

# ADDENDUM REPORT

Planning Committee



**Item Number: 6.1**

**Site: Millbay Marina Village, Custom House Lane**

**Application Number: 14/01103/FUL**

**Applicant: Linden Homes Ltd**

**Pages: 9-67**

## **Revisions to proposed scheme:**

Further revisions have been made to the sea defence walls. The 'outer' wall which runs along the seaward edge of Millbay Pier will be retained at its existing height of 6.2m above ordnance datum (AOD) with the addition of a 1.1m high balustrade on top. The wall will be extended to wrap around the end of the pier at a height of 6.5m. The step up from 6.2 to 6.5 is in line with the western end of Block A. Additional works to the existing sea defence wall include the removal of the recurve profile.

The wall which runs between proposed Blocks A and B adjacent to the proposed visitor parking will be increased in height from 6.2m AOD, as existing, to 7.1m AOD. The adjacent ground level will be increased in height, with a gradual slope peaking at 0.5m above existing levels; consequently the finished floor level at the sea defence wall will be 5.6m AOD.

The outer sea wall in front of Block B, will measure 7.1m AOD in height up to approximately the midpoint of Block B. The wall will then rise gradually to a level of 7.5m AOD and will adjoin the wall which currently abuts the South West Coast Path.

'Inner' sea defence walls are also proposed; these are integral to the design of the buildings. The height of the integral wall to Block A has been increased to 10.95m AOD. As a result the lower level residential accommodation of the combined first- and second-storey duplex units has been lost as the lower level windows had to be removed to accommodate the revised wall height. Consequently, twelve 2-bed duplex units have been revised to form twelve 1-bed flats, each with an internal floor space of 40m<sup>2</sup> and the ground-floor car park is now double height. (This is true for the southern and central section, but the duplex units on the north elevation are being retained. The parking spaces under the duplex units remain single storey.) The proposed walkway which abuts Block A is proposed at a height of 6m AOD.

Block B also has an integral sea defence wall measuring 10.0m AOD. The upper 1.1m of this wall will serve as the balustrade for the balconies serving the first-floor accommodation. A glazing panel

has been introduced above this wall to ensure that these 'balconies' are enclosed as a further flood protection measure.

The ramped walkway link to the South West Coast Path in front of Block B now abuts the sea wall as it enters the site (rather than abutting the building). This directs pedestrians and cyclist towards the pier, avoiding any conflict with the road/car parking and a right angled end-stop is no longer needed. This change has also facilitated the provision of two additional visitor parking spaces – a total of 198 parking spaces are now proposed.

Further to the two additional spaces, the proposed parking layout has been revised. All of the visitor parking is now located outside Blocks A and B. These spaces will be controlled by the management company and vacated in severe weather conditions. Further, these spaces will be non-demarcated to improve the public realm. Some of the allocated parking for Block A is now sited adjacent to Block C.

In addition, the proposed balconies to the east elevation of Block B have been replaced with Juliette balconies and the first-floor balcony has been removed and replaced with a window, as recommended by the EA.

### **Additional Consultation Responses:**

As noted in the Committee report, the third consultation period expired on Tuesday 10th March. Since the completion of the Committee Report, the following additional consultation responses have been received:

**Environment Agency (EA)** – The EA would normally object to more vulnerable developments such as this in locations at high risk of flooding and damage from coastal storms. However, in line with our previous correspondence we acknowledge the extant permission and need for regeneration of this area. Accordingly we have sought a development which, in line with the National Planning Policy Framework, can be safe (including access/egress) during coastal storms over the development's lifetime, will not increase flood risk elsewhere and where possible can reduce flood risk overall. Therefore, based on the additional information submitted we consider that the proposal will be acceptable if conditions are included on the permission to ensure:

- the detailed design and implementation of coastal flood defences for Blocks A and B and the public areas;
- a programme for the future maintenance of coastal flood defences;
- the provision of appropriate flood defences during construction;
- the provision of a safe access route for residents of Block A;
- the provision of a flood risk management plan for residents;
- the management of public access to walkways and car parking behind the coastal defences;
- the design and implementation of an appropriate surface water drainage scheme;
- the appropriate investigation and remediation of contamination;
- the management of any unsuspected contamination

