

**OFFICER REPORT – DELEGATED**

<b>Application number: 08-1721</b>	<b>Expiry date:</b>
<b>Received on:</b>	<b>Site visit date:</b>
<b>UPRN:</b>	<b>Neighbour expiry date:</b>
<b>Legal agreement: Y</b>	<b>Consultation expiry date:</b>
<b>Departure: N</b>	<b>Site notice posted:</b>
<b>Complies with Development Plan? Y If not, ensure you cover in the report how material considerations outweigh the plan?</b>	<b>Site notice expiry:</b>

<b>Applicant:</b>	Hayle Harbour Management Ltd & CPR Regeneration Ltd.
<b>Address:</b>	Hayle Harbour, Hayle.
<b>Proposal:</b>	Infrastructure works.

<b>Case officer: JWC</b>	<b>Authorising officer:</b>
<b>Signature:</b> <b>Date: 29<sup>th</sup> June 2010</b>	<b>Signature:</b> <b>Date: 29<sup>th</sup> June 2010</b>

**Description of site and development:**

The site encompasses the former railway swing bridge, East and South Quays and Carnsew sluices within the harbour and extends north and east towards the dunes and beaches but unlike the outline planning application 08-0613 does not include agricultural land to the rear of Clifton Terrace nor is South Quay included within the red line of the site plan.

The harbour is set within an open estuarine environment and is part of the Hayle Conservation Area as well as being one of the ten core areas of the Cornwall and West Devon Mining Landscape World Heritage Site (WHS). At present the harbour is under used and the fabric is in poor condition in places and in general has an air of neglect.

The main part of Hayle town is to the east with Foundry Square to the south. To the north are the beaches whilst Carnsew Pool and Lelant Water are located to the west.

The Phase 1 Infrastructure scheme, which was subject to an Environmental Impact Assessment includes:

- A new bridge to replace the role of the existing railway bridge as a means of vehicular access to North Quay.
- A road along North Quay, together with associated on- street car parking, to service areas allocated for the Wave Hub, the Renewables Business Park and associated parking areas.
- New harbour and deep water quay on North Quay to serve the Renewables Business Park project and the fishing industry in Hayle.
- Enabling works for the new harbour.

- The uplift of land along the length of North Quay to provide long term flood protection in line with Environment Agency requirements, including the creation of new flood protection walls and steps whilst maintaining operational access to quay walls.
- Repair and restoration of existing quay walls to North and East Quays.
- Repair and renovation of sluicing arrangements for Copperhouse and Carnsew Pools;
- Creation of a promenade and an operational access route along the length of North Quay.
- Creation of a new car park and area for boat storage on an area to the north east of the harbour.

### Relevant planning history:

This application was presented to the former Penwith Planning Committee on the 24<sup>th</sup> March 2009. The Committee resolution: That the application be deferred and that authority be delegated to the Head of Planning and Regeneration to grant conditional approval on the satisfactory completion of Section 106 agreements and planning conditions.

08-0613: Concurrent Outline Planning Application for regeneration of harbour area and development of Greenfield land for housing. Considered by the former Penwith Planning Committee in January 2009 when determination was deferred to progress discussions. The application was returned to the Planning Committee in March 2009 when Members resolved to:

1. That the application be deferred and that authority be delegated to the Head of Planning and Regeneration to grant conditional approval on the satisfactory completion of the Section 106 agreements and planning conditions; and

2. In the absence of Hayle District Ward Members from 1 April 2009 until 4 June 2009, that Hayle Town Council be invited to attend regular meetings with the applicant where it was considered appropriate.

### Public representations:

All public representations made with regard to the application were presented for consideration by the Planning Committee.

### Consultee representations:

All consultee responses made with regard to the application were presented for consideration by the Planning Committee.

Since the planning committee meeting there have been no changes to the submitted documents. Nor has the local planning authority received any additional information supplementary to the Environmental Statement submitted with the planning application and requiring further publicity or consultation with statutory organisations.

## Constraints and designations:

### CONSTRAINTS:

- Site of Special Scientific Interest (SSSI)
- Conservation Area
- World Heritage Site
- Listed Buildings
- Public Right Of Way (diversion required)
- Flood Zones 2 and 3a.

## Relevant policies, SPGs and Government guidance:

Regional Planning Guidance<sup>10</sup>: VIS1, VIS2, SS3, SS18, EN1, EN2, EN3, EN4, EC1, EC3, RE1, RE2.

Cornwall Structure Plan (CSP): 1, 2, 3, 4, 6, 11, 12, 16, 25, 27, 28.

Penwith Local Plan (PLP): GD1, GD2, GD4, CC1, CC7, TV1, TVD, E1, E2, CS4, TP7.

