

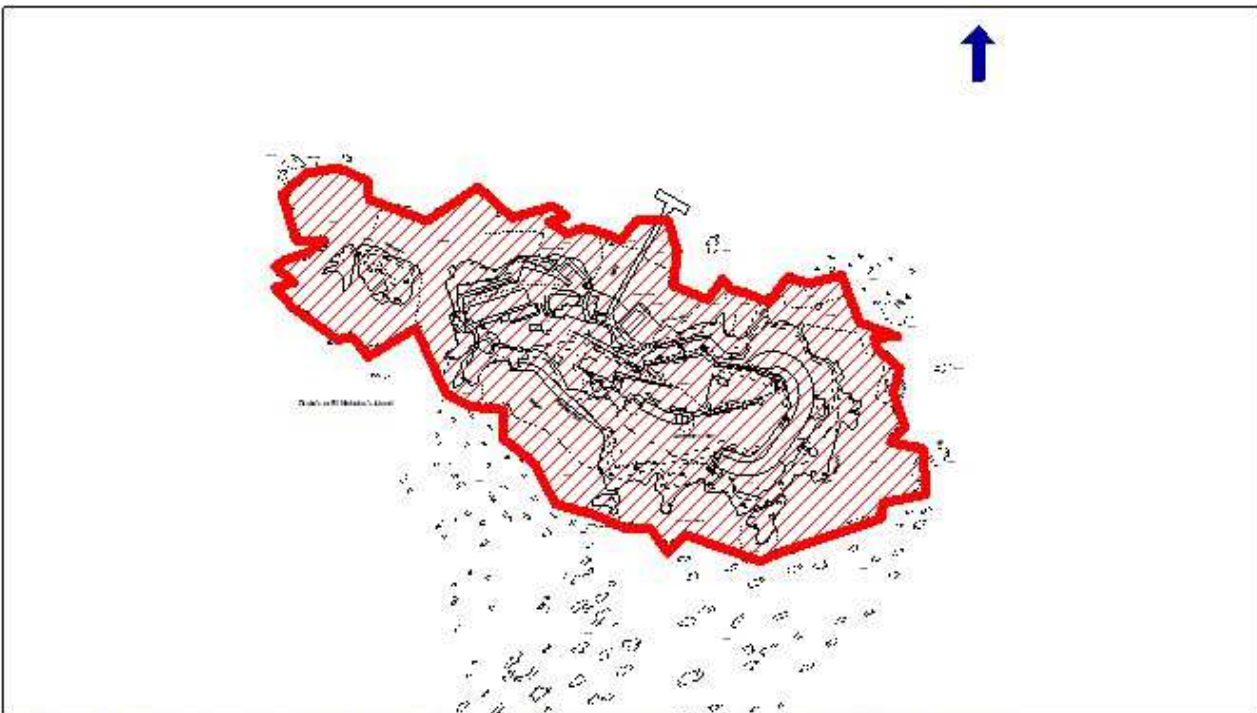
PLANNING APPLICATION REPORT



Application Number	14/00001/FUL	Item	04
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 Application		
Target Date	31/01/2015	Committee Date	Planning Committee: 10 March 2016
Decision Category	Major - more than 5 Letters of Representation received		
Case Officer	Matt Coombe		
Recommendation	Refuse		

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Update

On considering this planning application on 19th November 2015, Planning Committee voted in favour of the following resolution:

“Deferred - Members were Minded to Grant the application however it was delegated to the Assistant Director for Strategic Planning and Infrastructure in consultation with the Joint Chairs, to liaise with the Secretary of State to investigate the options available for consideration and determination of the planning application.”

As requested by the Planning Committee, Officers contacted the National Planning Casework Unit regarding a possible referral to the Secretary of State. The National Planning Casework Unit has responded, advising the Council that its Planning Committee should *“determine the application on its merits, taking into account the relevant facts and any representations that have been made.”*

The National Planning Casework Unit letter goes on to say that if Members approve the application they *“would draw your attention to the advice of Natural England in its letter of 10 April 2015, which refers you to Section 28i(6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority:*

- 1. To provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England’s advice and representations made under regulation 61 (3) of the Habitats Regulations, and*
- 2. Not to grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.”*

It is on this basis that officers again bring this planning application before Planning Committee. There is no change to the recommendation – for the reasons set out below, it remains recommended that this application be refused.

