

## **PENWITH DISTRICT COUNCIL**

**Planning Committee: 24th March 2009**

**REF: 08 – 1721. Infrastructure works including formation of new harbour, deep water quay & associated enabling works, formation of new bridge, new roads, flood protection works, repair & restoration of quay walls, repair & renovation of sluicing arrangements, creation of promenade & operational access route along north quay and creation of new car park area & boat storage area (this proposal affects the setting of listed buildings and public rights of way) : Hayle Harbour, Hayle : Hayle Harbour Management Ltd & CPR Regeneration Ltd**

Major Application

### **EXECUTIVE SUMMARY:**

This is an application for full planning permission for infrastructure works to include a new bridge, road, business park, fishing harbour, flood defence works, repair of harbour walls and sluices.

### **COMMENTS OF TOWN/PARISH COUNCIL:**

At the meeting of Hayle Town Council on 19 March, all the Members who voted did so in support of the application with 3 abstentions. Formal notification from Hayle Town Council will be available at the Planning Committee meeting.

### **PLANNING/ENFORCEMENT HISTORY:**

89/P/0547: Construction of harbour barrage sluice gates & locks harbour control office, pump house & culverts. Withdrawn.

89/P/1103: Construction of barrage, lock, sluices, control buildings, culvert, dredging & associated works. Conditional Approval.

98/P/0390: Redevelopment of harbour and adjoining land to include retail, leisure, industrial, residential and business use. Withdrawn.

00/P/0436: Redevelopment of harbour and adjoining land to include retail, leisure, industrial, residential and business use. No decision made.

08-0613 - Concurrent outline planning application for the redevelopment of Hayle Harbour and residential development on land to the north-east of the harbour.

### **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.

### **DEVELOPMENT PLAN POLICY:**

The proposals are subject to the policies within the following development plan documents:

- RPG10.
- The draft Regional Spatial Strategy (RSS). The RSS is due for adoption and as such should be accorded weight.
- Cornwall Structure Plan (2004).

- Penwith Local Plan (2004).

### **GOVERNMENT ADVICE:**

The proposals are also assessed in the light of national advice within the following planning policy statements (PPS) and planning policy guidance notes (PPG).

PPS1 – Delivering Sustainable Development

PPS6 - Town Centres

PPS9 - Biodiversity and Geo-conservation

PPS23 - Planning and pollution control

PPS25 - Development and Flood Risk

PPG13 - Transport

PPG15 - Planning and the Historic Environment

PPG16 - Archaeology and Planning

### **DESCRIPTION OF SITE AND PROPOSAL:**

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 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.

### **CONSULTATIONS:**

Highways Agency: Require a construction management plan to show how construction

traffic will be controlled, other than this no objection is raised.

County Council: Full response attached as an Appendix. In brief, there is support for the business park, new fishing harbour and infrastructure for the Wave Hub project and strong support for the reuse of brown-field land. The need for the new bridge is accepted but a site waste management plan and construction management plan are needed, the new junction requires a safety audit but traffic flows do not cause concern with regard to the infrastructure construction, roads to meet adoptable standards, rights of way issues need clarification, compensatory inter-tidal habitat needs to be provided, all quay walls should be repaired but if a lesser amount is accepted on South Quay then this should be tied by a S106 agreement, archaeological recording required. Overall support in principle for the infrastructure works but require Section 106 agreements to make the proposals acceptable.

English Heritage: Supports principle of the development but express concerns regarding raising of ground levels, use of concrete, demolition of the listed stable block, design of bridge, requires the repair of heritage assets such as the quays.

Fire Brigade: Access for fire appliances and provision of water supplies to meet Building Regulations standards.

County Public Rights of Way: Object due to inadequate information. Further information has been submitted.

South West Water: No objection but require condition to allow further study of impact of the Copperhouse sluice on SWW infrastructure.

Environmental Health: Requires conditions to control hours of work, deliveries and no burning on site.

Community Safety and Young People: No objections.

Natural England and the Environment Agency have yet to formally comment, however as all the works within this application are the same as those considered by NE and the EA as part of the outline planning application the responses are anticipated to be the same. An informal discussion with Natural England has confirmed that provided the necessary Section 106 agreements are signed then there will be no objections. This position has been confirmed by Natural England by way of an e-mail.