Cornwall and West Devon Mining Landscape World Heritage Site Management Plan: 4c, 7b, 7c, 8a, 8b.

National Guidance / Policy

PPS1 – Delivering Sustainable Development

PPS4 - Town Centres

PPS9 - Biodiversity and Geo-conservation

PPS23 - Planning and pollution control

PPS25 - Development and Flood Risk

PPG13 - Transport

PPS5 - Planning and the Historic Environment

### Note on Policy Considerations

Since March 2009 there have been changes to national policy guidance and the introduction of the requirement to have regard to World Heritage site management plans.

PPS6 – Town Centres has been superseded by PPS4 – Planning for Economic Development and PPG15 and PPG16 have both been superseded by PPS5. Circular 07-2009 – Protection of World Heritage Sites at paragraph 14 requires local planning authorities to treat policies within World Heritage Site (WHS) management plans as material considerations in making planning decisions.

It is considered that the changes to national policy and the introduction of the need to have regard to the WHS management plan policies are material considerations in determining this application. However, taking into account the new PPS4, PPS5 and policies within the WHS management plan it is considered that there are no new policy directions which would require a need to reassess the proposals. No representations have been received from any statutory agency with regard to the abovementioned changes.

## Appraisal/key issues and conclusion:

This report will provide an update setting out the application progress towards completion of the Section 106 agreements and conditions since the Planning Committee meeting in March 2009. A copy of the March 2009 report is attached as Appendix 1 and provides background information for this proposal. The format of the update will follow the headings layout of the original report to Members. It is worth noting that the need to draw down and use public funds within a set time period has resulted in proposals for the infrastructure to be delivered in two phases. Current public funding permits the repair of harbour walls, new road bridge, land uplift for flood prevention, public realm hard landscaping, the new roadway to the business park and creating the development platform for the business park, but not any industrial buildings. Delivery of the fishermen's harbour and slipway form the second phase of the development.

### Transport

The proposals relate to provision of infrastructure to realise the potential of the proposed business park to be located at the northern part of North Quay. The level of traffic to be generated by the business park has limited implications in terms of the local County highway network and the strategic role of the A30 trunk road.

The initial proposals to dredge materials from the harbour to be used as fill material are now joined by a proposal to bring material onto site from outside Hayle. Although this would increase the number of trips the impact would be controlled by way of a Construction Traffic Management Plan. The need for a Construction Management Plan is imposed by way of a condition which has been agreed by the applicant. The proposals do not therefore conflict with Cornwall Structure Plan policies 27 and 28.

The proposals include a revised junction from the B3301 to the new bridge and North Quay. It is relevant that the junction design should have a minimal adverse impact upon residences and other premises in the immediate vicinity. Inclusion of interested parties in the discussion for the junction design to ensure the best outcome has resulted in a position whereby the design has not been finalised. A condition is recommended to ensure that the junction design is completed before commencement of works to the highway to install the revised junction.

### New Bridge

The need for the new combined vehicular / pedestrian bridge remains as previously reported to Members and no new information has been put forward in terms of need or with regard to the capacity of the existing listed swing bridge to act as the main access route.

The proposed bridge design requires finalising, however the proposals set before Members will not differ significantly from the final product. A condition is recommended to ensure control over the final finish. Discussions with the environmental consultees and the RSPB have resulted in proposals for a bird screen to form part of the bridge to minimise the disturbance of feeding birds within the Copperhouse Pool SSSI from the presence of pedestrians and cyclists using the bridge. The trigger for installation of the bird screen is first pedestrian / cyclist use of the new bridge. The design of the bird screen has been agreed in principle with the RSPB however the final details of materials, finishes are to be completed. The proposed condition for the road bridge will include a requirement for final details of

the bird screen. To ensure the screen is fit for purpose the RSPB will be asked to comment and advise if required. The proposed bird screen will minimise disturbance to wading birds which are a feature of the Copperhouse Pool SSSI allowing the proposal to accord with Regional Planning Guidance 10 policy EN1, Cornwall Structure Plan policy 2 and Penwith Local Plan policies CC1 and CC7 in relation to protection of habitats and biodiversity.

### New road and walkways

The uplift levels to meet flood requirements have been agreed with the Environment Agency. Conditions require protection measures and details of the treatment of raised land immediately adjacent to the listed buildings on North Quay during the construction process. The need for a footpath diversion order remains as reported to the Planning Committee (Appendix 1). The proposals remain in accordance with Regional Planning Guidance 10 policies EN3, EN4, Cornwall Structure Plan policies 1, 2, and Penwith Local Plan policies GD1, GD2 in terms of design and protection of the historic environment. The proposals for flood mitigation are in accordance with Regional Planning Guidance 10 policy RE2 Cornwall Structure Plan policy 3 and Penwith Local Plan policies GD4 and CS4. The diversion of the footway will be in accordance with Penwith Local Plan policy TP7 in terms of a continued safe and convenient route during the construction process and an enhanced route post-construction.

