environment exhibitions and interpretation.

Clearly, due to the island's topography and terrain, access for some groups to some areas may be challenging. The Arrival Building does however propose a lift giving access from the Jetty level to the main hotel level plateau.

Current Position

As with the previous planning applications for Drake's Island, officers, including up to Director level, have put in a significant amount of work to try and help this proposal move forwards positively, in recognition of the importance of Drake's Island to Plymouth and the unique set of circumstances, opportunities and challenges presented by this proposal.

Officers have worked very hard to try and address the complex nature conservation, historic environment, European Habitat Regulation Assessment, flooding and transport issues with the hope of getting to a position where a positive recommendation could be put to Planning Committee.

This planning application has been supported in several ways by the Local Planning Authority, including with the commissioning of work at the Authority's expense to address issues the planning application itself should have sorted out on submission.

However, despite officers' best efforts and proactive attempts to broker solutions – including close working with several other agencies – a positive response has not yet been received from the applicant's team regarding the measures necessary to address flood risk and the mitigation that is required to address the impacts of the proposal on the Tamar Estuaries Complex Special Protection Area (SPA) and the Plymouth Sound and Estuaries Special Area of Conservation (SAC). Therefore it is with regret that this planning application is put to Planning Committee with a recommendation of "minded to refuse".

Nevertheless, it is hoped that negotiations can continue and that a solution can be found, and in the spirit of trying to find a positive way forward, one final meeting has been arranged between the applicant and the Assistant Director for Strategic Planning and Infrastructure to try and find a solution to the outstanding issues.

Next Steps

Should Planning Committee decide to support the "minded to refuse" recommendation, the next step would be for officers to prepare and consult upon a Habitat Regulations Assessment which reflects current concerns regarding impacts on the SPA. However, as stated above, at the time of writing one final meeting is being arranged with the applicant in the hope that ways can be found to address the outstanding issues positively. Once this has been concluded, officers will bring the planning application back to Planning Committee with a final recommendation.

13. Recommendation

In respect of the application dated **02/01/2014** and the submitted drawings Proposed Arrival Building Elevations 10057 L 04.01 P2, Boat House Existing Sections Demolition 10057 L 09.34 P2, Boat House Existing GF Plan Demolition 10057 L 09.21 P2, Ablutions Block Existing Elevations & Sections – Demolition 10057 L 09.34 P2, Casemates - Blast Shield Alterations 10057 SK 01.01, 10057 SK 01.02, 10057 SK 01.03, 10057 SK 01.04, Casemates - Proposed Elevations 10057 L 04.03 P4, Casemates - Proposed Ground Floor Plan 1 of 2 10057 L 02.06 P5, Casemates - Proposed Ground Floor Plan 2 of 2 10057 L 02.07 P4, Casemates Existing Elevations & Sections 10057 L 09.36 P2, 10057 L 09.37 P2, Casemates Existing Ground Floor Plan 10057 L 09.25 P2, 10057 L 09.26 P2, Casemates Proposed Elevations 10057 L 04.03 P2, Casemates Proposed Ground Floor 2 10057 L 02.07 P2, Casemates Proposed Ground Floor Plans 10057 L 02.06 P2, Casemates Proposed Roof Plan 10057 L 02.08 P2, Casemates Proposed Sections 10057 L 03.04 P2, Casemates Roof Plan 10057 L 02.08 P3, Existing Demolition Site Plan 10057 L 09.20 P2, Site Plan 10057 L 09.01, Proposed Site Plan 10057 L 01.01 P2

Arrival Building Ground Floor Plan 10057 L 02.01 P2, Arrival Building Top Floor Plan 10057 L 02.02 P2, Main Building Proposed Ground Floor Plan 10057 L 02.03 P2, Main Building Proposed Attic Floor Plan 10057 L 02.04 P2, Main Building Proposed Roof Plan 10057 L 02.05 P2, Island House Existing Elevs & Sections Demolition 10057 L 09.35 P2, Main Ablution Island GF Plan Demolition 10057 L 09.23 P2,

Main Building Ablution 1st Attic Floor Plan 10057 L 09.24 P2, Main Building Existing Elevations & Sections, Demolition 10057 L 09.33 P2, Main Building Proposed Elevations 10057 L 04.02 P2, Main