## **REPRESENTATIONS:**

21 letters of objection have been received. Main points of objection:

Misses opportunity for cycle / pedestrian link to Lelant, damage to listed quay wall, traffic increase, effect on SSSI, effect on listed St. Elwyn's church, encroachment onto private land, residential development on greenfield land designated TV2 (open area), traffic, cycle and pedestrian access to Clifton terrace, loss of agricultural land, noise, pollution, Clifton terrace used as a vehicle link to Riviere Fields, impact on World Heritage Status, need for new bridge, outline planning application not yet determined, access to the swimming pool, access during construction, firm proposals should be put forward for South Quay, land raising to meet flood defense needs, flood barrier at estuary a better option.

Of the above points, some have no direct link to the infrastructure proposals, these relate to the construction of dwellings on greenfield TV2 land, loss of agricultural land and proposals for South Quay. These aspects are covered by the outline planning application. The infrastructure proposals do not involve the loss of TV2 land or agricultural land. The use of Clifton Terrace as a vehicular short cut from Riviere Fields residences is a concern. The applicant is aware of the situation and will prevent vehicular access from any new dwellings to Clifton Terrace, this can be dealt with by way of a condition. The infrastructure proposals will not in themselves generate significant traffic noise or pollution and any construction traffic will be in accordance with a site construction plan to be agreed by County Highways which will also address access to Clifton Terrace.

With regard to the other concerns; the possibility of a cycle and pedestrian bridge to Lelant has not formed part of the proposals and at this time is unlikely to be brought forward due to the costs of such a structure and the need for feasibility and design studies to be undertaken.

The construction of the new road bridge would result in the loss of a 3.0 metre section of parapet wall of the listed swing bridge. The removal of part of the wall is not considered to have such a significant impact that the proposal would conflict to such an extent with the advice in PPG15 that permission should be refused. The bridge would pass over the top of Merchant Curnow's Quay at the B3301 but will not touch the quay. A listed building application will be required as some of the quay coping stones will need to be temporarily removed during construction of the bridge, replacement of the coping stones to the same or better standard will be controlled by the listed building consent. The impact of the bridge on the SSSI would be mitigated by a bird screen and bridge construction would be subject to a separate consent from Natural England and the Environment Agency. It is not considered that the bridge will significantly harm the special characteristics of the SSSI once constructed.

The impact on listed structures and the WHS will be discussed below. The issue of encroachment onto private land is being addressed by the applicant. Access onto Clifton Terrace will be improved by the new junction and the provision of footpaths. Turning for larger vehicles visiting Clifton Terrace is currently being addressed by the applicant. Access to the swimming pool will remain good with pedestrian links and a signalised junction to enable pedestrians to access the appropriate side of the road.

The proposal for a barrier at the estuary to negate the need to uplift levels is an interesting thought. Unfortunately the responsibility for such a barrier raises an issue in that there are no guarantees that such a barrier would be maintained. The Environment Agency (EA) have no statutory duty to maintain such structures and as such even if a barrier were viable then the EA would still insist on an uplift in land levels in the event that the barrier failed then there would not be significant risk to health and property due to flooding.

With regard to the detailed planning application (DPA) being dealt with at the same time as the outline application; both applications are distinct from each other thus can be dealt with separately under planning legislation. The DPA will have a separate set of Section 106 agreements and a separate set of conditions. Thus if both applications were to be approved then duplicate S106 agreements and conditions will exist.

## **PLANNING ASSESSMENT:**

This full application for infrastructure works to enable the wider regeneration of Hayle Harbour on North Quay stands as an application in its own right and thus all aspects will be considered. However, it cannot be escaped that there are significant overlaps between this detailed planning application (DPA) and the current outline planning application (OPA). The application for infrastructure works is jointly made by the private and public sector with involvement from the regional development agency and utilising the expertise of CPR Regeneration. The proposal would bring forward employment opportunities first rather than retail or leisure uses which would begin to be delivered in the next phase.