### Fishermen's Harbour

No new information (See Appendix 1). The proposals remain in accordance with development plan policies promoting regeneration and which support industry related development within towns. As such the proposals accord with Regional Planning Guidance 10 policies VIS1, VIS2, SS3 and SS18, Cornwall Structure Plan policy 4, 11, 16, 25 and Penwith Local Plan policies TV1, E1 and E2 and Penwith Local Plan development proposal TV-D.

### Sluicing

Since the Planning Committee meeting the economic climate, within which delivery of this significant regeneration scheme is to occur, has remained challenging. As such the delivery of the sluicing arrangements has been broken down into a more deliverable package. There is no reduction from the proposals set before Members in 2009. By splitting the delivery into two aspects, that of the heritage interpretation and that of harbour sluicing, the cost to the developer is spread and enables some development to take place thereby generating funding opportunities for the sluicing. First will be repairs and heritage interpretation of the two Carnsew sluices including works to the timber mitre gates. The installation of new sluice infrastructure to enable reintroduction of the historic sluicing activity will be addressed at a later date when all options for funding and delivery may be explored. Triggers for these works are within the S106 agreement and are required to provide timely delivery of the heritage benefits brought by the renovation and interpretation of the existing sluices and the reintroduction of harbour sluicing which is a particular historic characteristic of Hayle Harbour. The proposals are supported by Regional Planning Guidance 10 policy EN3 Cornwall Structure Plan policies 1 and 2 and accord with the objectives and policy guidance within PPS5.

## Natural Environment

The previous report to Planning Committee noted the loss of intertidal habitat due to the development and that Planning Policy Statement 9 – Biodiversity and Geological Conservation at paragraph 1(v) requires consideration of alternative sites for the development, mitigation or compensation for habitat loss. The proposals for mitigation and compensation for intertidal and other habitats remain as set out to Members (Appendix 1).

The report was made at a time when the specific compensatory replacement habitat had yet to be identified. Options had been put forward both by the applicant and by the interested environmental consultees represented by Natural England, the Environment Agency, Royal Society for the Protection of Birds (RSPB) and the Council's Environment Service, however the options had yet to be examined in detail at that time. Given that a number of sites to provide compensatory habitat had been identified and considered deliverable it was recommended to Members that *"given the requirement of PPS9 it is requested that should Members be minded to grant conditional approval then this will be on the basis that officers continue to work with the applicant to ensure that a suitable site is delivered and that the delivery is subject to the agreement of the environmental consultees and the completion of a S106 agreement. In my opinion this gives sufficient surety that a site will be delivered in accordance with national guidance before any development commences."*

In fact three potential sites have been identified and agreed as suitable by the environmental consultees. The suitability of the sites is set out in the Spalding Report which will be appended to the S106 agreement. Within the S106 there is a trigger tied to the removal of the Cackle Bank whereby the developer will transfer the compensatory land to the Council and the balance of the agreed financial contribution from which the cost of purchase of the land is deducted. This cost has been based upon a calculation which assesses the monetary value of habitat lost dependent upon its biodiversity value and the report methodology and conclusions has been accepted by the environmental consultees. Consideration has also been given to when the compensation and mitigation will be implemented in order to provide timely action in response to the development impacts as they occur.

A sequential test with regard to Planning Policy 25 – Development and Flood Risk and seeking alternative sites for the proposed development has been carried out and agreed by the Environment Agency. The EA have agreed that no other sites within or adjacent to Hayle are suitable in terms of being land having a lower risk of flooding and which could accommodate the proposed development even in a disaggregated form. It is also reasonable to take the position that in terms of harm to biodiversity that there are also no other alternative more suitable sites available. Indeed given the type of habitat to be lost which is low in biodiversity value it is argued that it would be difficult to find an alternative site locally for the development with a lower biodiversity value. The proposed compensatory habitats are in themselves contain greater biodiversity than the land to be lost and these sites present an opportunity through management to create habitats with a greater biodiversity than that existing. The proposals for compensatory habitat and mitigation measures are considered to address the policy aims of Regional Planning Guidance 10 policy EN1 Cornwall Structure Plan policy 2 and Penwith Local Plan policy CC7, and the aims of PPS9.

These mitigation and compensation proposals are to balance the loss of habitat and alteration from one type of habitat to a different type of habitat of greater value in

terms of biodiversity. Habitat types relevant to this application fall into four categories: aquatic, intertidal, dune and disused former industrial land.