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-I, 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 2013, 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, Historic England 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

Historic England

No objection. There have been significant negotiations with Historic England 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). Historic England was initially concerned about the number of blast shields proposed for removal. However, further to extensive negotiations and a site visit with Historic England and the applicant's agents, a compromise was reached. Historic England 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 Historic England. Historic England has confirmed their support for the latest version of the proposal in conversations with officers and the applicant's agents. Historic England has requested a number of planning conditions.

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).

On 19th March 2015, Natural England was re-consulted on additional information including supplementary ecological mitigation, an addendum to the ecological chapter of the Environmental Statement, a SAC mitigation and monitoring document and a draft Habitats Regulations Assessment.

On 10th April 2015 Natural England supplied a formal consultation response which is as follows:

“We welcome the additional data and mitigation proposed by the developer and recognise the efforts made by all parties to find a sustainable solution to this complex project. However we advise there are remaining issues which we outline below.

CONSERVATION OF HABITATS AND SPECIES REGULATIONS, 2010 AND THE OFFSHORE MARINE CONSERVATION (NATURAL HABITATS, & c.) REGULATIONS 2007 (AS AMENDED)

Internationally and nationally designated sites

The application site is within and in close proximity to European designated sites (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the ‘Habitats Regulations’). The application site is in close proximity to the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and within 2km of the Tamar Estuaries Complex Special Protection Area (SPA) which are European sites. Please see the subsequent sections of this letter for our advice relating to SAC and SPA features. The Tamar Estuaries Complex SPA is also notified at a national level as the Tamar-Tavy Estuary, the Lynher Estuary and St John’s Lake Sites of Special Scientific Interest (SSSI).

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Special Protection Areas (SPAs) are classified for rare and vulnerable birds, and for regularly occurring migratory species. The birds for which SPAs are designated may also rely on areas outside of the SPA boundary. These supporting habitats may be used by SPA populations or some individuals of the population for some of the time. These supporting habitats can play an essential role in maintaining SPA bird populations, and proposals affecting them may therefore have the potential to affect the SPA.

It should be noted that some of the potential impacts that may arise from the proposal relate to the presence of SPA interest features that are located outside the site boundary. It is advised that the potential for offsite impacts needs to be considered in assessing what, if any, potential impacts the proposal may have on European sites.

Habitats Regulations Assessment

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 61 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard for Natural England's advice.

Your draft Appropriate Assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question, provided the mitigation proposed by both the developer and Plymouth City Council is put in place. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, it is the advice of Natural England that it is not possible to be certain that the proposal will not result in adverse effects on site integrity. Natural England advises that the assessment does not provide sufficient certainty to justify the assessment conclusion and that your authority should not grant planning permission. The potential for further mitigation options, such as disturbance free off- site mitigation, has been discussed with both you and the developers and we are disappointed that this has not been given further consideration at this stage.

Natural England's views on the HRA can be found below, with more detailed comments regarding individual aspects of the Appropriate Assessment found in Annex 1. It should be noted that the HRA provided to us was in draft form. Natural England advises that one combined Habitats Regulations Assessment should be provided relating to this development from the three competent authorities involved; Plymouth City Council (PCC), the Marine Management Organisation (MMO) and the Environment Agency (EA).

Tamar Estuaries Complex Special Protection Area (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*.*

We have previously expressed our concerns in relation to Little Egrets on Drakes Island in respect of proposals to redevelop buildings on the island and the operation of a hotel. We made clear that we believed these proposals would be difficult to put in place without risking the loss of the Little Egret breeding colony and communal roost, and the consequent adverse impacts on the Tamar Estuaries Complex SPA.

Following amendments to the proposed mitigation measures in the CEMP we believe that the redevelopment work could be completed whilst maintaining the Little Egrets on the island. This would require stringent adherence to all of the detailed measures set out in the CEMP.