## **Policy accordance.**

Proposal TV(D) of the Penwith Local Plan allocates the harbour area for mixed use development and identifies regeneration of the site as the 'most significant opportunity to improve both the environment and economy of the town'. The wording of the policy is as follows:-

*South Quay / Foundry Yard (6.0 ha), North Quay (7.9 ha) and East Quay (1.0 ha) are proposed for redevelopment for uses within classes A1, A2, A3, B1, B2, B8, C1, C3, D1 and D2 of the town and country planning (use classes) order 1987 (as amended).*

*Proposals for development will be required to:-*

- (i) make provision for improved port facilities;*
- (ii) make provision for the maintenance of the existing level of industrial and storage facilities;*
- (iii) ensure that town centre uses (a1, a2 and a3) are closely integrated with the adjacent town centre in terms of location, orientation and pedestrian movement;*
- (iv) provide for at least 400 dwellings with a target for 25% of provision being "affordable" and meeting the requirements of policy H-14;*
- (v) be of a scale and design that respects the maritime environment and heritage of these prominent locations in the harbour;*
- (vi) retain existing buildings and traditional features which contribute to the character of the area;*
- (vii) be compatible with their surroundings; and*
- (viii) include provision for the improvement of the junction between Carnsew road and foundry lane.*

## **Transport**

This proposal has limited transport implications and these spring from the need for construction traffic such as deliveries and removal of waste to access the site. The Highways Agency and County Highways have focussed on the need for a Site Waste Management Plan and a Construction Management Plan which would also include details of the construction traffic movements and frequencies. The production of these documents is accepted good practice and a condition will be imposed to ensure these are agreed before any development commences.

Discussion to date indicates that dredged material will be cleaned on site and used to provide the fill to increase land levels. Also any existing surfacing material such as concrete and tarmac will be crushed on site and used as fill material. As such the number of trips relating to waste are considered to be low and will also be controlled via the Environment Agency waste licensing system. Initial discussion regarding deliveries to the site also indicate a low level of construction traffic, however this aspect will be confirmed

and controlled by the management plans.

Access to Clifton Terrace will be maintained but some disruption will be inevitable, the management plans will also address this impact to ensure the residents of Clifton Terrace retain reasonable access to their homes at all times. There will be no access to the site by construction traffic along King George V<sup>th</sup> Memorial Walk or from Churchtown Road and Phillack.

There will be a need to divert footpaths whilst construction work is carried out. This will be controlled by separate legislation and authorised by the Public Rights of Way section of Cornwall Council.

### **New Bridge**

The proposed bridge which incorporates a footpath on the Copperhouse Pool side would be adjacent to the Grade II Listed former railway swing bridge which currently provides the main vehicular access to North Quay. The question has been raised as to whether it is possible to utilise the swing bridge for two way traffic, to try and fully understand the issues a meeting was recently held and attended by Hayle Town Councillors who are also District Councillors, highways specialists from County Highways, an ING consultant and a representative of BRB(R) the body responsible for the listed swing bridge.

The outcome was that although technically possible to use the existing swing bridge for two way traffic the practicalities make the reality of this occurring difficult to achieve and maintain in the long term. Issues such as proximity to a sharp bend at the Royal Standard, the need to fully assess the bridge structure as only one side is assessed as suitable for traffic. Concern has also been raised regarding the reliability of the cross girders although the centre girder is considered sound. There would also be a need for two pedestrian bridges as the swing bridge is not wide enough to include a footpath and a foot bridge would be required either side to ensure that pedestrians do not use the vehicular carriageway as a short cut. The access onto the swing bridge for lorries requires them to use both carriageways of the B3301 which will pose a risk to oncoming traffic and slow traffic flows through what will become a busy junction. The swing bridge can only be transferred to a highways authority, County Highways are unwilling to take on the liability of a bridge with a design life of less than 120 years and any financial inducement would be limited to BRB(R)'s current outlay which is insufficient for future maintenance.

As such it is recommended that the new road bridge is the most viable option to effectively serve the new development. The swing bridge would be retained as a cycle and footpath with provision to ensure it could also be used by emergency vehicles if the new bridge became impassable.

