



Appeal Decision

Inquiry Held on 18, 19 and 20 July 2017

Site visit made on 21 July 2017

by L Gibbons BA Hons MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 August 2017

Appeal Ref: APP/P2114/W/16/3157690

Venture Quays/Trinity House Depot & Wharf/Red Funnel Marshalling Yards located in the vicinity of Dover Road and, Castle Street, East Cowes PO32 6RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission and outline planning permission.
 - The appeal is made by Southampton IoW South of England Royal Mail Steam Packet Co. against the decision of Isle of Wight Council.
 - The application Ref P/01065/15, dated 28 August 2015, was refused by notice dated 15 April 2016.
 - The development proposed is full planning permission for demolition of Red Funnel Ferry terminal, industrial buildings, commercial buildings at Trinity House and properties on Dover Road; closure of Dover Road, western end of Church Path (to the rear of properties on Dover Road) and closure of public access to slipway adjacent to existing ferry link span; proposed Red Funnel terminal building with associated marshalling facilities with accesses off Castle Street; landscaping and fencing: Outline consent for redevelopment of a mix of uses comprising of up to 100 dwellings, up to 1850m² of non-residential floorspace including retail, leisure and commercial premises (Use Classes A1-A5, B1 and B2) and 60 bed hotel.
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Decision

1. The appeal is allowed and planning permission is granted for full planning permission for demolition of Red Funnel Ferry terminal, industrial buildings, commercial buildings at Trinity House and properties on Dover Road; closure of Dover Road, western end of Church Path (to the rear of properties on Dover Road) and closure of public access to slipway adjacent to existing ferry link span; proposed Red Funnel terminal building with associated marshalling facilities with accesses off Castle Street; landscaping and fencing: Outline consent for redevelopment of a mix of uses comprising of up to 100 dwellings, up to 1850m² of non-residential floorspace including retail, leisure and commercial premises (Use Classes A1-A5, B1 and B2) and 60 bed hotel at Venture Quays/Trinity House Depot & Wharf/Red Funnel Marshalling Yards located in the vicinity of Dover Road and, Castle Street, East Cowes PO32 6RD in accordance with the terms of the application, Ref P/01065/15 dated 28 August 2015, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. For the sake of clarity I have used the description as set out in the Statement of Common Ground.

3. The application includes outline planning permission for redevelopment of a mix of uses with no matters to be determined at this stage. Access, layout, appearance, scale and landscaping are reserved matters to be considered in the future. Although the application plans show a masterplan for the outline scheme the appellant has indicated that this is for illustrative purposes. I shall determine the appeal on this basis.
4. The proposal is accompanied by a copy of a signed section 106 agreement under s106 of the Town and Country Planning Act 1990 (as amended) dated 11 August 2017. This makes provision for affordable housing, highway works and arrangements for the Dover Road public slipway, and contributions towards mitigation for the effect of the development on the Solent Protection Area (SPA), education, sustainable transport and flood mitigation. I return to this matter below.

Background and Main Issue

5. Planning permission was granted in 2007 for what is known as the East Cowes Masterplan. This provided for a smaller marshalling yard on the Venture Quays site alongside dealing with some of the traffic problems within the East Cowes area. In 2017 the Council resolved to grant partial planning permission subject to a s106 agreement. Known as the 'interim scheme' this included the demolition of Trinity Wharf buildings, and expanded marshalling facilities.
6. The main issue is the effect of the proposal on the existing and future economy and economic sustainability of the Isle of Wight with particular regard to employment land, buildings and deep water access.

Reasons

7. There is consensus between the Council and the appellant that the current ferry operations at East Cowes require improvement. A number of local residents acknowledge that the present arrangements for the ferry terminal are not ideal.
8. The existing layout of the marshalling yards results in problems not just for ferry users but also local residents, users of the floating bridge and traffic accessing the GKN site. Problems include queuing on Ferry Road and ferry traffic crossing Castle Street which is a main route within the East Cowes Town Centre. On my visit, I saw local traffic being delayed due to ferry traffic crossing Castle Street, and by large vehicles manoeuvring across the highway to access trailer storage. The optimum loading of ferries is difficult given the current layout of the marshalling yards. Vehicles have to be held in Trinity Yard as loading on both decks cannot be undertaken simultaneously. From the information before me, customers arriving early are turned away. Problems also result when traffic disembarks from the ferry. Vehicles leaving the ferry often have to wait at the nearby roundabout, leading to delays in offloading and subsequent loading delays.
9. Capacity issues of the terminal are referred to within the Isle of Wight Core Strategy (CS) 2012 at Policy AAP1. This seeks to establish whether a plan led, viable and deliverable solution can be identified to address the capacity issues at East Cowes ferry terminal. Significant support for improvements in the terminal and marshalling yard capacity are recognised in the Solent Strategic Economic Plan 2014. The long term forecasts for the business indicate an

increase in the number of vehicles using the service subject to terminal improvement. The number of days where there are delays in loading and unloading the ferries, lack of efficient arrangement of vehicles on the ships, and poorer levels of customer satisfaction are predicted if improvements are not made. The Council queried whether there was evidence surrounding the effect of the delays on the ferry operation. However, the appellant provided qualitative and quantitative information relating to the number of days that were affected by delays and subsequent impacts on operations. Without any evidence to the contrary I am satisfied that customer satisfaction levels for the ferry operations provide an adequate indication of the effect on customers and potential repeat business.