The measures proposed in the most recent OEMP and summarised in the draft HRA have considerably reduced the potential for disturbance to Little Egrets. The mitigation now proposed should ensure that casual disturbance does not occur as a result of the presence of people immediately adjacent to the roost site. This includes access restrictions to the casemates closest to the roost and the fact that access to these casemates is via an enclosed tunnel with a sealed glass roof.

The mitigation measures proposed to ensure that visitors do not cause disturbance through loud noise elsewhere on the island include visitor education and training, signage, access restrictions and the use of a covered buggy for visitors moving from the main hotel complex to the jetty. These measures will reduce the number of incidents resulting in disturbance to the Little Egrets. However, they are at high risk of being compromised by a small number of visitors not prepared to behave in accordance with these instructions and protocols at all times. The small size of the island means that loud noise made by people on the island will be heard by the Little Egrets and reveal the presence of people close to their roost site. The main hotel building and the jetty are both within 150 m of the Little Egret roost. There are other open areas on the island accessible by visitors that are within 120 m of the roost. The Little Egret's requirement for a secure, disturbance-free roost site means that such disturbance, this close to the birds, is likely to be perceived as a threat and may result in them abandoning the roost site. This is a likely outcome even if disturbance incidents of this nature occur only infrequently. We suggest this is a likely reason for Little Egrets not regularly using other apparently suitable sites around the Tamar even though these sites appear to be subject to very low levels of human disturbance.

The noise that would cause most concern is the use of raised voices or shouting as this will clearly reveal the presence of people on the island. The levels of noise would not need to be excessive in order to be perceived as a threat by the birds. Provided that the noise is audible at the roost it will give away the presence of people nearby. Other loud noise made by people would further increase the potential for disturbance including the playing of loud music or the use of fireworks, for example, although these types of noise would be easier to prevent by measures set out in the proposed mitigation.

Limited monitoring information means that we do not have a complete picture of the roosting sites used by Little Egrets in and around the Tamar Estuaries Complex. It is clear, however, that Drakes Island is a favoured site and that birds are willing to travel a considerable distance in order to reach it. It regularly supports a significant proportion of the Tamar Estuaries Complex population and, at times, the majority of birds from the estuary use this site.

If disturbance on Drakes Island resulted in birds losing this roost site they would be forced to relocate. It is possible they may be able to use alternative sites within the Tamar Estuary Complex or they may join other established roosts away from the Tamar. With either scenario they will have lost a secure site that current behaviour confirms is highly valued. The use of alternative, less highly favoured sites may have a significant

adverse impact on the birds through subjecting them to more frequent human disturbance. Or it may directly reduce the population of birds using the Tamar Estuary Complex if they move to an alternative site away from this estuary.

Natural England has issued Supplementary Advice on conserving and restoring the site features of the Tamar Estuaries SPA. Guidance: Marine conservation advice for Special Protection Area: Tamar Estuaries Complex (UK9010141). This advice was published on 30th March 2015 and is relevant to the proposed re-development of Drakes Island. We advise that this package should be taken into account in your HRA.

Conclusion:

Adopting a precautionary approach, as required by the Habitats Regulations, we are unable to agree with the conclusions of the HRA prepared by Plymouth County Council that it can be certain that the proposed development will not have an adverse effect on the integrity of the Tamar Estuaries Complex SPA.

Plymouth Sound and Estuaries Special Area of Conservation (SAC)

Natural England can confirm that the proposed works are located within Plymouth Sound and Estuaries SAC (SAC). This SAC is designated for a suite of flora and fauna:

- Sandbanks which are slightly covered by seawater all the time
- Estuaries
- Large shallow inlets and bays
- Reefs
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
- Mudflats and sandflats not covered by seawater at low tide
- Shore Dock (*Rumex rupestris*)
- Allis shad (*Alosa alosa*)

Natural England has reviewed the HRA provided by Plymouth City Council on the 23rd March 2015. Our views on the HRA can be found below with more detailed comments regarding individual aspects of the Appropriate Assessment found in Annex 1.