**Secretary of State** – no comments.

**English Heritage** – no further comments.

**Natural England** – no further comments.

**Civil Protection (Flood Capacity)** (additional comments) - The Civil Protection Unit has a responsibility for planning for and responding to emergencies that effect the residents and businesses within Plymouth. The comments submitted are based on an assessment as to the need to create an additional High Risk Community Flood Plan for the proposed development in Millbay Marina. The information provided by the applicants does not indicate the need for the Civil Protection Unit to create a bespoke plan given the mitigation information provided. As the Capability Lead for Flood Response within Plymouth City Council I am satisfied that the Devon, Cornwall and Isles of Scilly Local Resilience Forum Multi Agency Flood Plan provides the appropriate framework to any flooding incident in Plymouth where a bespoke plan is not in place.

## **Representations**

Since the completion of the Committee Report, seven additional letters of representation have been received. The observations are summarised below:

### **Sea Defence Scheme/Flood Risk**

- There are a number of inaccuracies, caveats and a lack of detail in the submitted reports, including the Parking Provision Technical Note (rev.B) and the Flood Risk Assessment Addendum Technical Note
- There is a continued lack of rigour in the engineering assessment of wave impact phenomena for this proposal, both structural and pedestrian.
- The data contained in the Flood Risk Assessment Addendum Note does not take account of the February 2014 storms which were 'unique in recent years' and caused severe damage. The methodology used to assess the effect of the ESE wind is substandard. The theoretical calculations assume a 1 in 200 year wind speed of 60 mph should be challenged. The report does not account for the content of overtopping water, such as rubble. Much of the detail on how the risk will be mitigated is deferred to the detailed design and so there is insufficient detail for PCC to pursue its duty of care in determining this application.
- The marina staff are only on site for limited hours of the day (8am-5pm) and do not have the capacity to provide emergency cover. Additional staff will be required, at a cost to future occupiers.
- The Civil Protection department (consultation response included in Officer's Report) must be unaware of the storm damage caused in February 2014 and must not have reviewed the photographic evidence presented by local residents.

### **Parking/Highway Issues:**

- With regard to parking, the revised parking layout infringes on established parking for existing Bridge residents and would prevent access for the refuse collection vehicles.
- There is still insufficient parking proposed for proposed dwellings and the marina. Members of the public often park within the estate, ignoring signage.
- Revisions refer to 'unsold marina berths'; these have been leased to non-residents by the management company. Associated parking for up to 25/30 vehicles will be required, primarily at weekends. This is however acknowledged in the Highway's Authority consultation response.
- The Car Parking Management Strategy, required by condition, is welcomed.

- Previous parking control measures have failed. Unauthorised parking is not challenged outside the hours of 8am-5pm. An entrance barrier system is recommended.
- It is understood that the R.N.L.I require access and parking, however, the location and number of spaces allocated to the RNLI will be at the expense of Block C's internal parking South entrance, creating significant negative effects in other areas and on residents. Blocks Cs original plan for two entrances/exits, one at the buildings South side and one at the North end did attempt to manage traffic flow, parking and safety issues for all. However, removing the South entrance in favour of just one at the North is of great concern. Especially when one considers Blocks C's North end is very close to the Bridge and a proposed visitors Parking area.
- The RNLI Station's existing parking area can comfortably hold at least 8-10 cars. Proposals for another 8 spaces, almost doubling allocation, seems excessive. Considering the location and layout the proposed RNLI spaces are unlikely to be used during emergency call outs.
- Regarding parking spaces numbers 13v, 14v, 15v and 16v, the area is currently an important safety feature in the form of a well defined pedestrian walkway. In addition Cars using these spaces will prevent access to private garages the 'The Bridge'. Refuse collection vehicles will also be hindered by these spaces. Number 12v space will create problems for Residents using Bins and refuse collections.

### **Other Issues**

- The buildings need to be maintainable and insurable at a cost that is affordable for purchasers.
- The revisions do not overcome previous objections, including concerns over building size, number of units and increased traffic flow.

### **Analysis**

#### **Flood Risk**

Responses from the EA, dated 31 July 2014, 24 October 2014 and 19 November 2014, set out the risks to the site from coastal storm events. The EA has maintained throughout that Blocks A and B, the parking area and the residents' access need to be safe over the lifetime of the development as well as the parameters of what constitutes safe in terms of overtopping volumes.