10. Employment land and buildings. Policy SP3 of the CS sets out that economic growth will be focused upon employment, retail and high quality tourism. The aims of the Council in respect of the economy are further explained in paragraph 5.71 of the CS. One of the CS objectives is to provide opportunities to diversify and strengthen the local economy and increasing the range of higher skilled jobs available locally. Paragraph 7.143 of the CS refers to providing accommodation for a wide range of business uses and that this contributes to sustaining the local economy. The CS also includes a jobs target. The most recent Employment Land Study (ELS) 2015 commissioned by the Council indicates that the number of jobs forecast is considerably lower than the jobs target set out in the CS. The Council consider that the reduced number of jobs would not necessarily alter the aims of the CS or subsequent policy in terms of high skilled jobs and loss of employment land.
11. Policy SP3 also refers to the loss of large scale employment sites of one hectare or above will be resisted, where they are important to sustaining the local economy or where mixed use redevelopment will not maintain the scale of employment opportunities on the site. Policy DM8 of the CS amongst other things sets out criteria for marketing of sites in relation to Policy SP3.
12. It is agreed between the parties that in this case, the local economy is that of the Isle of Wight. The parties also agree that the Venture Quays site is over one hectare. The Council indicates that the loss of the Venture Quays buildings in particular would be against Council's aims and objectives including the CS. The current use of Venture Quays is B2 (General Industry) and B8 (Storage and Distribution). The text of Policy SP3 provides a distinction between employment and retail and tourism uses. However, it does not provide any further clarification about what constitutes employment sites.
13. Nevertheless, the Council considers the loss of employment sites in Policy SP3 is specifically directed to B-use classes. The Council also contends that the ferry terminal is not an employment site for the purposes of Policy SP3. A definition of 'employment land' as opposed to 'employment' or 'employment sites' is provided in the glossary of the CS. I note that the definition does refer to existing B class uses. However, the definition also refers separately employment uses. Therefore, to my mind it is reasonable to include the ferry service as such a use.
14. I acknowledge that manufacturing is an important part of the Island's economy, and that there is a long history of science and innovation associated with local businesses. Notwithstanding, in terms of Venture Quays the ELS recommends that the Council should consider the allocation of the site for

mixed use and acknowledges the delivery of a new ferry terminal is not only key to unlocking sites in East Cowes but also improving connectivity to the mainland. Venture Quays is not recommended for retention in its current form. There is little indication within the study that Venture Quays as a B2/B8 use is a key element in delivering the Council's objectives in terms of high skilled jobs, or that is vital to sustaining the local economy.

15. I accept that the jobs profile of the scheme may result in some variation in the skill levels of potential employees. The Council suggests that the outline scheme would not provide sufficient alternative B-use class employment. I note that there would be a quantitative loss of floorspace as a result of the scheme. Nevertheless, the outline scheme proposes an element of B1 and B2 uses. There was no evidence before me to confirm that this part of the scheme would not come forward. In addition, the Council acknowledged at the Inquiry that the scale of employment opportunities would be maintained through the implementation of the scheme. Paragraph 5.69 of the CS explains that new jobs would come forward in the form of B-use classes and other uses including tourism and retail. The scheme would meet with this aim.
16. The ferry service makes a significant contribution to the tourism offer of the Island although to some extent this is seasonal. A wide range of services and facilities rely on tourism for income. In any event, the ferry service also includes accommodating haulage industries, other businesses with connections to the mainland, and also local residents in terms of commuter services and access off the Island. The ferry operations result in the employment of around 450 full time equivalent staff with 30% of those living on the Isle of Wight. Even with lower estimates of tourism spend and productivity as suggested by the Council, the additional benefits provided to the Isle of Wight economy by the scheme would still be significant. Critically the scheme would ensure that Red Funnel operations are more effective and efficient. This would provide an enhanced service for residents, businesses and visitors alike.
17. The Medina Valley Area Action Plan (MVAAP) was published for consultation in 2015. Due to the stage it has reached the weight to be given to it is limited. Nevertheless, draft Policy MVEC1 of the MVAAP sets out the Council's general direction of travel for regeneration in the East Cowes area. Illustrative Figure 6.3 of the MVAAP indicates the potential for ferry operations and employment on the land north of Dover Road. This would have necessitated the removal of the Venture Quays buildings and that approach is reasonably consistent with the intentions behind the 2007 Masterplan, and Policy AAP1 of the CS. The scheme would also contribute towards regeneration of the area by providing a mix of uses.
18. Deep Water Access. I accept that Venture Quays is identified as a site of prime importance for marine and maritime activities in the Maritime Futures Report as it displays characteristics including deep water access which would support these uses. The Maritime Futures report raises issues about the retention of these sites and potential loss to mixed use schemes. I note that deep water access is a scarce resource. However, deep water access is not a specific requirement of Policy SP3 of the CS.
19. The Council are concerned about the potential loss of deep water access which some other types of marine and maritime industries also require. I note that there has been an increase in demand for marine and maritime uses, and I

accept that the new engineering establishment at Whippingham Technology Park also includes marine and maritime uses. I have had regard to the concerns of companies such as Sustainable Marine Energy who were located at Trinity Wharf and the uncertainty that the scheme has caused. However, in this particular instance the operational aspects of that part of the business that required deep water access had located to Scotland for other reasons. Other companies located in the appeal site have also found other accommodation in the immediate area.