After reviewing the draft HRA, including the HRA recommendations and the CEMP/OEMP proposed mitigation, Natural England does not have sufficient information to fully agree with Plymouth City Council's conclusion that if the described mitigation measures and HRA recommendation are implemented then the proposal will not cause an adverse effect on the integrity of the Plymouth Sound and Estuaries SAC. Natural England is satisfied with the majority of the mitigation provided the following recommended planning conditions are included:

- A monitoring methodology and threshold of damage for seagrass are agreed with Natural England prior to commencement of works

- *Foul water drainage plan is submitted and agreed with Environment Agency and Natural England prior to commencement of works, this is to include turbidity data and plume modelling for all proposed outflows.*

However, we continue to have insufficient evidence regarding the following aspect of the development:

- *Changes in water quality due to emissions from energy to waste plant, in order to assess the likelihood of significant effect we require information of the size of plant and expected emission levels.*

Protected Species

We have not assessed the application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including a flow chart for each species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application.

As Standing Advice it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If you have any specific questions not covered by our Standing Advice or have difficulty in applying it to this application please contact us at consultations@naturalengland.org.uk.

Consent

If your Authority is minded to grant consent for this application contrary to the advice relating to the Tamar-Tavy Estuary, Lynher Estuary and St John's Lake SSSI's, the Tamar Estuaries Complex SPA and the Plymouth Sound and Estuaries SAC contained in this letter, we refer you to Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- *Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and representations made under regulation 61 (3) of the Habitats Regulations, and*
- *Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice."*

Annex 1

Comments on the draft HRA – Plymouth Sound and Estuaries SAC

Toxic contamination of water as a result of construction activity or operational accident – If the HRA recommendations are followed as detailed in the Appropriate Assessment along with the proposed mitigation

from the revised CEMP/OEMP, it is Natural England's view that this aspect of the work is not likely to have a significant effect on the SAC.

Physical damage (increased threats to intertidal and subtidal habitats by refurbishment of the Jetty, seawall, apron and new foul drainage outfall - If the HRA recommendations are followed as described in the Appropriate Assessment along with the proposed mitigation from the revised CEMP/OEMP, it is Natural England's view that this aspect of the work is not likely to have a significant effect on the SAC. This is however dependent on a detailed methodology provided in regards to the jetty repair, to which Natural England would be consulted through the subsequent MMO marine licence application process.

Physical Damage (increased threats to intertidal and subtidal habitats by increased water transport to the hotel) If the HRA recommendations are followed as set out in the Appropriate Assessment along with the proposed mitigation from the revised CEMP/OEMP, it is Natural England's view that this aspect of the work is not likely to have a significant effect on the SAC. This proposed mitigation may need to be amended if the seagrass is shown to have a greater maximum height in the proposed Phase 2 Sea Grass Survey or in other subsequent surveys.

Physical damage (increased threats to intertidal and subtidal habitats by increased recreational pressure from visitors arriving in their own vessels including anchoring, mooring and physical disturbance) – The HRA proposes a voluntary no anchor zone, annual surveys of the seagrass and a threshold of damage that would trigger the implementation of a Plymouth City Council byelaw to prohibit anchoring. Natural England agrees that these HRA recommendations may be sufficient to ensure there will not be a likely significant effect on the SAC. It is Natural England's view that this aspect is not likely to have a significant effect on the SAC provided any planning permission includes a condition to cover the agreement of a monitoring method and damage threshold with Natural England prior to commencement of works.

The following information may be of relevance for the applicant in the further development of the monitoring plan.

Natural England believes that annual monitoring of the seagrass beds by repeat of the 2012 phase 1 survey is likely to be insufficient to identify damage from infringement of the voluntary no anchoring zone. The phase one survey was intended to map the distribution of the seagrass bed however in order to identify anchoring damage a more fine scale approach would be advised. We suggest the following may be suitable; during the phase two seagrass survey, a more thorough baseline of seagrass density is established. We would suggest the same method as the phase one survey is suitable however survey points could occur every 10 meters, conducted in an alternating grid pattern. We would advise that the video is monitored at all times during the survey to identify any bare patches in the bed that occur in areas not covered by a survey point. If a bare patch is identified towing should stop and an additional survey point should be taken. The annual monitoring could follow the same method as the phase one survey with the addition of monitoring the video for bare patches and taking additional survey points if any are found. The bare patch data can then be compared to identify if they are new and potentially a result of anchoring damage. Natural England believes the threshold of 5% damage needs to be explained in more detail – what classes as damage? A reduction in percentage cover or total loss of seagrass in 5% of the area?