The amount of intertidal and aquatic benthic habitat to be lost on completion of the development is 3.6 hectares. The harbour areas making up this figure are the Cockle Bank, Penpol Creek, and land taken by the new slipway, harbour arm and sand trap. This loss is significant, both in terms of amount and type of habitat lost as the Hayle Estuary is the sole example of this type of estuarine environment on the north coast of Cornwall and one of the few examples on both north and south coasts of the county.

- 1) Cockle Bank: An intertidal habitat within the harbour. This is a man-made bank of material which contains contaminated material and pollutants bound to sediments. This habitat is of low biodiversity value in terms of species variety and numbers, however it is a feeding ground for wading birds.

Removal of Cockle Bank is required to create a deep water harbour which will allow vessels to remain afloat at low tide. Removal of the bank is also required to permit construction of the fishing harbour, harbour arm and marina.

- 2) Penpol Creek: A body of tidal water between South Quay and Penpol Terrace. The proposal is for an half tide gate which would permanently impound water thus removing the mudflat area currently available for wading birds. Also permanent impoundment of water will result in a habitat change from intertidal to aquatic and hence an change in species found in the Creek.

- 3) Other areas of the harbour:

The slipway will permanently cover part of the intertidal zone resulting in full loss of biodiversity of the area covered and limited scope for colonisation.

The harbour arm will permanently cover part of the intertidal zone resulting in full loss of biodiversity. However the S106 agreement contains an obligation requiring timber fendering and boulders at the toe of the harbour arm to provide opportunities for colonisation. As with Penpol Creek the habitat type has changed as will the species.

The sand trap is to be an excavated area of harbour which will provide a settlement area for larger particles carried in with the tide. This trap would be periodically dredged. This part of the harbour is swept by tides and has limited biodiversity value. The proposed sand trap would permanently remove the existing habitat and provide very limited scope for colonisation.

The Spalding Report identifies six sites and narrows these down to three which are considered to provide suitable compensation for the intertidal habitat lost. All three are of an area which exceeds the area of intertidal habitat lost. Whilst none are in themselves intertidal, they are wetland and one of these has the potential to become intertidal due to climate change. They also currently have a biodiversity value greater than that of the intertidal habitat to be lost albeit that the species present will be different as will the visiting species reliant upon the site for food / shelter. The question then remains whether the proposed compensatory wetland habitats adequately compensate for the intertidal habitat. Given the difficulty in locating intertidal habitat in the Hayle area a wetland habitat has been identified as being sequentially the next preference. The habitat lost as mentioned above is of low biodiversity and will only support a limited number of wading birds.

It is considered that this loss of intertidal habitat is not of such a magnitude as to have a significant adverse impact upon the wading bird population which rely upon such a habitat given the overall area of this habitat adjacent to Hayle which includes Copperhouse Pool, the Harbour and Lelant Water. The harm that does occur is considered to be outweighed by the regeneration benefits to Hayle and the management of the wetland areas to increase biodiversity therein.

The amount of dune habitat to be lost on completion of the development is 3.3 hectares. The dune areas making up this figure are to be found at North Quay. The proposal for compensatory land is the creation of dune habitat.

- 1) Restoration of 0.5 hectares of semi-fixed dune habitat at Harvey's Towans which is currently an unsurfaced car park in the applicant's ownership to be achieved by deposition of 2-3m of clean sand over the area followed by planting and landscaping, habitat management and monitoring.
- 2) Conversion of 2.75 hectares of arable land at Riviere Farm to dune grassland to be achieved by deposition of clean sand to 1m depth over 100% of the total area available, and subsequent landscaping, seeding, planting, management and monitoring. This land is in the applicant's ownership thus available for provision of compensatory habitat. The current arable land has a low biodiversity value.

Recreation of dune habitat at Harvey's Towans returns the site to its original form whilst conversion of the arable land provides additional dune habitat which is a Biodiversity Action Plan habitat and also provides a buffer to the adjacent Mexico Towans SSSI. Both actions create habitats with the scope to support greater biodiversity.

In addition to dune habitat creation, management of invasive sea buckthorn will occur and the affected dune areas will be restored to dune habitat. Financial contributions are also made via the S106 to address monitoring and management of remediated areas as well as contributing to direct and indirect impacts from the harbour redevelopment scheme and the anticipated increase in use of the dunes by the public.

Taken together the proposals for compensatory wetland habitat in lieu of intertidal and dune habitat would result in no net loss of habitat and should result in an overall increase in biodiversity. Management of the dune habitats will assist restoration and ongoing protection.

The mitigation and compensatory measures have been agreed between the local planning authority applicant and Natural England, Environment Agency, the RSPB and the Council's Environment Service. The reports and position statements issued by the applicant and consultees have informed this report.