20. Although previous plans have included potential for deep water access at the appeal site via a hoist or land reclamation it is the case that Venture Quays does not currently have direct deep water access. This is provided instead at the front of the adjacent Columbine building. It is also the case that the access to the deep water access in this location would not be entirely lost through the scheme, with the potential for existing commercial arrangements to remain in place. In addition, the Maritime Futures report includes ports within the definition of these types of uses and I consider that the ferry operation itself is also a maritime activity. In respect of emerging policies, the Marine Management Organisation draft South Marine Plan was the subject of consultation in November 2016. Draft policies support development of skills and marine related employment. However, the employment uses proposed as part of the application could potentially include marine related uses, and the scheme would not be contrary to draft Policies S-EMP-1 or S-EMP-2. Moreover, the aim of draft Policy S-PS-1 seeks to support competitive and efficient port and shipping operations, and the proposal would meet with this objective.
21. I note that alternatives for other marine and maritime uses including Kingston Marine Park, Kingston Wharf and Medina Yard may not have the same characteristics as Venture Quays or be available at the moment. Nevertheless, there was no evidence to suggest that deep water access requirements for other businesses could not be met elsewhere on the Island or in the longer term at East Cowes and within the Medina Valley. Nor am I persuaded that the loss of Venture Quays would lead to a decline in marine industries in general across the Island or materially inhibit future prospects for younger people. In any event, any loss of potential deep water access for other types of marine and maritime industries is also balanced against the importance of the ferry terminal to the Isle of Wight economy, its requirement for deep water access, and the need to resolve capacity issues.
22. Alternatives. The Council argues that the interim scheme would bring about similar benefits to the appeal scheme and would not result in the loss of employment land and deep water access. However, from the information provided by the appellant it seems to me that a number of issues would remain unresolved. This includes a number of remaining town centre traffic issues including disembarking arrangements, the inability to fully separate freight from private vehicles, and it would not provide for a full two ships worth of customers at any one time. The appellant raised concerns regarding with the East Cowes Masterplan. I consider that the potential effect on safety, efficient marshalling yard layout and capacity amongst others were reasonable concerns.
23. I have considered the alternatives to the appeal scheme which have been proposed by interested parties. Whilst there is potential land available for an off-site marshalling yard, this would be an extremely inefficient way of

managing ferry traffic and would result in a long line of traffic coming into the town. There is no indication how this would resolve local traffic problems. Decking was also suggested as an alternative solution. However, this would result in other traffic management problems and would potentially be an intrusive feature in the street scene.

24. Reducing the size of vessels and increasing frequency would have an impact on the fleet and would not be practical or beneficial for the. The measurements of vehicles by the ferry service are reasonable and alternatives suggested do not take into account the range of vehicles or spaces needed to accommodate vehicles in the lanes. There are no reasonable options for relocating the ferry terminal elsewhere. From the evidence before me, I am also satisfied that these and other alternatives have been adequately considered by the appellant. There is no policy requirement for direct replacement of land in certain types of uses. Given the location of the proposed marshalling yard it would not be possible to prevent the demolition of Venture Quays before other uses are in place at Trinity Wharf. No evidence was presented to the Inquiry that would suggest that the proposal would not accommodate the needs of the ferry service in the future.
25. Conclusion. The planning history of the site, emerging policy and recent evidence lead me to conclude that when considered on its own Venture Quays does not play an important role in sustaining the Isle of Wight economy. Through the grant of partial planning permission for the demolition of Trinity Wharf buildings the principle of the loss of these is now well established. Although Venture Quays and Trinity Wharf buildings would be lost as part of the proposal, the effect on the economy of the Isle of Wight would not be significant. Moreover, the ferry service is an employment use which I consider would be covered by Policy SP3. Although the ferry service is not a B-use class, it seems to me that the scheme would make a significant contribution to sustaining the local economy.
26. For the reasons given above, I conclude that the scheme would not be prejudicial to the Island's existing and future economy and it would not have a negative effect on economic sustainability of the Isle of Wight. It would not be in conflict with Policy SP3 of the CS. Policy DM8 of the CS would therefore not be applicable in this case.

Other matters

27. Residents occupying the Dover Road houses are very understandably concerned about the potential loss of their home, and also whether a suitable replacement property can be found. From the information before me residents have been involved in meetings and correspondence which included the discussion of purchase of the remaining properties.
28. The frontages of the Dover Road properties are currently affected by disembarking traffic. In the appeal scheme disembarking traffic would not pass the frontage and this would be of benefit to the occupiers. However, the proposed marshalling yard would be closer to the rear of the Dover Road properties should they be retained, and also Castle Street residences. Sources of noise disturbance would include traffic lanes, drop off and storage areas. In the absence of mitigation this would potentially affect residents particularly at night time. From the noise assessment work undertaken by the appellant this indicates a need for certain mitigation measures to be incorporated into the