Physical Damage (increased threats to intertidal and subtidal habitats by construction and operation caused by smothering with litter) - If the HRA recommendations are followed as set out in the Appropriate

Assessment along with the proposed mitigation from the revised CEMP/OEMP, it is Natural England's view that this aspect of the work is not likely to have a significant effect on the SAC.

Toxic or non-toxic contamination (changes in water quality due to emissions from energy to waste plant) – Information has yet to be provided regarding the energy from waste plant. Therefore, following the 'precautionary principle', it is Natural England's view this aspect of the development has the potential to cause a likely significant effect to the Plymouth Sound and Estuaries SAC.

Toxic or non-toxic contamination (changes in water quality due to new waste water discharge as a result of water treatment facility required to serve the development) – This is concluded in the HRA as 'no likely significant effect' as the new discharge will have to comply with Environment Agency discharge standards. It is Natural England's view that this aspect is not likely to have a significant effect on the SAC provided any planning permission includes a condition that the applicant submits and agrees a foul water drainage plan upon which Natural England is consulted prior to commencement of works.

The following information may be of relevance for the applicant in the development of the foul water drainage plan.

The movement of this outfall to the south west of the island is likely to be sufficient mitigation for impacts on the seagrass bed. However, information is required on water circulation and turbidity from the discharge location. Recent discussions have indicated a possibility of up to three additional discharges. Further information regarding the location and nature of these is also required. We would advise this information should include the expected circulation away from the discharge site and the potential turbidity impacts in the seagrass area.

Comments on the draft HRA – Tamar Estuaries Complex SPA (please also note the 'Advice' section, above)

Disturbance caused by increased noise, light and visual presence associated with construction of the hotel development - If the HRA recommendations are followed as set out in the Appropriate Assessment along with the proposed mitigation from the revised CEMP and the additional measures proposed by Plymouth CC, it is Natural England's view that this aspect of the work is not likely to have a significant effect on the SPA.

Disturbance caused by increased noise, light and visual presence associated with hotel operation - If the HRA recommendations are followed as set out in the Appropriate Assessment along with the proposed mitigation from the revised OEMP and the additional measures proposed by Plymouth CC, it is Natural England's view that this aspect of the work is likely to have a significant adverse effect on the integrity of the SPA.

Disturbance caused by increased noise and visual presence as a result of increased recreational pressure including anchoring, mooring and physical disturbance in close proximity to nesting and roosting sites - If the HRA recommendations are followed as set out in the appropriate assessment along with the proposed mitigation from the revised OEMP and the additional measures proposed by Plymouth CC, it is Natural England's view that this aspect of the work is not likely to have a significant adverse effect on the integrity of the SPA."

On 14th September 2015, Natural England was re-consulted on a Little Egret Mitigation Strategy which had been put together by the applicant's ecological consultants, EnGain, and included the on-site little egret noise impact surveys EnGain had undertaken to a pre-agreed methodology in August 2015.

On 5th October 2015 Natural England responded to this additional information as follows:

“We have considered the new information and have not changed our view that it is not possible to be certain that the proposal will not result in adverse effects on site integrity. The onsite tests have shown that people can be heard at the roost site from a number of locations on the Island. Whilst revised mitigation is proposed to prevent people accessing areas close to the roost, we do not consider disturbance to the Little Egret roost can be prevented through the proposed measures, potentially leading to the loss of the birds from this roost site.”