In terms of heritage impacts the new bridge has been designed to be as slim as possible and to utilise sympathetic colours and materials to minimise its visual impact. There will be some loss of views of the listed bridge and the new bridge would impact on the setting of the swing bridge and the nearby listed St. Elwyn's church. A screen is required to mitigate the impact of pedestrians using the footpath on the wading birds within the Copperhouse Pool SSSI, these birds are a special feature of the SSSI thus have statutory protection. The final design of the screen has yet to be confirmed by the RSPB, Natural England and the County Highways bridge engineer, but initial designs meet the aim to minimise the bulk of the bridge and to respect the heritage of the area. The need for a new bridge is fundamental to the proposals, County Highways have insisted that a footbridge be provided to ensure that pedestrians do not use the vehicular carriageway to access the

other side. These factors constrain the ability to fully minimise the impact of the bridge on the setting of the listed buildings, however the impact is not considered so conflict with policies protecting the historic environment as to warrant refusal of permission.

### **New road and walkways**

The infrastructure proposals include the uplift of land to meet Environment Agency requirements for flood defence. These levels are lower close to the swing bridge and rise to approximately 2 metres. The uplifted area would be set back by 4 metres from the harbour wall which is retained at the same height. The lower area is public realm with the upper area being shared by the road with a 20mph speed limit, parking and pedestrian areas.

To the rear of the listed Harbourmaster's Office the uplifted levels would be 0.7m higher, at the listed stables, which will be retained, the levels would be higher by 1.4 metres. The proposal would be to retain public realm around the stables building at the current levels with the raised land at the rear varying from 1.2m at its closest to the stables to 6.5m. This will minimise the impact of the raised levels on the listed stables.

The road runs the length of North Quay with a junction toward the beach end which would give access to the fishermen's harbour, the business park, beaches and car park. The road terminates at the car park to the rear of the electricity station.

### **Fishermen's harbour**

A new harbour facility is proposed with a new slipway and floating pontoon with fuel and water supply. Enabling works include the dredging of Cockle Bank and harbour area to provide sufficient depth of water. A sand trap would be created at the foot of the slipway, its purpose being to remove larger particles of sand leaving finer material which could be remobilised by the outgoing tide and sluicing, the sand trap would be periodically dredged.

### **Sluicing**

The proposals include the reinstatement of the two Carnsew sluices and to reinstate Carnsew Pool as a flushing reservoir. Currently the pool is separated from the second sluice by infill placed at some time in the past. This fill would be removed to expose the granite walls and the existing timber mitre gates would be tidied and pinned back to the walls as the gate and hinge mechanism are no longer in any condition to function as intended. Preservation of the gates *in-situ* will act as an interpretation point for the historic sluicing system. New sluices would be installed at both sluice housings with a mesh panel on top of the first sluice to allow views into the sluice and to enable interpretation. At Copperhouse, the gate is currently owned and operated by the Environment Agency (EA) as is the flood defence structure. The gate would be reinstated for sluicing and this requires the agreement of the EA regarding its operation.

### **Natural Environmental**

The proposals affect the Carrack Gladden SSSI, dune habitat which is a Biodiversity Action Plan designated habitat and would result in the loss of inter-tidal habitat. PPS9 requires that LPAs will need to be satisfied that the development cannot be located elsewhere where it would result in less or no harm. If alternative sites are not available then mitigation should be put in place and where harm would still occur then compensatory measures should be sought. In the case of the harbour, the environmental consultees have worked closely with the applicant's consultants to provide mitigation measures and, as habitat will be lost, to identify suitable compensation in terms of replacement habitat and financial contributions to enable the creation and maintenance of the new habitat.

Potential for dune habitat creation has been identified on ING owned land to the east of the site on 2.5 hectares of Grade 2 /3a agricultural land, which is currently used for broccoli growing. Cleaned sand from dredging operations would be used to create the habitat. A report has been received from the consultant justifying the loss of agricultural land and evaluating the impact on the farm business. The report is considered acceptable in that it confirms that there would be no significant harm to the existing business or wider resource of agricultural land. Thus, the proposal does not significantly conflict with Local Plan policy E5 and Structure Plan policy 3, relating to the protection of agricultural land.

The proposed dune habitat would act as a buffer for the adjacent SSSI and provide an increase in a type of habitat that is internationally recognised as requiring protection. The land would be managed thereby reducing external recreational pressure such as those suffered by the Towans. As such the proposed new habitat would support a greater diversity of species than the habitat it replaces. These factors are considered to satisfactorily balance the loss of the agricultural land.