- design of the scheme. In terms of noise and other disturbances such as lighting, and subject to appropriate mitigation measures secured by means of the Council's suggested conditions including a Terminal Operation Plan, the living conditions of occupiers would be acceptable.
29. Local residents raised a number of concerns about the consultation process I have had regard to the fact that some of the local consultation events relating to the regeneration of the area were organised by the Council rather than the ferry service. I acknowledge that there is concern that issues raised by residents have not been addressed by the scheme. Nevertheless, the ferry service has been involved in a number of meetings and discussions, and I am satisfied that local community engagement has been adequate.
30. In terms of the effect of the scheme on heritage, the Columbine building is not listed although I note that this is being reconsidered. Although the use close to the Columbine building would change this would not have a negative effect on its setting or appearance. The scheme would remove the Venture Quays building from the side of the Columbine building, opening up views of the north elevation which would be of benefit. The Council do not raise any concerns in relation to the listed Grid Iron building which is close to the Trinity Yard. Given the building's location in relation to the existing marshalling yards I consider the scheme would not have a negative effect on the setting of the listed building.
31. In terms of the effect of the proposal on the character and appearance of the area, the marshalling yard would be seen from the Medina and Solent. However, this would be the case with the interim scheme and the 2007 masterplan. Improvements to the appearance of the area would be made with the redevelopment of the ferry terminal. The wider character of the area is mixed use and the scheme would be seen in this context. In terms of the outline scheme it would be possible to sensitively design the buildings and this would be dealt with through the reserved matters planning application process.
32. Concerns have been raised about the scheme turning its back on the town. However, the redeveloped ferry terminal would have a significantly improved layout which would be more user-friendly and allow much easier movement of people to and from the town centre. It would not be an isolated development.
33. The scheme would result in the demolition of the public house and takeaway on Dover Road. However, there is the potential for these uses to be provided within the outline scheme and I consider the scheme would not have a negative effect on the local retail sector.
34. At the Inquiry an interested party raised the possibility of not approving the outline scheme as it stands. However, I must deal with the scheme as applied for, and no alternative planning applications were before me.

Section 106 agreement

35. I have considered the s106 agreement in the light of the statutory tests contained in Regulations 122 and 123 of the Community Infrastructure Levy Regulations (CIL) and the tests at paragraph 204 of the National Planning Policy Framework. Policy DM22 of the CS seeks to ensure provision of high quality infrastructure commensurate with the scale of the development and the needs of different communities across the Island.

36. The appeal site is located within 5.6km of the SPA. The contribution towards mitigation of the effect of the development on the SPA would be in accordance with the Council's Solent Special Protection Areas Supplementary Planning Document and Policies DM12, SP1 and SP5 of the CS. The contribution would be towards wardens and managing recreational activities within the SPA.
37. The education contribution meets with the Council's Children's Service Facilities Contributions Supplementary Planning Document. The sustainable transport contribution would help to bring about the delivery of the East Cowes-Newport cycle track and is in accordance with Policies DM2 and SP7 of the CS. The site is within a flood risk area and there would be a contribution towards the provision of local flood defence measures. This would be in accordance with Policies DM14 and DM15 of the CS as well as the West Wight Coastal Flood and Erosion Risk Management Strategy 2016.
38. A public slipway is located on Dover Road. The s106 agreement makes provision for ensuring that appropriate arrangements are in place for the public to have access to the water on this side of the river. This is needed in order to meet the requirements of Policy DM7 of the CS.
39. Provision is also made for 35% on-site affordable housing. The proposed tenure split is acceptable to the Council. The obligation would meet the requirements of Policy DM4 of the CS which seeks the provision of 35% affordable housing.
40. There are a number of highway improvements within the obligation. These relate to capacity modelling and traffic flows and specifications of highway works, and phasing in relation to revised marshalling arrangements. Changes to Castle Street including remodelling of some existing junctions and the mini roundabout, other associated works for footways, street lighting and drainage. Other provisions including the stopping up of Dover Road and Church Path, reviews of all Traffic Regulation and Parking Orders, parking bay alterations, reconfiguration of the one way system into town relating to York Avenue and Ferry Road, and other changes relating to Link Road and York Avenue. I consider that all of the highway provisions are necessary to ensure that the scheme benefits town centre and local traffic, and improves highway safety in the local area.
41. The obligations are consistent with Policy DM22 of the CS. They are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They meet the tests within CIL regulations 122 and 123 and paragraph 204 of the Framework. I have taken them into account in coming to my decision.

Conditions

42. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework, the Planning Practice Guidance and discussions at the Inquiry. Where necessary, I have amended the suggested conditions in order to comply with the tests. All the conditions for full and outline planning permission are covered separately. A number of conditions are repeated, where there are variations between full and outline planning permission I refer to them below. A number of suggested conditions for both scheme contained 'tailpiece' conditions which would allow potential changes without involvement

- from interested parties. These were discussed at Inquiry, and I have not included a 'tailpiece' except in the case of piled foundations which I consider is necessary in that instance.
43. I have imposed conditions specifying the relevant drawings as this provides certainty. The Council's suggested drawings conditions for the full and outline schemes also included reference to being in accordance with the principles established through a number of supporting documents. However, this lacks precision as it is not clear what these principles are. In addition, a number of the matters covered by the documents are either specified in conditions including requiring further details. I have therefore not included this element.
44. Full scheme. In the interests of protecting the character and appearance of the area and also to protect the living conditions of nearby residents a condition is needed in respect of boundary treatments. A condition is also needed in respect of submission of details the materials to be used in the construction of the terminal building and other structures. In the interests of highway safety conditions are necessary in respect of site lines and the layout of the marshalling yard to allow vehicles to move in and out of the yard in forward gear. It is also necessary to impose a condition which requires a Terminal Operation Plan to be submitted and implemented. This is essential for the operation of the yards and in respect of nearby properties as it would include measures for dealing with noise and disturbance from each potential source.
45. The appellant proposed conditions for the demolition of properties on Dover Road, flood mitigation works and the marshalling yard layout. I agree that these are necessary to ensure the appropriate implementation of strategic flood defences and in the interests of the living conditions of residents.
46. Outline scheme. In order to account for the timing of the purchase of properties on Dover Road the time limit for reserved matters is 3 years from commencement. The approach for the implementation of the outline scheme is set out as either in combination or as a phased development. A condition is necessary in relation to the approval of reserved matters. A condition is also attached which sets out the parameters for maximum dwellings, the amount of non-residential floorspace and number of hotel bedrooms. In respect of the living conditions of future occupiers conditions are needed in respect of flood risk mitigation measures and resilience measures, and for mitigation of noise impacts for the dwellings and the hotel.
47. Both schemes. A condition is needed in respect of heritage and a scheme of archaeological investigation. In order to protect living conditions of nearby occupiers and in the interests of highway safety a condition is needed for a Construction Environmental Management Plan, for piled foundations and a lighting strategy. In the interests of sustainability a conditions are needed in respect of biodiversity mitigation and enhancement, potential contamination, foul and surface water drainage. In the interest of the safety of existing and future users a condition is needed in respect of Flood Warning and Evacuation Plans. The schemes require the submission of details and implementation of a Travel Plan in the interests of highway safety and sustainability.