Schedule 1 of the S106 agreement contains an obligation to provide a Construction Environmental Management Plan which will set out the means by which the natural environment will be protected during the construction phase and monitored both during and post construction.

A copy of the completed S106 agreement which includes all the mitigation and compensation proposals, including financial contributions was sent to these consultees on the 11<sup>th</sup> June 2010 requesting comments within 10 working days. No response has been received as a result of this consultation.

## Conclusion

Given the full inclusion of Natural England, Environment Agency, the RSPB and the Council's Living Environment Service in arriving at the natural environment outcomes within the S106 agreement it is considered that the local planning authority has achieved the aim set out at paragraph 1(vi) of PPS9 of providing adequate mitigation and appropriate compensation to offset the impacts of the development in a manner which will result in mitigation and compensation of impacts as they occur and a minimal time delay in providing such habitats. In creating new managed habitat it is considered that the PPS9 key principle 1(ii) has been adhered to in that biodiversity will be increased and full weight has been given to protection and consideration of the impacts upon the Copperhouse Pool and Carrack Galddeen / Mexico Towans SSSIs. Also the decision has been made on up-to-date information in line with PPS9 principle 1(i). Contributions towards post-construction monitoring mean that should any residual harm be identified then options to mitigate that harm can be implemented.

Conditions are recommended which require the provision of a Construction Environmental Management Plan and a Site Waste Management Plan within which will be details of how the development is carried out with regard to protecting the natural environment.

## Heritage

Conditions are recommended to address the protection of the listed buildings on site during the construction process. Delivery of sluice renovation has been detailed above. An archaeological recording condition is recommended as is a condition to require a scheme for retention of railway infrastructure which is an additional requirement not before Members, other than this the proposals for heritage benefits remain as set out to Members and continue to accord with Regional Planning Guidance 10 policy EN3 and Cornwall Structure Plan policy 2.

Having regard to Circular 07/2009 – Protection of World Heritage Sites and to the Cornwall And West Devon Mining Landscape World Heritage Site; the proposals will protect, conserve and enhance the site and setting through the sensitive use of materials and design which reflects the industrial past of the site in accordance with Management Plan policies 4c and 7b. Conservation of heritage assets such as the harbour walls, and listed buildings will occur and these will be retained, repaired and incorporated into the new development in accordance with Management Plan policies 7c and 8a. The development proposals will maintain the historic character of the WHS and its setting and will also provide opportunity for interpretation making the setting and character relevant to visitors in accordance with Management Plan policy 8b.

The proposals accord with the Government's objectives set out at paragraph 7 within PPS5 for conservation of the heritage assets. It is considered that the special architectural character of the listed buildings within the site will be preserved. Harbour walls and sluices will be renovated and repaired where necessary thus preserving these features. Whilst the existing somewhat neglected appearance of the site will change, the industrial character will be preserved in terms of the proposed built form and materials. As such the proposals meet the aims of policies within PPS5 and preserve parts of the Conservation Area whilst enhancing others.

### Economy

The proposals remain as per the 2009 report to the Planning Committee (Appendix 1) however, PPS4 is a material consideration in deciding the outcome of this application in that the proposals subject to the application would directly result in economic development as set out at paragraph 4 of PPS4. The proposals are in accordance with the Government's objectives for planning and will improve the economic performance of Hayle, provide significant regeneration whilst conserving the site's heritage.

The proposals will result in a development which is resilient to climate change and accessible from a range of transport options including walking in accordance with policy. The proposals will provide a development platform from which significant regeneration and employment opportunities will arise in accordance with policy EC10.2 of PPS4.

### Residential Amenity

No new information, the proposals remain as per the 2009 report to the Planning Committee (Appendix 1).

### Additional requirements

As the submitted design of the junction of the B3301 onto the new bridge at Copperhouse is under review by the highways authority it is necessary to recommend a condition to ensure that a suitable design is agreed which has regard not only to the safe and convenient flow of traffic through the junction but also has regard to maintaining the standard of access onto the B3301 available to the existing properties in the immediate vicinity of the new junction.

A condition is recommended to ensure that access to the Cricket Club from North Quay which is also a community facility remains open. Where closure is required by the needs of the development this will be of a temporary nature and in consultation with the local planning authority and Cricket Club to minimise the impact. Both the above conditions have been agreed by the applicant.

### **Recommendation:**

That Conditional Approval should be granted subject to conditions, informatives and a section 106 obligation. The conditions and s106 heads of terms are set out below.

### **Reasons for Approval:**

It is considered that the proposed infrastructure works are acceptable in the light of development plan policies and national policies and guidance. The site is previously developed land on the edge of Hayle and strongly associated with the urban form of the town.