Environment Agency

No objection – subject to conditions covering;

- i. the details of flood resilience and resistance measures including the marine glazing and other resistance measures for the Torpedo Room and the flood (wave action) measures for other parts of the island,
- ii. a flood management plan including the details of the flood alarm system to be used and the evacuation/non-occupation of the Torpedo Room upon the issuing of a warning,
- iii. the restriction of the future use of the Torpedo Room,
- iv. the submission of an intrusive investigation report assessing the potential risks to controlled waters from former activities on site,
- v. the appropriate management and remediation of any unexpected contamination found during construction,
- vi. the agreement of a Construction Environment Management Plan and Operational Management System before development starts and,
- vii. the details of an appropriate foul drainage system serving the development.

Local Highway Authority

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 Architectural Liaison Officer

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 is the Local Development Framework Core Strategy (Adopted April 2007). The development plan is currently being reviewed as part of the emerging Plymouth Plan. The Plymouth Plan - Part One was approved by Full Council in September 2015. As such it is a material consideration for the purposes of planning decisions. The document contains a number of policies which support this proposal, including the following:

Policy 36 (Positioning Plymouth as a major UK destination) supports the delivery of “new high quality hotels, especially on sites which reinforce Plymouth's unique assets such as its waterfront, heritage and culture, including offering views over Plymouth Sound.”

Policy 46 (Managing and enhancing Plymouth’s waterfront) supports “improving key waterfront destinations for the local community and to grow the visitor economy, including The Barbican / Sutton Harbour, The Hoe, Millbay and the Royal William Yard” and “waterfront development [that] is of high quality design, safeguards the waterfront's primary functions, improves use of and access to underused waterfront sites.”

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 Historic England 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 Historic England 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 Historic England’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 Historic England 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). Historic England was initially concerned about the number of blast shields proposed for removal. However, further to extensive negotiations and a site visit with Historic England and the applicant's agents, a compromise was reached. Historic England 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 Historic England.

4.0 Impact on Natural Environment

- 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.
- 4.2 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. There are records of a 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.
- 4.3 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
- 4.4 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.
- 4.5 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 (also referred to as 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.

- 4.6 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).
- 4.7 Natural England were first consulted on the previous Drake's Island application in 2012 and responded with an objection on the basis of insufficient information to determine impacts on the "Natura 2000 sites" – the European designated sites of the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and Tamar Estuaries Complex Special Protection Area (SPA). This previous application was refused at Planning Committee on the 8th January 2013 in accordance with the Plymouth City Council officer recommendation which was informed by Natural England's consultation response.
- 4.8 After discussions with Plymouth City Council, the applicant re-submitted this current application in January 2014. This application includes much more detailed information on the habitats and species that could be impacted by the development. At the submission stage there was however still insufficient information on the mitigation measures that would be implemented to ensure no adverse impact on the Natura 2000 sites.
- 4.9 Since this time, Plymouth City Council and Natural England have been working with the applicant to help them develop a comprehensive mitigation strategy to reduce potential impacts on the Natura 2000 sites.
- 4.10 At the time of the scheme going to Planning Committee on 15th January 2015, negotiations with the applicant had unfortunately reached an impasse and officers considered that there was no choice but to draw the conclusion as the "competent authority" that the development would result in an unacceptable impact on the designated sites. Natural England (NE), the RSPB and other bird experts in the area had objected to the scheme on the grounds of potential impacts on the SAC and SPA. In particular NE 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."*
- 4.11 After the 15th January 2015 Planning Committee, the applicant agreed to enter into a S106 commitment to fund the creation of a bylaw to prohibit boat anchoring to prevent any damage to the seagrass beds if the applicant's own monitoring and protection scheme were to prove ineffective. The applicant also agreed to commission their environmental consultants, Engain, to complete the outstanding ecological mitigation work which had been requested, and in March 2015 this further information was submitted by the applicant to identify how the development could progress without resulting in an adverse impact on the SAC or SPA. The applicant's additional information provided an improved mitigation package for the SAC and SPA and was forwarded to Natural England, the Environment Agency and the RSPB as part of a formal reconsultation and readvertising of the application, which ran for 21 days from 19th March 2015. The new ecological information enabled officers to prepare a draft Habitat Regulations Assessment (HRA) to a positive conclusion - that the proposal would have no adverse effect on the integrity of the SPA and SAC, provided the mitigation

proposed by both the developer and the Council was put in place. This draft HRA was sent to Natural England on 19th March 2015. Natural England responded to this in their letter of the 10th April 2015 (the relevant content of which is included earlier in this report) and disagreed with the positive conclusion drawn and maintained their objection.