Conclusion and balance

48. The scheme has resulted in considerable uncertainty for the residents of Dover Road properties particularly those that remain in private ownership and the loss of existing homes weigh against the proposal. The scheme would open up one side of the Columbine building resulting in the building and this may increase the prospective for office use within that building. However, the use of the space within the Columbine building is not part of the scheme, and I give this limited weight as a potential benefit.
49. The provision of affordable housing within the scheme and also additional market housing would be a considerable benefit. Other benefits would include alternative job creation with an associated increase in related tourism jobs. Subject to a section 106 agreement, the scheme would bring about significant benefits for local and ferry traffic. The layout and size of the yard would provide opportunities for segregating vehicles and more efficient loading of vehicles. On site vehicle handling would be improved and traffic hold-ups and inconvenience for other road users would be reduced considerably. Although it is not intended to increase the numbers of ships or sailings, there would be significant improvements to the service through speed of turnarounds and subsequent improvements in punctuality. As the yard would be organised, people could leave their vehicles and access town centre facilities which would be very close by. Separating disembarking traffic from local traffic would also be advantageous to the operation of the ferry service as well as other road users.
50. I consider that the expanded and organised marshalling yard would be a productive use of the land. The scheme would meet the predicted long-term growth of ferry users past 2020 which would not be met by the interim scheme. The benefits of the scheme in relation to the efficient and effective operation of the ferry service would be significant to visitors, businesses and residents.
51. The scheme would be consistent with the Council's spatial strategy Policy SP1 and also Policy DM18 of the CS relating to Cross-Solent travel. I have also found that there is also no conflict with Policy SP3 and subsequently DM8 of the CS. The proposal would not be in conflict with the development plan as a whole. Overall, I consider the scheme would provide sustainable pattern of employment development and provide opportunities to diversify and strengthen the local economy of the Isle of Wight through the regeneration of the immediate area, and in resolving acknowledged traffic issues in East Cowes.
52. For the above reasons and having regard to all other matters raised, I conclude that subject to the conditions set out in the attached schedule, the appeal should be allowed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jack Parker of Counsel instructed by Ben Gard, Isle of Wight Council

He called:

William Murphy BA (Hons), Isle of Wight Council
MRTPI

The following person took part in the roundtable discussion on conditions and planning obligations on behalf of the Council

Peter Hayward BEng (Hons), Island Highway & Transport Consultants for
CEng, MICE, MCHIT, DMS Isle of Wight Council

FOR THE APPELLANT:

Neil Cameron of Queens Counsel instructed by Duncan Tilney, Stephen Scown LLP

He called:

Kevin George Red Funnel
Rory Brooke BSc, MSc, MRTPI Savills
Valerie Ballorin MSc, MCHIT Transport Seeds
Gavin Hall BSc (Hons), MSc, Savills
MRTPI

INTERESTED PERSONS:

D Burdett	Local resident
P Ford	Local resident
S Goodman	Local resident
G Hepburn	on behalf of East Cowes Town Council
R Hollis	Local resident
J Humberstone	Local resident
L Kemp	Local resident
S Lake	Local resident
C Love	Isle of Wight Council (East Cowes)
W Pimlott	on behalf of Solent Protection Society
D Stoddard-Scott	on behalf of Sustainable Marine Energy
D Thornton	Visit Isle of Wight

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Appearances on behalf of the Appellant
- 2 Appearances on behalf of the Council
- 3 Review of Appellant's Transport Evidence by P Hayward
- 4 Drawing TS2002-HW-1001 General Arrangements Visibility Splays
- 5 Statement of Common Ground dated 14 July 2017

- 6 Appellant's response to Inspector's specific questions dated 14 July 2017
- 7 Air Quality, Noise and Vibration Memo dated 14 July 2017
- 8 Opening submissions on behalf of the Appellant by Mr Cameron
- 9 Opening submissions on behalf of the Council by Mr Parker
- 10 Comments by D Burdett
- 11 Statement by L Kemp
- 12 Outline Planning Permission P/00027/06 (IW 2.1)
- 13 Letter from Red Funnel to Isle of Wight Council dated 24 January 2006
- 14 Solent Protection Society comments on appeal dated 19 June 2017
- 15 Solent Protection Society Mission
- 16 Statement of Compliance by the Council dated July 2017
- 17 Illustrative Masterplan MP001 Rev e
- 18 Bundle of documents Feb-Nov 2014 relating to consultation supplied by D Burdett
- 19 South Marine Plan Draft for Consultation November 2016
- 20 Letter from Sustainable Marine Energy to the Planning Inspectorate dated 17 July 2017
- 21 Environmental Screening Assessment Island Plan Core Strategy November 2011
- 22 Draft Section 106 agreement
- 22 Appellant's additional proposed conditions
- 23 Drawing FD007 Rev B Flood Defence Provision Safeguarded Land
- 24 Updated Statement of Compliance by the Council dated 20 July 2017
- 25 Proposed condition relating to lighting strategy
- 26 Proposed condition relating to reserved matters
- 27 Redesign of Red Funnel Marshelling Facilities May 2016
- 28 Closing Statement by Mr Parker on behalf of Isle of Wight Council
- 29 Closing Submissions by Mr Cameron on behalf of the Appellant