The site has been identified by Proposal TV D of the Penwith Local Plan as being a suitable location for mixed use redevelopment. The proposed infrastructure works will enable mixed use development of the North Quay part of Hayle Harbour as well as enabling the construction of the business park which accords with the aims of Regional Planning Guidance 10 policy EC3, Cornwall Structure Plan policies 11 and 12,

and Penwith Local Plan policies E1 and E2 relating to provision of employment sites. The proposals are considered to accord with Regional Planning Guidance 10 policies VIS1, VIS2, SS3 and SS18 in regard to promotion of sustainable patterns of development, sequential approach to site selection to minimise use of greenfield land and promoting development on previously developed land as well as enabling a mixed use development that will enhance the public realm and conserve and protect the landscape, heritage assets and industrial heritage and create conditions for growth within Hayle. These proposals are thus in line with the aims of Regional Planning Guidance 10 policies EC1 and EC2 which encourage economic activity in areas where it can bring greatest economic and social benefits. The proposals accord with Cornwall Structure Plan policies 1, 3 and 16 in terms of the aim to bring about a long term improvement of Hayle's economic and social circumstances. This aim is achieved through regeneration whilst making best use of previously developed urban land. The proposals also accord with Penwith Local Plan policy TV1 in terms of location of large scale development within towns and accord with Cornwall Structure plan policy 25 in the aim to consolidate the role of towns within the County through growth. The proposals are in accordance with the Government's objectives for planning set out within PPS4 and will improve the economic performance of Hayle, provide significant regeneration whilst conserving the site's heritage. The redevelopment will result in a built form which is resilient to climate change and accessible from a range of transport options including walking in accordance with policy. The proposals will provide a development platform from which significant regeneration and employment opportunities will arise in accordance with policy EC10.2 of PPS4.

The proposals accord with Cornwall Structure Plan policy 2 in terms of protection and enhancement of the character of Hayle and will positively relate to the urban form. The proposed infrastructure will integrate with the industrial surroundings in terms of scale, design and materials thus respecting the industrial heritage of the site in accordance with Penwith Local Planning policies GD1 and GD2(i). The proposals will also preserve the landscape character and setting of the development in accordance with Regional Planning Guidance 10 policy EN1, Cornwall Structure Plan policy 2 and Penwith Local plan policy CC1 as well as according with the key principle relating to landscape character within Planning Policy Statement 7 – Sustainable Development in Rural Areas.

In determining the proposed development regard has been given to the duty of the local planning authority set out at section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The proposed infrastructure works are considered to preserve the industrial character of this part of Hayle Harbour and will enhance the appearance of North Quay. The proposals will result in the repair and preservation of historic quay walls and sluicing infrastructure and will preserve the character and setting of listed buildings within the site in accordance with the duty set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and with Regional Planning Guidance 10 policies EN3 and EN4, Cornwall Structure Plan policies 1 and 2, and national guidance within Planning Policy Statement 1 – Delivering sustainable Development and Planning Policy Statement 5 – Planning for the Historic Environment.

Regard has also been given to Circular 07/2009 (Protection of World Heritage Sites) which requires local planning authorities to treat policies within World Heritage Site Management Plans as material considerations in making planning decisions. The site is within the Cornwall and West Devon Mining Landscape World Heritage Site. In accordance with policy 4c of the management plan the proposed development will

enhance the site and conserve the setting. The distinctiveness of the site will be enhanced by the development which will respect historic importance and the industrial setting in compliance with management plan policy 7b. All historic buildings are to be retained and protected, development in proximity to those buildings will recognise the special architectural and historic importance of these heritage assets and their setting in accordance with management plan policies 7c, 8a and 8b.

The proposals will not result in significant harm to the water environment or air pollution. Given the full inclusion of Natural England, Environment Agency, the RSPB and the Council's Living Environment Service in arriving at the natural environment outcomes within the S106 agreement it is considered that the local planning authority has achieved the aim set out at paragraph 1(vi) of PPS9 of providing adequate mitigation and appropriate compensation to offset the impacts of the development in a manner which will result in mitigation and compensation of impacts as they occur and a minimal time delay in providing such habitats. Contributions towards post-construction monitoring mean that should any residual harm be identified then options to mitigate that harm can be implemented. As such the proposals are in accordance with Regional Planning Guidance 10 policies RE1 and EN2, Cornwall Structure Plan policy 4 or Penwith Local Plan policy CC7 relating to the protection of Sites of Special Scientific Interest in accordance with national policy objectives within PPS9. The sequential and exceptions tests set out within Planning Policy Statement 25 – Planning and Flood Risk (PPS25) have been passed and the subsequent mitigation through land uplift and flood warning and evacuation procedures will result in a development which has regard to climate change and minimises flood risk. The proposals therefore comply with national guidance within PPS25 Planning policy statement 1 – Delivering Sustainable Development, Regional Planning Guidance 10 policy RE2, Cornwall Structure Plan policy 3 and Penwith Local Plan policies GD4 and CS4 in relation to minimising flood risk. Waste management will be emplaced in accordance with the aims of Cornwall Structure Plan policy 6.