In order to address the EAs concerns, the following revised information has been provided:

- The AWP 'Flood Risk Assessment (FRA) Addendum', dated 11 February 2015 (including the JBA technical note 'Millbay Marina – Assessment of Wave Conditions', dated 10 February 2015)
- The AWP 'FRA – Further Addendum', dated 09 March 2015; and,
- Drawing numbers 2142/101 Rev. J (site plan), 2142A/130 Rev. E (sea defence wall Block A), 2142A/131 Rev. E (Sea defence wall Block B), 2142A/132 Rev. E (sea defence wall area between Blocks A and B), 2142B/120 Rev. G (Block B elevations) and PDL-01 Rev. A (overland flood flow route).

Coastal defences are required here to manage to safe levels the flood risks to the development. The submitted information demonstrates that this is possible for the buildings, the location of the allocated car parking and the pedestrian access to the apartments. However, it is not possible for the visitor car parking between Blocks A and B and at the end of the pier as well as the pedestrian access walkways seawards of Blocks A and B to be safe during a coastal storm event.

Nonetheless, the proposal includes methods of managing these risks which must be secured through planning conditions.

It is proposed that water from waves that overtop the flood defences will be managed by the development so as to not cause unintended flooding. The level of the defences incorporated into the frontages of Blocks A and B are intended to limit overtopping rates to safe levels during a 1 in 200 year storm for the lifetime of the development. The acceptable limits of overtopping for pedestrians and buildings are set out on page 5 of the AWP FRA Addendum of 11 February 2015. In addition the buildings will be expected to manage the impact of flood water and entrained debris as to not cause the risk of internal flooding.

The coastal frontage between Blocks A and B are to be protected to a lower standard than the front of the buildings to limit the wall height to a reasonable level from an aesthetic perspective. Overtopping water and entrained debris in this area is expected to cause more disruption during severe storm events. However, the development is laid out in order to allow safe pedestrian access to both Blocks A and B during storm conditions. Further detail is required through a condition to agree the design of the protection screen/wall for the safe pedestrian access route for Block A. Cars should not be able to use this area during storm conditions and a management plan is proposed to manage such situations. The EA advise that your Council's Emergency Planners should be satisfied in this regard.

The EA has considered access for maintenance to the sea walls of the pier and other coastal frontages. While Blocks A and B are located in very close proximity to the sea wall the Applicant's flood risk consultant in their FRA Addendum indicates that sufficient space is available and all costs will be borne by the management company. The EA consider that this future maintenance should be secured by a separate planning condition and that your Council should be satisfied that the future maintenance costs of the defences can be met. The coastal defences for the scheme would not be eligible for public funds.

The conditions, recommended by the EA (set out below), are prior to the commencement of either Blocks A and B, or Blocks A, B or C. The purpose of this is to allow the commencement of Block C without the requirement for further information on the coastal flood defences for Blocks A and B delaying it.

### **Design, Access, Movement and Connections**

The 'outer' sea defence walls have been reduced in height. This has a positive effect from an urban design perspective and improved seaward views from the proposed walkway links. However, your Officers are concerned about the visual impact of the 'inner' integral sea defence walls which are significant in height and, with a concrete finish, they are not ideal in design terms. However, these elevations are primarily visible from the sea, rather than the land and given the scale of Blocks A and B, it is considered that the walls will not appear especially dominant within the context of the buildings as a whole. A restrictive condition is recommended to secure details of the final finishes and Officers are confident that a design solution can be achieved to soften the visual impact.

As recommended by Officers (noted in section 5.7.2 of the Committee report), the walkway link in front of Block B has been realigned. It now continues alongside the sea wall (the 'dog leg' has

been removed) and the space adjacent to the building has been utilised for two additional parking spaces. This is supported by your Officers.

As recommended by Officers (noted in section 5.8.3 of the Committee report) the proposed pergola structure over the parking spaces has now been removed.

### **Impact upon the Amenities of Neighbours – Grand Parade**

As recommended by Officers (noted in section 8.3.1 of the Committee Report), the projecting balconies in the side (east) elevation of Block B have been removed and replaced with Juliette balconies. Your Officers are satisfied that this change will reduce the impact on the immediate neighbour at no. 39 Grand Parade and the relationship here is now acceptable in accordance with the relevant planning policy guidance.

### **Parking Arrangements**

As noted above, two additional visitor spaces are now proposed and the proposed parking layout has been revised as a direct result of the revised flood protection scheme; this is supported by the Highways Authority.