Discussions and negotiations regarding compensation and mitigation for impacts on the natural environment have reached a point where agreement on the detail of the S106 agreements and delivery of the inter-tidal habitat will result in objections from the environmental consultees being removed. At this time the applicant is offering to use 'reasonable endeavors' to secure a site whereby inter-tidal habitat can be created to compensate for that lost to the development. A number of potential sites have been identified, however it is not accepted that a reasonable endeavor is sufficient and at this time no site has been secured although work to acquire a site has commenced. 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.

### **Heritage**

The infrastructure proposals will deliver a large part of the renovation and repair of the historic structures within the site. Although there will be impacts on the setting of listed buildings, the impacts are far outweighed by the benefits: North Quay, although not listed, is a significant structure within the World Heritage Site, this along with the listed East Quay walls would be repaired. The listed stables will be preserved as part of the public realm. Both Carnsew sluices would be reinstated whilst the listed Carnsew Pool would be cleared of infill where it meets the sluice and reinstated to its historic function as a sluicing pool, again a significant feature of the site. Overall these improvements represent the restoration of a considerable part of the historic fabric of the harbour.

### **Economy**

The proposals for redevelopment and regeneration of Hayle are supported by the Regional Development Agency who are partners in delivering the infrastructure package. The infrastructure proposals would be the first step in enabling the business park employment opportunities and the Wave Hub project which would be the UK's first offshore facility for the demonstration and proving of the operation of arrays of wave energy generation devices.

The Wave Hub project has the potential to create significant skilled employment over the long term and to attract other businesses and research interests. SWRDA estimates that

over 25 years Wave Hub is expected to create 1,800 jobs and inject £560 million into the UK economy and that almost 1,000 of these jobs and £332 million would be generated in the region. The presence of Wave Hub and the adjacent business park have the potential to act as a catalyst for further investment and to attract marine related businesses as well as to create a centre for research and development. All of this would potentially, over time, raise Hayle's profile and increase the town's attractiveness to new enterprise.

The creation of the development platform provided by the infrastructure works is also the first phase in developing North Quay retail, leisure, commercial and residential aspects as well as enabling construction of fishermen's facilities at the harbour.

### **Residential Amenity.**

The main areas affected by the proposals will be Clifton Terrace and Hayle Terrace which is opposite the proposed road bridge. The impacts will be solely related to construction activities such as traffic, noise and dust. These will be controlled by way of the Construction Management Plan and also by the protection given by environmental health legislation thus any breaches of the plan or unwarranted disturbance of residential amenity may be enforced against. The constructors will also be required to sign up to the 'Considerate Constructors Scheme'.

The adverse impacts of construction of Phase 1 infrastructure are considered to be outweighed by the benefits of delivering the development platform for North Quay. Also it needs to be recognised that the harbour area has been allocated for development thus the principle of the relatively short to medium-term disturbance caused by construction has been accepted.

### **CONCLUSION:**

This application should be determined on its own merits as it is capable of being implemented without relying on proposals within the outline planning application. There will be a separate set of Section 106 agreements and conditions which will be tailored specifically to the infrastructure works.

The infrastructure proposals would result in a major contribution to the restoration of the historic structures within the harbour and would allow the reintroduction of sluicing which was an important part of harbour operations. The uplift in land levels will allow the initial stages of the development platform on North Quay and set the stage for future applications to deliver the regeneration project of which the first part will be the employment land and Wave Hub.

The provision of the new fishermen's harbour is the first stage of creating a more effective facility for users. The proposals do not represent any departures from the Penwith Local Plan and Cornwall Structure Plan and accord with Penwith Local Plan proposal TV-(D) for the redevelopment of the harbour.

The benefits to the Town and its heritage outweigh the impact on the setting of the listed buildings due to the new bridge and uplift in land levels. As such the recommendation is one of Conditional Approval, deferred for the completion of Section 106 agreements and planning conditions.

**\*\*\* Recommendation: Defer and to delegate authority to the Head of Planning and Regeneration to grant Conditional Approval on the satisfactory completion of Section 106 agreements and planning conditions.**