AFTER THE CLOSE OF THE INQUIRY

- 30 Site visit schedule map
- 31 Section 106 agreement dated 11 August 2017

SCHEDULE OF CONDITIONS

FULL SCHEME

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The full elements of the development hereby permitted shall only be carried out in complete accordance with the details shown on the submitted plans: Location Plan SB002 rev e; Proposed Demolition U001; Proposed Buildings Clearance Plan U002; Proposed Marshalling Yard and General Arrangements Plan TS2002-GA-1007H; Proposed Landscape and Boundary Treatments Plan F004 rev b; Proposed Terminal Floor Plans 50125-SK-008-P2; Proposed Terminal Elevations Plan 50125-SK-009-P3; Proposed Sections Plan 50125-SK-010-P3; Proposed Terminal Views Plan 50125-SK-011-P4; Proposed Covered Walkway Elevations Plan 50125-SK-012-P1; Existing and Proposed Drainage Plans 12001-C001 to C005 rev D1; Existing and Proposed Site Level Plan 12001-C006 rev D1; Indicative Access Sightlines Plan TS2002-HW-1001; Lighting Layout RUK-1300-DR-CR-001 rev PD01 and Lighting Figures RUK-1300-DR-CR-002 rev PD01.
- 3) Notwithstanding the approved plans, prior to commencement of any above ground works, a detailed specification for the proposed boundary of treatments for the marshalling yard (including gates, fencing, barriers and walling) shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of, but not limited to, the location, height, construction, material/colour finish of the boundary treatment and flood resilience measures where appropriate. The boundary treatments shall only be constructed in accordance with the approved details, prior to the first use of the marshalling yard.
- 4) Notwithstanding the approved plans, prior to commencement of any above ground works, a detailed specification for the materials and finishes for the terminal building, covered terrace, covered walkway and associated decking shall be submitted to and approved in writing by the Local Planning Authority. The construction of the terminal building, covered terrace, covered walkway and associated decking shall be in accordance with the approved details.
- 5) No development shall take place until a historic building record (equivalent to level 1) and a programme of archaeological works in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of archaeological works, the Council's Planning Archaeologist shall be notified, and shall be afforded access to the site to monitor the works. The development hereby permitted shall be undertaken in accordance with the approved scheme of investigation, and the results provided to the Local Planning Authority.
- 6) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out how all demolition and construction activities, including mitigation and enhancement measures, will avoid direct and indirect impact to

ecological habitats and the surrounding environment, the amenities of the surrounding land uses, and how this plan will be operated and managed during all stages of demolition and construction. Works associated with the development hereby permitted shall be carried out in accordance with the approved CEMP.

The CEMP shall include consideration of, but not limited to the following issues:

- i) Use of construction techniques, timings and methods to minimise impact on the surrounding environment;
 - ii) Timing of works to minimise impact on species or supervision by a suitably qualified ecologist e.g. with respect to nesting birds;
 - iii) Appointment of responsible personnel to carry out inspections, to implement and manage the CEMP;
 - iv) The means of access for demolition and construction traffic and measures to prevent debris entering the highway;
 - v) The loading and unloading of plant and materials;
 - vi) The storage of plant and materials used in constructing the development;
 - vii) Measures to control the emission of dust and dirt during demolition and construction;
 - viii) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) The erection and maintenance of security hoarding;
 - x) Details of temporary construction lighting and use of best practices to avoid impacts upon amenity;
 - xi) Proposed construction hours;
 - xii) Provision of a noise control plan and procedures for ensuring compliance with statutory or other identified noise control limits;
 - xiii) The adoption and compliance with best practices and recommendations as described in BS5228:2009 as defined in the Control of Pollution Act 1974 and consideration of construction techniques that minimise noise;
 - xiv) Procedures for general induction training for site operatives and specific training for staff having responsibility for particular aspects of controlling noise from the site;
 - xv) Measures for the protection and pollution prevention measures relating to the adjacent designated site and procedures for general induction training for site operatives/staff/visitors to ensure awareness of these measures;
 - xvi) Details relating to site security, and contact details of relevant persons in the event of an emergency or in respect of issues relating to construction management;
 - xvii) Liaison with the Local Authority and the community.
- 7) No development of the full elements hereby permitted shall commence until a detailed scheme and timetable for biodiversity mitigation, enhancement and interpretation measures to be incorporated into the development have been submitted to and approved in writing by the

Local Planning Authority. The works shall be undertaken in accordance with the approved details and timetable.