With regard to the revised parking layout, it is considered that, whilst locating 20 of the parking spaces dedicated to the units in Block A further away from this block is far from ideal (certainly less convenient for residents of this block), there are valid reasons for doing this (overcoming flood risk issues) and therefore is accepted by the Highways Authority. Furthermore, on the plus side, locating all of the visitor car parking spaces together in one area of the site would certainly make them easier to manage in terms of their use (the details of which will need to be agreed as part of the Car Parking Management Strategy).

### **S106**

The Committee Report sets out the agreed S106 Heads of Terms, including a commuted sum of £1,109,134 towards affordable housing, which Officers recommended should be paid upon commencement of development. However, the applicant has indicated that they are not able to pay this contribution upon commencement of development due to cashflow and the cost of finance, which Officers consider is reasonable. Therefore, following further negotiations, your Officers are satisfied that the following phasing programme is more appropriate and can be agreed:

- £555,000 – 50% of the affordable housing contribution upon commencement of Block C
- £554,134 – the remainder of the affordable housing contribution upon commencement of Block B
- £390,866 – all other S106 contributions upon commencement of Block A

### **Conditions:**

#### **Condition 2: Plan Numbers**

As revised plans have now been submitted, this condition should be amended to read:

The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan 2142/100 Rev.A, Proposed Site Plan 2142/101 **Rev.J**, Proposed Landscaping Plan 2142/102 **Rev.C**, Block A Floor Plans Sheet 1 2142A/110 **Rev.C**, Block A Floor Plans Sheet 2 2142A/111 **Rev.A**, Block A Floor Plans Sheet 3 2142A/112 **Rev.A**, Block A Floor Plans Sheet 4 2142A/113 **Rev.A**, Block A Elevations Sheet 1 2142A/120 **Rev.F**, Block A Elevations Sheet 2 2142A/121 **Rev. E**, Block A Elevations Sheet 3 2142A/122 **Rev.F**, Block A Section 2142A/150 **Rev.E**, Block A Walkway Link 2142A/160 **Rev.B**, Block B Floor Plans 2142B/110 **Rev.C**, Block B Elevations Sheet 1 2142B/120 **Rev.G**, Block B Elevations Sheet 2 2142B/121 Rev.A, Block B Elevations Sheet 3 2142B/122 **Rev.E**, Block B Walkway Link 2142B/160 **Rev.B**, Block C Floor Plans 2142C/110 **Rev.A**, Block C Elevations Sheet 1 2142C/120 Rev.B, Block C Elevations Sheet 1 2142C/121 Rev.A, Block C Elevations Sheet 1 2142C/122 **Rev.A**, Sea Defence Wall proposal Sh.1 2142/130 **Rev.E**, Sea Defence Wall proposal Sh.2 2142/131 **Rev.E**, Sea Defence Wall proposal Sh.3 2142/132 **Rev.E**, Sea Defence Wall proposal Sh.4 2142/133 **Rev.B**, Relationship of Block B to G.Parade 2142/170 **Rev.A**, Images Sheet 1 2142/180 **Rev.A**, Images Sheet 3 2142/182 **Rev.A**, Images Sheet 4 2142/183 **Rev.A**, Images Sheet 5 2142/184 **Rev.A**, Images Sheet 6 2142/185, Images Sheet 7 2142/186 **Rev.A**, Images Sheet 9 2142/188 **Rev.A**, Images Sheet 10 2142/189 **Rev.A**, Images Sheet 11 2142/190, Images Sheet 12 2142/191, Images Sheet 13 2142/192, Images Sheet 14 2142/193, Images Sheet - Walkway Link 2142/194 **Rev.B**, **Sea Defence Wall Proposal 2142/136 Rev.B.**

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61-66 of the National Planning Policy Framework 2012.

### **Additional Condition: Finish of Flood Defence Walls**

In accordance with the recommendation above, the following condition is recommended to secure details of the finish of the flood defence walls.

Pre-Commencement: Finish of Flood Defence Walls

No development shall take place until details of the materials and finishes to be used in the construction of the sea defence walls (both the 'outer' and 'inner' integral walls) hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

### **Proposed Phasing of Conditions**

The applicant has requested that some of the pre-commencement and pre-occupation conditions are phased according to the development of each Block. Officers consider that such an approach is appropriate to facilitate the delivery of the development and therefore ask Members to agree that Officers continue with these negotiations and amend the conditions as necessary.