Building Proposed First Floor Attic Floor 10057 L 02.04 P2, Main Building Proposed Ground Floor Plan 10057 L 02.03 P2, Main Building Proposed Roof Plan 10057 L 02.05 P2, Main Building Proposed Sections 2 10057 L 03.03 P2, Main Tunnels Demolition 1 of 2 10057 L 09.27 P2, Main Tunnels Demolition 2 of 2 10057 L 09.28 P2, Proposed Arrival Building Ground Floor Plan 10057 L 02.01 P2, Proposed Arrival Building Sections Plans 10057 L 03.01 P2, Proposed Bin Store Plan 10057 L 02.02 P2, Proposed Casemate Screen and Gate 10057 L 41.01 P2, Proposed Casemate Sections 10057 L 03.04 P3, Proposed Casemates Ground Floor Plan 10057 L 02.06 P3, Proposed Main Building Proposed Sections 10057 L 03.02 P2, Proposed Planting Plan A 10057 L 93.02 P2, Proposed Planting Plan B 10057 L 93.03 P2, Proposed Recycling Bin Store 10057 L 02.09 P2, Proposed Site Location Plan 10057 L 01.01 P2, Proposed Site Plan 10057 L 01.01 P3, Proposed Wider Landscape Plan 10057 L 93.01 P2, Proposed Wider Landscape Plan 10057 L 93.01 P3

Lighting Report, Tree Survey Plan East, Tree Survey Plan West, Lighting Plan, Provisional Mitigation Plan (relating to little egret (*Egretta garzetta*)), Upper Battery - Demolition 1 of 2 10057 L 09.31 P2, Upper Battery - Demolition 2 of 2 10057 L 09.30 P2, Upper Tunnels - Demolition 1 of 2 10057 L 09.29 P2, Assessment of Proposed Development on Little Egrets and Addendum, Drake's Island, Plymouth Sound, Devon: Winter and Breeding Bird Survey (Amended Report), Casemate Construction Report, Phase I Environmental Assessment, Design and Access Statement, Drake's Species List, ECIA Extended, Energy Statement, Environmental Statement and Appendices, External Lighting Report, Habitat Survey, Heritage Gazetteer, Information to Inform a Habitat Regulations Assessment, Noise Report, Construction and Operational Environmental Management Plan Information – Key Principles and Parameters, EIA Screening Report, Travel Plan.,it is recommended to: **Minded to refuse subject to final negotiation with the applicant on issues related to the impact on protected species and flood risk**

14. Current Refusal Reasons

IMPACT ON THE TAMAR ESTUARIES COMPLEX SPECIAL PROTECTION AREA (SPA)

(1) The proposal is considered to have a negative impact on the integrity of the Tamar Estuaries Complex Special Protection Area (SPA) which was designated to protect features (habitats and species) under the Conservation of Habitat and Species Regulations 2010. The proposals are therefore not compliant with Policy CS19 (Wildlife) of the adopted City of Plymouth Local Development Framework Core Strategy (2007).

IMPACT ON THE PLYMOUTH SOUND AND ESTUARIES SPECIAL AREA OF CONSERVATION (SAC)

(2) The proposal has failed to demonstrate that the designated features of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) will be protected during the operation of the proposed development. The proposals are therefore not compliant with Policy CS19 (Wildlife) of the adopted City of Plymouth Local Development Framework Core Strategy (2007).

FLOOD RISK

(3) It is considered that the casemates Torpedo Room would be vulnerable to flood risk from wave action. The proposed development is therefore contrary to adopted Core Strategy Policy CS21 (Flood Risk).

Informatives

INFORMATIVE: SECTION 106 CONTRIBUTIONS

(1) Had the Local Planning Authority been minded to approve the application, the applicant's attention is drawn to the fact that the application contains insufficient provisions to mitigate the impacts of the proposal, in accordance with Policy CS33 of the adopted Core Strategy and the guidelines set out in the Planning Obligations and Affordable Housing Supplementary Planning Document (Second Review 2012). The methodology of mitigating the impacts of the proposed development is outlined in the Committee Report and, in the event of an appeal, the Local Planning Authority would seek to secure mitigation via a Section 106 Agreement.

INFORMATIVE: REFUSAL (WITH ATTEMPTED NEGOTIATION)

(2) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework, the Council has worked in a positive and pro-active way with the Applicant including pre-application discussions and has looked for solutions to enable the grant of planning permission. However, the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

Relevant Policies

The following (a) 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 (b) relevant Government Policy Statements and Government Circulars, were taken into account in determining this application:

CS28 - Local Transport Consideration
CS32 - Designing out Crime
CS33 - Community Benefits/Planning Obligation
CS34 - Planning Application Consideration
CS22 - Pollution
CS13 - Evening/Night-time Economy Uses
CS18 - Plymouth's Green Space
CS19 - Wildlife
CS20 - Resource Use
CS21 - Flood Risk
CS22 - Pollution
CS03 - Historic Environment
CS03 - Historic Environment
CS02 - Design
CS12 - Cultural / Leisure Development Considerations
SPD3 - Design Supplementary Planning Document
NPPF - National Planning Policy Framework March 2012