The proposed infrastructure will enhance the provision for walking and cycling and general access to the beaches in accordance with Penwith Local Plan policy GD2 (v). The proposed works will not significantly impact upon the local road network in terms of additional traffic flows other than during the construction period when a Construction Traffic Management Plan will be in force. As such the proposed highway works are considered to be in accordance with Cornwall Structure Plan policy 27. The scheme will improve pedestrian safety in terms of access along North Quay due to the construction of a new bridge, road and separate pedestrian and cycling routes in accordance with Cornwall Structure Plan policy 28 and Penwith Local Plan policies GD2(v) and TP7, as well as being in accordance with guidance within Planning Policy Guidance Note 13.

The proposals will have a limited impact on residential amenity during the construction period. The main disturbance will be from works to form the new junction and bridge which are closest to the residential areas and the construction period for these elements will be of a short duration. Given that the Penwith Local Plan Proposal TV-D sets out the support for a regeneration of the Harbour area the impact from the development has been accepted. The developer will be required to abide by a Construction Environment Management Plan which will contain measures to minimise impacts from construction on residential amenities.

**Conditions/Reasons:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

*Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004). Limits vary from those required by the Act to allow for the current and anticipated market difficulties and to reflect the complexities of implementing a comprehensive regeneration project.*

2. Before commencement of development including any associated groundworks or demolition, a Phasing Plan that indicates the two key phases of development referred to as Phase 1a and Phase 1b shall be submitted to and approved in writing by the local planning authority.

*Reason: To ensure coordinated and integrated land use planning.*

3. Within 2 months of commencement of each phase of development pursuant to Condition 2, excluding demolition or any associated groundworks other than uplift of land, details of the external cladding materials and finishes to be used in the construction in respect of that phase shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

*Reason: In the interests of visual amenity and to reflect the Outstanding Universal Values of the World Heritage Site and to protect the character and appearance of the Hayle Conservation Area.*

4. Before commencement of the development hereby permitted, including associated groundworks or demolition, a Site Waste Management Plan substantially in accordance with Section 14 of the Environmental Statement submitted with the application hereby approved shall be submitted to and approved in writing by the local planning authority to demonstrate how waste material from construction and operation of the site will be managed and the development shall be carried out in accordance with the approved Site Waste Management Plan.

*Reason: To ensure appropriate management of waste with a view to maximise re-use on site in accordance with sustainability targets.*

5. Before commencement of each phase of development pursuant to Condition 2, including any associated groundworks or demolition, a programme of archaeological investigation in respect of that phase shall be submitted to and approved in writing by the local planning authority. The programme shall include a scheme for the retention, re-use or storage of existing rail tracks. Archaeological investigations shall be implemented in accordance with the approved programme and retention, re-use or storage of the rail tracks and associated supporting materials or associated rail infrastructure shall be carried out in accordance with the approved scheme

*Reason: In the interests of the archaeological value of the site and to ensure there is an agreed approach to recording and reporting any finds of archaeological interest and to preserve the character of the Hayle Conservation Area and protect the Outstanding Universal Values of the World Heritage Site.*

6. Before commencement of any development, demolition or groundworks on North Quay details of the protection of the Stable Block and the Harbour Masters Office for the period of construction shall be submitted to and approved by the local planning authority and the protection measures shall be implemented before commencement of any works or development and retained for the period of construction without alteration unless otherwise agreed in writing by the local planning authority.

*Reason: To protect the fabric of these Grade II Listed Buildings*

7. Before commencement of the development hereby permitted, including any associated groundworks or demolition, details of development in the vicinity of the former stable block in the area hatched red on the attached plan [ref] shall be submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details.

*Reason: In the interests of the historical value of the site and to ensure there is an agreed approach to recording, reporting or protecting historic features and to protect this Listed Building.*

8. Before commencement of each phase of the development pursuant to Condition 2, including associated groundworks or demolition, a detailed Construction Management Programme in respect of that phase shall be submitted to and approved by the local planning authority. The Construction Management Programme shall be substantially in accordance with the Construction Environmental Management Plan framework set out at Section 17 of the Environmental Statement submitted with the application hereby approved. The programme shall include: commencement and completion dates; hours of operation for construction work; measures to control noise and dust; details of site compounds; any temporary highway works or closures; and access for construction traffic.

For the avoidance of doubt the programme must include details of the site access arrangements and measures to minimise the impact of construction on the transport network and the general public. The construction shall be carried out in accordance with the approved programme unless otherwise agreed in writing with the local planning authority.