- 8) No development (other than demolition or removal of buildings) relating to the full elements of the scheme hereby permitted shall commence until there has been submitted to and approved in writing by the Local Planning Authority:
- i) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk-top study in accordance with BS10175: 2011+A1:2013 – ‘Investigation of Potentially Contaminated Sites – Code of Practice’;
 - ii) A remediation scheme to deal with any contaminant including an implementation timetable, monitoring proposals and a remediation verification methodology. The verification methodology shall include a sampling and analysis programme to confirm the adequacy of decontamination and an appropriately qualified person shall oversee the implementation of all remediation;
 - iii) The investigator shall provide a report, which shall include confirmation that all remediation measures have been carried out fully in accordance with the scheme. The report shall also include results of the verification programme of post-remediation sampling and monitoring in order to demonstrate that the required remediation has been carried out.

The construction of buildings, including any associated groundwork, shall not commence until such time as the remediation scheme has been completed in accordance with the approved scheme and the verification report has been approved by the Local Planning Authority.

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtain written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

- 9) The marshalling yard and terminal building shall be operated in accordance with the Flood Warning and Evacuation Plan at all times.
- 10) In the event of the use of piled foundations, prior to the commencement of any such foundation works a strategy for the proposed piling shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include an explanation of the methods of installation of piles, an appropriate justification for the method proposed, a piling risk assessment, a noise and vibration monitoring programme and details of timing of the works. No piling works shall take place outside the period October 31st and March 15th in any given year, unless the prior written agreement of the Local Planning Authority has been obtained. Piling works shall only be undertaken in accordance with the strategy unless otherwise agreed in writing with the Local Planning Authority.
- 11) Prior to the first use of the marshalling yard, a comprehensive Travel Plan (based upon sustainable transport principles to encourage travel to the site by sustainable transport methods), shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan

shall include details of measures to enhance the use of public transport/encourage travel to and from the site by sustainable methods including provision of facilities such as bus-shelters, pick-up/drop-off facilities and cycle storage locations for users of the terminal and staff, along with ongoing mechanisms in relation to monitoring and review. The marshalling yard and terminal building shall be operated in accordance with the Travel Plan at all times.

- 12) Prior to the first use of the marshalling yard, a Terminal Operation Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall set out how the operation of the marshalling yard and terminal building will be managed to avoid direct and indirect impacts on the amenities of the surrounding land uses, and the highway network, and how this Plan will be operated and reviewed thereafter. The Plan shall include consideration of, but not limited to the following issues:
- i) Dropped trailers only being sited in the 29 bays shown on drawing number TS2002-GA-1007 rev H;
 - ii) Measures to prevent, reduce or mitigate noise resulting from refrigerated trailer units;
 - iii) Measures to prevent, reduce or mitigate noise resulting from operational vehicles such as tractor units;
 - iv) Measures to prevent, reduce or mitigate noise resulting from dropped trailer activities including restrictions on times for trailer collections by hauliers;
 - v) Measures to prevent, reduce or mitigate noise resulting from manoeuvring of HGVs and coaches ;
 - vi) Measures to prevent, reduce or mitigate noise resulting from vehicles within the yard;
 - vii) Measures relating to the control of the gated egresses from the yard (both for pedestrians and vehicles);
 - viii) Measures to prevent (as far as practicably possible) standing vehicles within the highway resulting from check-in operations.
- The marshalling yard and terminal building shall be operated in accordance with the Terminal Operation Plan at all times.
- 13) Prior to the commencement of any groundworks associated with the full elements of the development hereby permitted, details of the proposed means of foul and surface water drainage based upon the sustainable drainage principles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed during the development of the site.
- 14) No construction of the marshalling yard hereby permitted shall commence until details of the sight lines to be provided at the junction of the proposed gated emergency and bus exit from the marshalling yard and the highway have been submitted to and approved in writing by the Local Planning Authority. These shall include minimum splays of X=2.40 metres by Y=43.0 metres. The marshalling yard shall not be brought into use until the approved splays have been provided, and those splays shall be retained thereafter. No structures or vegetation greater than

1m that may cause an obstruction to visibility shall be permitted to remain within the visibility splays.

- 15) The use of the marshalling yard hereby permitted shall not commence until space has been laid out within the site based on the principles of drawing number TS2002-GA-1007 rev H to allow cars/bicycles/HGVs/buses and taxis to be parked and for vehicles to be loaded/unloaded and for vehicles to turn so that they may enter and leave the site in forward gear. Sufficient space shall be retained thereafter to allow all vehicles using the site to turn so that they may enter and leave the site in a forward gear.
- 16) With the exception of demolition and subject to condition 18 no development hereby approved shall be commenced until the properties known as numbers one to six Dover Road and the White Hart Inn, Dover Road have been demolished.
- 17) Subject to condition 18 no development shall be carried out on the flood mitigation works area shaded orange on drawing FD007 rev B, save for that approved under this planning permission.
- 18) Notwithstanding the details shown on the application drawings no development hereby approved other than demolition shall be carried out until the layout of the marshalling yard and flood mitigation works have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved layout and flood mitigation works.
- 19) No works other than demolition shall take place until a detailed lighting strategy for the site has been submitted to and approved in writing by the Local Planning Authority. The information shall set out the lighting approach and shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles) and measures to prevent light pollution along with hours of operation. The lighting shall be installed, maintained and operated in accordance with the approved details.

OUTLINE SCHEME

- 20) Application for the approval of the reserved matters relating to the outline element of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach, shall be made to the Local Planning Authority before the expiration of 3 years from the commencement of the full element of the development hereby approved and the development shall be begun before the expiration of 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 21) Before any works associated with the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach are commenced details relating to the layout, scale, and appearance of the buildings; access; and landscaping of the development shall be submitted to and approved in writing by the Local Planning Authority. These details shall comprise the 'reserved matters' and shall be submitted within the time constraints referred to in Condition 20 above before any development is commenced.