### **Additional Conditions Recommended by the Environment Agency:**

#### Pre-Commencement Condition – Coastal Defences (Prior to construction of Blocks A and B)

Prior to the commencement of either Block A or Block B a final coastal defence designed to limit overtopping of waves to safe levels during a 1 in 200 year storm, including a suitable allowance for climate change shall be submitted to and approved in writing by the Local Planning Authority. In particular the details shall include:

- The detailed design of coastal defences which will ensure protection from a 1 in 200 year storm over the development's lifetime including an allowance for climate change;
- The detailed design of the pedestrian access walkway;
- The design of Block A and Block B seaward elevations to manage overtopping water and residual flood risks;
- A timetable for construction;
- Details of the safe management and drainage of overtopping water.

Prior to occupation of each block it shall be demonstrated to the satisfaction of the Local Planning Authority that, that the respective part of the scheme has been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development and users of the proposed development are adequately protected from the impact of waves during coastal storm conditions.

#### Pre-Occupation Condition – Future maintenance programme for coastal defences

The development hereby permitted shall not be occupied until such time as a programme for the future maintenance of defences indicated on drawing number 2142A/132 Rev E and seaward facing building elevations of Block A and Block B has been submitted to, and approved in writing by, the Local Planning Authority.

The programme shall be fully implemented in accordance with the timing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To ensure the maintenance of coastal defences for the development's lifetime.

#### Pre-Commencement Condition – Coastal Defences during construction

Prior to the commencement of coastal defence works and construction of Blocks A and B information shall be submitted to demonstrate how the current standard of defence will be provided to the site during the construction period. This design shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that the construction site and people using the site during construction are adequately protected from the impact of waves during coastal storm conditions.

#### Pre-Commencement Condition – Provision of a safe access route from Block A

The development hereby permitted shall not be commenced until such time as a scheme to provide a safe access route from Block A, particularly the details of the protection screen indicated in yellow on drawing number 2142/101 Rev. J, has been submitted to, and approved in writing by, the Local Planning Authority.



The scheme shall be fully implemented and subsequently maintained, in accordance with the timing arrangements embodied within the scheme in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and future users.

#### Pre-Occupation Condition – Flood Risk Management plan for residents

Prior to occupation of either Block A or Block B it shall be demonstrated to the satisfaction of the Local Planning Authority that a Flood Risk Management Plan has been created for the future occupants of the development that includes information on the flood risks and methods of managing these risks appropriately. The Plan shall be provided to all occupants and maintained and updated as required for the lifetime of the development.

Reason: To manage the flood risks to the development site safely over its lifetime.

#### Pre-Commencement Condition – Management of public access and car parking during times of coastal storms and risk of coastal storms

Unless otherwise agreed in writing by the Local Planning Authority, no development for Blocks A and B approved by this permission shall be brought into use until a flood management procedure to restrict pedestrian access to the walkways in front of Blocks A and B and to manage risks to the cars parked in the area behind the coastal defence wall when there is a risk of coastal storms has been submitted to and agreed in writing by the Local Planning Authority.

The approved flood management procedure shall be adopted and managed prior to any occupation of the development and thereafter maintained unless otherwise agreed previously in writing with the Local Planning Authority.

Reason: To restrict pedestrian access to the walkways and minimise the risk of damage to cars parked behind the coastal defence wall when there is a risk of coastal storms.

#### Pre-Commencement Condition – Final surface water drainage scheme (All blocks)

Prior to the commencement of development, or each Block, a detailed scheme for surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- details of the drainage during the construction phase;
- details of the final scheme, including provision for exceedance pathways and overland flow routes;
- a timetable for construction;
- a construction quality control procedure;
- a plan for the future maintenance and management of the system and overland flow routes.

Prior to occupation of each Block it shall be demonstrated to the satisfaction of the Local Planning Authority that relevant parts of the scheme have been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

#### **Informatives:**

Informative 4, Code of Practice during Construction, has been revised to take account of advice from the Environment Agency and will now include the following additional advice:

*The applicant/agent is advised to refer to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 (Works and maintenance in or near water), and PPG6 (Working at construction and demolition sites). The PPGs can be viewed via the following link:*

*<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.*