



## **CHAIRMANS URGENT ITEM**

### **THE VALE OF GLAMORGAN COUNCIL**

#### **PLANNING COMMITTEE: 12<sup>th</sup> DECEMBER 2024**

#### **REPORT OF THE APPOINTED EXTERNAL CONSULTANT**

### **MATTER WHICH THE CHAIRMAN HAS DECIDED IS URGENT BY REASON OF THE NEED TO UPDATE MEMBERS ON THE APPEAL STATUS AND THE SUBMISSION OF NEW EVIDENCE WHICH RELATES SPECIFICALLY TO THE COUNCIL'S PREVIOUSLY AGREED PUTATIVE REASONS FOR REFUSAL**

**LPA Reference No:** 2019/00871/OUT

**Appeal Method:** Inquiry

**Appellant:** Legal & General (Strategic Land) Ltd

**Location:** Land at Model Farm, Port Road, Rhoose

**Proposal:** Hybrid application comprising an outline application for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and a full application for change of use from agricultural land to country park (Use Class D2) within Area B.

**Start Date:** 11<sup>th</sup> November 2024

#### **SUMMARY**

The hybrid application (2019/00871/OUT) comprising an outline application for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and a full application for change of use from agricultural land to country park (Use Class D2) within Area B, was presented before the Vale of Glamorgan Planning Committee on the 1<sup>st</sup> March 2023.

The committee report recommended that the application be approved subject to conditions and a Section 106 Agreement. Following significant deliberation, the Planning Committee voted against the officer's recommendation. It was subsequently agreed by the Committee that the application would be deferred to allow further consideration of the reasons for refusal of the application.

On the 29<sup>th</sup> March 2023, the Authority were notified that the Applicants had submitted an Appeal against non-determination. The formal submission of the Appeal against non-determination removed the Authority's ability to make any formal decision on the application, as the application was now within the jurisdiction of Planning and Environment Decisions Wales (PEDW).

On the 18<sup>th</sup> May 2023, a special planning committee was held to provide members with an update on the status of the planning application.



Members were informed that the Applicants had submitted an Appeal to Planning and Environment Decisions Wales (PEDW), citing the reason for the Appeal (Under section F of the Appeal forms) as: *'Failure of the LPA to give its decision within the appropriate period (Usually 8 weeks) on an application for planning permission'*.

In line with the advice provided by external consultants at the meeting, members discussed the specific reasons for refusal that they would have provided had they had the opportunity to determine the application. They subsequently voted on whether they wished to defend the Authority's position at Appeal.

The motion in support of defending the Authority was passed, and further to the discussion of the application at the Planning Committee meetings on 1<sup>st</sup> March 2023 and 18<sup>th</sup> May 2023, the following putative reasons for refusal were agreed:

(i) In the absence of an up-to-date preliminary ecological appraisal, the proposed development fails to appraise the biodiversity interests at this site. Therefore, the proposed development fails to incorporate, conserve or enhance biodiversity interests, as those biodiversity interests have not been quantified in the first instance. As a result, the development is contrary to the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of new development) Criterion 10, MD9 (Promoting Biodiversity) and MG19 (Sites and Species of European importance) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Biodiversity and Development SPG; National guidance contained within Planning Policy Wales (Edition 11, 2021), Policy 9 of the Future Wales National Plan 2040 and the Sustainable Development Principle No.2 of the Well-being of Future Generations (Wales) Act 2015; AND

(ii) The proposed development by virtue of its layout, scale and massing would have a harmful impact on the setting of historic assets. The benefits of the scheme are not considered to outweigh the identified harm to the designated heritage assets. The proposed development is therefore contrary to Policies SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Vale of Glamorgan Local Development Plan 2011 – 2026, guidance within the Porthkerry Conservation Area Appraisal and Management Plan SPG, National guidance contained within Planning Policy Wales (Edition 11, 2021) and Technical advice note (TAN) 24 (the historic environment).

Confirmation of the validation of the Appeal was received by the Authority on the 11<sup>th</sup> November 2024. The Planning and Environment Decisions Wales (PEDW) have confirmed the Appeal is to be determined on the basis of a Public Inquiry, which will be held between the 1<sup>st</sup> - 4<sup>th</sup> April 2025 (closing statement session 8 April 2025).

The Appeal was due to be determined by an Inspector in accordance with the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015, however, in exercise of the powers under section 79 and paragraph 3(1) of Schedule 6 of the Town and Country Planning Act 1990, the Welsh Ministers consider that the Appeal should be determined by themselves.



This means that instead of writing a Decision the Inspector will prepare a Report, which will be forwarded to the Welsh Ministers for a decision. The reason for this direction is that the proposed development is for a major development which could have wide effects beyond their immediate locality.

On review of the submitted Appeal documents by the agent on behalf of Legal & General (Strategic Land) Ltd, it is apparent that the Appeal documents now include new evidence, which are considered material to the determination of this Appeal.

The new evidence, in the form of an Environment Statement (ES), was requested by Planning and Environment Decisions Wales (PEDW) in its ES Completeness Report issued in respect of the Appeal.

The ES supersedes the original ES dated July 2019 and the subsequent ES Addendum dated April 2021. The ES has been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, and its aim is to provide the local planning authority and PEDW, when determining the planning Appeal, with sufficient information to allow it to properly assess the likely significant environmental effects of the scheme.

Whilst the Council have submitted their Statement of Case, a meeting has been organised with the planning committee members to discuss the merits of the new evidence, which in turn will inform the Council's position when providing final comments on the Appeal to PEDW.

#### Actions

1. Following the meeting, committee members individually vote on whether they wish to maintain the Authority's putative reasons for refusal following a review of the new evidence submitted as part of the Appeal.

Following the vote, it is advised that the Authority's Legal Department seek to appoint Counsel and Town Planning Consultants to provide expert advice on the final comments and to support members should they seek to defend the Authority's position at Appeal.