*Reason: To ensure that construction proceeds in a coordinated manner in the interests of environmental amenity, traffic management and highway safety.*

9. Notwithstanding the description of development in the application this permission does not approve a signalised junction at the junction of the B3301 adjacent to Hayle Terrace and before the commencement of any works or development to construct the new road junction that provides access to the new bridge across Copperhouse Pool, a

detailed scheme of works including showing how access and egress from the existing businesses and dwellings in the vicinity of the proposed junction of the B3301 and access to North Quay will be provided, shall have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved scheme. For the avoidance of doubt commencement of works to the road bridge over Copperhouse Pool are not covered by this condition.

*Reason: To ensure the formation of a safe access to the development, in the interests of highway safety and to maintain the existing standard of access to the residences and businesses in the immediate vicinity of the junction.*

10. Access to the Cricket Club from North Quay shall remain open to vehicles and pedestrians at all times during the construction process unless otherwise agreed by the local planning authority.

*Reason: To ensure ongoing access for users of this community facility.*

11. Before commencement of each phase of the development pursuant to Condition 2 a scheme for the provision and implementation of surface water drainage in respect of that phase shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme.

*Reason: To ensure a satisfactory method of surface water drainage.*

12. Before commencement of the development hereby permitted details of the proposed street lighting shall be submitted to and approved in writing by the local planning authority and the development shall be implemented in accordance with the approved details.

*Reason: To minimise the impact of lighting on the natural environment*

13. Approval of the details of street furniture, traffic barriers, signage within the application site shall be obtained in writing from the local planning authority before such ancillary features are erected and installed.

*Reason: to ensure that the details do not cause harm to the character and appearance of the site and surroundings.*

14. Before commencement of construction of the road bridge over Copperhouse Pool, a detailed design for the bridge including details of the bird screen and details of materials and finishes shall be submitted to and approved by the local planning authority. The bridge shall be implemented in accordance with the approved details. For the avoidance of doubt commencement of works to the proposed junction of the B3301 and access to the new road bridge are not covered by this condition.

*Reason: To ensure the protection of the character and appearance of the Hayle Conservation Area and the protection of the setting of the adjacent Grade II listed*

*swing bridge as well as to protect and conserve the character of the World Heritage Site.*

15. Before public use of the new road bridge by pedestrians or cyclists, the bird screen is to be constructed and installed and thereafter retained in accordance with approved details

*Reason: To minimise the impact of pedestrians and cyclists on the bird habitats of Copperhouse Pool and to protect the character and appearance of the Hayle Conservation Area.*

16. There shall be no permanent structures including landscaping features, protective barriers and street furniture erected within the areas indicated for crane access and 'future laydown areas' as shown on Drawing CSK12 unless otherwise approved in writing by the local planning authority. Surfacing and paving within this area shall be designed to withstand the loadings associated with crane access.

*Reason: To ensure flood risks to Hayle are not increased by ensuring appropriate areas are kept free from obstruction and designed to ensure access for future maintenance and improvement to the Copperhouse Gate structure.*

## **Informatives**

The Public Rights of Way through the site should remain open at all times:

- No building materials must be stored on the right of way.
- Vehicle movements must be arranged so as to not interfere with the public's use of the way.
- The safety of members of the public using the right of way must be ensured at all times.
- No additional barriers (e.g. gates) are to be placed across the right of way.
- The applicant should ensure they have private access rights to drive on the public right of way.
- No work authorised by this permission which affects the line of any public right of way shall be carried out until such time as the formal procedures required to divert the right of way have been undertaken.

Notwithstanding the details of the approved plans the approval subject to this decision notice in no way grants permission for works below the Mean Low Water line.

For the avoidance of doubt the definition of Development within the Section 106 obligation with regard to signalisation of the junction on Hayle Terrace is hereby superseded by condition 9 attached to the planning decision notice.

## **Section 106 Agreement – Heads of Terms.**

- 1) Parking – Phased delivery. Management of car parks not to be incompatible with Council policy in force.
- 2) Harbour walls – Maintain condition as per Photographic Record.
- 3) Ecology – Dune mitigation. Notification of commencement of works. Financial contribution to address indirect and future impacts on dunes. Restoration. Monitoring and management of dune habitat. Management and monitoring of sea buckthorn.

- 4) Ecology - Intertidal Habitat. Notification of commencement of works. Transfer of identified land to Council in compensation for loss of habitat. Payment of balance of monies remaining from capped expenditure relating to acquisition of compensatory land. Timber fendering to Harbour Arm.
- 5) Ecology – Ecological Management Plan – Submission of ecological management plans and Construction Environment Management Plans.
- 6) Ecology – Council to repay unexpended sums on fifth anniversary of relevant payment.