The key outstanding issue was (and remains) the potential negative impact on the island's little egret colony. Natural England's key outstanding concern in this respect is that some visitors to the new hotel may not be prepared to behave in accordance with the instructions, management controls and protocols put in place and the resulting disturbance is likely to lead to the little egret colony abandoning the site, even if the disturbance occurs infrequently. The issue is principally one of noise, with most concern being raised voices or shouting which reveals the presence of people on the island.

The applicant's team agreed with Natural England regarding the need for further noise impact analysis. However, a debate followed on the best method of undertaking this work - with Natural England favouring an approach which included on-site fieldwork and the applicant's team favouring an approach based on computer modelling. Officers continued working hard to find a positive way forward and the applicant agreed to undertake on-site fieldwork, to a pre-agreed methodology in August 2015.

On 14th September 2015, Natural England was re-consulted on the subsequent Little Egret Mitigation Strategy and little egret noise impact analysis which had been put together by the applicant's ecological consultants, EnGain. The additional mitigation included providing a golf-type buggy to carry guests along the jetty from the ferry to the Arrival Building, and restricted access to the top of the island at times sensitive for the egret colony. Natural England responded to this additional information on 5th October 2015 as follows:

"We have considered the new information and have not changed our view that it is not possible to be certain that the proposal will not result in adverse effects on site integrity. The onsite tests have shown that people can be heard at the roost site from a number of locations on the Island. Whilst revised mitigation is proposed to prevent people accessing areas close to the roost, we do not consider disturbance to the Little Egret roost can be prevented through the proposed measures, potentially leading to the loss of the birds from this roost site."

The noise surveys have shown that human voices would be audible at the little egret roost. Natural England essentially remain concerned that the applicant's mitigation measures rely on the good behaviour of hotel guests.

In the spirit of trying to find a positive way forward, officers suggested a potential mitigation solution to the applicant whereby glass or similar tunnels could be provided to link along the jetty to the Arrival Building at the lower level and from the main hotel complex to the Casemates building at the higher-level, with the Casemates courtyard roof fully glazed over and guests required to remain inside the hotel buildings. This option would admittedly require new engagement with Historic England and add to the significant viability challenges that already exists for the proposal. Keeping guests inside the building network may also remain a challenge as external doors and fire escapes would still need to be provided. Officers put the idea to Natural England. Natural England would give no explicit assurance

that they would support such an approach, though they said they would support a design solution that they feel certain prevents birds at the roost from hearing noise made by people on the island during the construction and operational phases. Therefore, there is a risk that such an option would still encounter an objection from Natural England because there is still a reliance on guests' behaviour. In conclusion, the applicant did not wish to pursue this option.

Regretfully, officers considered there was no other option at this point than to proceed with completing a Habitat Regulations Assessment (HRA) to a conclusion as follows:

This project includes a suite of mitigation measures designed to reduce the effects of this scheme on the two Nature 2000 sites where likely significant effects have been identified.

Natural England still have concerns that the proposals will lead to adverse effects on roosting Little Egrets caused by increased noise, light and visual presence associated with hotel operation and insufficient evidence has been provided to rule out likely significant adverse effects on water quality due to emissions from the energy from waste plant.

PCC has a legal requirement under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to avoid adverse effects of plans and projects on European Sites.

We therefore conclude the following:

1. Even with the proposed mitigation and on-site solutions explored, adverse effects on the integrity of the Special Protection Area cannot be avoided;

2. In the absence of further information on the emissions from the proposed energy from waste plant, adverse effects on the integrity of the Special Area of Conservation cannot be ruled out.

These conclusions are consistent with the advice of Natural England.

Natural England and the RSPB were re-consulted on the completed HRA on 23rd October 2015 and the HRA was published on the Council's website at this time. The planning application was readvertised with the completed HRA on 3rd November 2015.

The RSPB responded in a letter dated 5th November 2015, supporting the conclusions of the HRA and maintaining their objection.

5.0 Flood Risk

5.1 In the previous version of the scheme, considered at Planning Committee on 15th January 2015, hotel bedroom accommodation was proposed at the lower level of the Casemates "Torpedo Room". This gave rise to an Environment Agency (EA) objection. The EA's

principle concern was that sleeping accommodation was proposed in a potentially hazardous location where high energy waves carrying debris would be likely to impact upon the openings of the Torpedo Room, which is part of the island's foreshore. The EA feared that any windows, however engineered, could be broken and cause rapid flooding of the room (which has a floor level below the opening).

- 5.2 The EA had stated that its preferred approach for the Torpedo Room would be to leave it undeveloped. However, the EA indicated that it would accept a compromise if the use of the lower level Torpedo Room was limited to non-bedroom accommodation. This would remove the risk of people sleeping in this highly vulnerable area.
- 5.3 Since the January Planning Committee, the applicant has formally resubmitted revised Casemates plans, showing sleeping accommodation removed from the Torpedo Room. The EA has welcomed this amendment and officers have come to the view that, taking into account other material issues, the flood risk sequential approach set out in the National Planning Policy Framework has been satisfied because;
- i. the most vulnerable parts of the development (i.e. in this case the bedroom accommodation) has now been located away from the area of flood risk in the Torpedo Room hotel suite,
 - ii. the scheme and proposed conditions are sufficient to ensure the development will be appropriately flood resilient and resistant and access and escape arrangements, emergency planning and residual risk can be safely managed.

In light of this change the EA submitted a new formal consultation response on 27th March 2015, setting out a set of conditions that they consider would make the proposal acceptable, together with a set of informatives.

6.0 Transport

- 6.1 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.
- 6.2 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.
- 6.3 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.

- 6.4 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.
- 6.5 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.
- 6.6 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 it would not in itself be reasonable to suggest that hotel guests will use this car park (considering luggage for example).
- 6.7 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.
- 6.8 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.
- 6.9 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.
- 6.10 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.

- 6.11 A staff travel plan is proposed with an incentive scheme to encourage sustainable travel to the staff ferry embarkation point.
- 6.12 With regard to visitors to the island, access will be restricted and controlled and any such associated mainland parking demand will be minimal.
- 6.13 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.
- 6.14 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.

7.0 Planning Obligations

Were the planning application to be approved, the planning obligations sought would broadly include the following:

- a. 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.
- b. A commitment to allow reasonable public access to Drake's Island in perpetuity.
- c. A commitment to provide permanent areas of interpretation on the island's historic and nature conservation interest including in the arrival building and casemates feature rooms.
- d. A commitment to fund the creation of a bylaw to prohibit boat anchoring to prevent any damage to the seagrass beds if the applicant's own monitoring and protection scheme is not effective.

8.0 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.

9.0 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.

10.0 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.

Conclusion

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 help this proposal move forwards positively, in recognition of the importance of Drake's Island to Plymouth and the unique set of opportunities and challenges presented by this proposal. 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.

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 aim of getting to a position where a positive recommendation could be put to Planning Committee.

The proposed development is considered to be of a high quality and would potentially secure the restoration and beneficial use of one of Plymouth's most prominent and iconic historic monuments. In most respects, the scheme 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 and its importance in terms of the city's visitor offer and economic growth. The list of potential benefits generated by the proposal is considerable.

However, officers are very mindful of the proposal's sensitive relationship with the Tamar Estuaries Complex Special Protection Area (SPA) and the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and take the objections raised by consultees including Natural England and the RSPB very seriously. The Council has a legal requirement under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to avoid significant effects of plans and

projects on European designated sites. Having conducted a Habitats Regulation Assessment, officers have unfortunately had no option but to come to the conclusion that the proposal is likely to result in significant adverse impacts upon the integrity of the designated sites.

Officers therefore consider there is no other lawful option than to recommend that this planning application be refused.

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, 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, Onsite Acoustic Testing Report, Little Egret Mitigation Strategy, it is recommended to: **Refuse**

14. 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).

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.