- 22) Applications for the approval of reserved matters shall be made in accordance with the details shown on the submitted plans: Location Plan SB002 rev e; Proposed Demolition U001; Proposed Buildings Clearance Plan U002; Existing and Proposed Drainage Plans 12001-C001 to C005 rev D1 and Existing and Proposed Site Level Plan 12001-C006 rev D1.
- 23) The development of the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall provide for a maximum of 100 dwellings, 1850m² of non-residential floorspace including retail, leisure and commercial premises (Use Classes A1-A5, B1 and B2) and 60 bed hotel.
- 24) No development of the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall take place until a programme of archaeological works in accordance with a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of archaeological works, the Council's Planning Archaeologist shall be notified, and shall be afforded access to the site to monitor the works. The development hereby permitted shall be undertaken in accordance with the approved scheme of investigation, and the results provided to the Local Planning Authority.
- 25) No development of the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out how all demolition and construction activities, including mitigation and enhancement measures, will avoid direct and indirect impact to ecological habitats and the surrounding environment, the amenities of the surrounding land uses, and how this plan will be operated and managed during all stages of demolition and construction. Works associated with the development hereby permitted shall be carried out in accordance with the approved CEMP.

The CEMP shall include consideration of, but not limited to the following issues:

- i) Use of construction techniques, timings and methods to minimise impact on the surrounding environment;
- ii) Timing of works to minimise impact on species or supervision by a suitably qualified ecologist e.g. with respect to nesting birds;
- iii) Appointment of responsible personnel to carry out inspections, to implement and manage the CEMP;
- iv) The means of access for demolition and construction traffic and measures to prevent debris entering the highway;
- v) The loading and unloading of plant and materials;
- vi) The storage of plant and materials used in constructing the development;
- vii) Measures to control the emission of dust and dirt during demolition and construction;

- viii) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) The erection and maintenance of security hoarding;
 - x) Details of temporary construction lighting and use of best practices to avoid impacts upon amenity;
 - xi) Proposed construction hours;
 - xii) Provision of a noise control plan and procedures for ensuring compliance with statutory or other identified noise control limits;
 - xiii) The adoption and compliance with best practices and recommendations as described in BS5228:2009 as defined in the Control of Pollution Act 1974 and consideration of construction techniques that minimise noise;
 - xiv) Procedures for general induction training for site operatives and specific training for staff having responsibility for particular aspects of controlling noise from the site;
 - xv) Measures for the protection and pollution prevention measures relating to the adjacent designated site and procedures for general induction training for site operatives/staff/visitors to ensure awareness of these measures;
 - xvi) Details relating to site security, and contact details of relevant persons in the event of an emergency or in respect of issues relating to construction management;
 - xvii) Liaison with the Local Authority and the community.
- 26) No development of the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall take place until a detailed scheme and timetable for biodiversity mitigation, enhancement and interpretation measures to be incorporated into the development have been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details and timetable.
- 27) No development of the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall take place until there has been submitted to and approved in writing by the Local Planning Authority:
- i) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk-top study in accordance with BS10175: 2011+A1:2013 - 'Investigation of Potentially Contaminated Sites - Code of Practice';
 - ii) A remediation scheme to deal with any contaminant including an implementation timetable, monitoring proposals and a remediation verification methodology. The verification methodology shall include a sampling and analysis programme to confirm the adequacy of decontamination and an appropriately qualified person shall oversee the implementation of all remediation;
 - iii) The investigator shall provide a report, which shall include confirmation that all remediation measures have been carried out fully in accordance with the scheme. The report shall also include

results of the verification programme of post-remediation sampling and monitoring in order to demonstrate that the required remediation has been carried out.

The construction of buildings, including any associated groundwork, shall not commence until such time as the remediation scheme has been completed in accordance with the approved scheme and the verification report has been approved by the Local Planning Authority.

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtain written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

- 28) Prior to the construction of any buildings within the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach, a detailed lighting strategy for the sites shall be submitted to and approved in writing by the Local Planning Authority. The information shall set out the lighting approach and shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles) and measures to prevent light pollution along with hours of operation. The lighting shall be installed, maintained and operated in accordance with the approved details.
- 29) In the event of the use of piled foundations for the construction of buildings within the outline elements of the scheme (as identified on drawing SB002 rev e), prior to the commencement of any such foundation works a strategy for the proposed piling shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include an explanation of the methods of installation of piles, an appropriate justification for the method proposed, a piling risk assessment, a noise and vibration monitoring programme and details of timing of the works. No piling works shall take place outside the period October 31st and March 15th in any given year, unless the prior written agreement of the Local Planning Authority has been obtained. Piling works shall only be undertaken in accordance with the strategy unless otherwise agreed in writing with the Local Planning Authority.
- 30) Prior to first use of any of the non-residential uses of the hotel to be provided on the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e), a comprehensive Travel Plan (based upon sustainable transport principles to encourage travel to the site by sustainable transport methods) for the uses, shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of measures to reduce reliance on the private car for access to the site including provision of facilities such as cycle storage locations for users along with ongoing mechanisms in relation to monitoring and review. The uses shall be operated in accordance with the Travel Plan thereafter.
- 31) Prior to the commencement of any groundworks associated with any buildings within the sites subject to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a

phased approach, details of the proposed means of foul and surface water drainage based upon the sustainable drainage principles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed during the development of the sites.

- 32) Applications for the approval of reserved matters relating to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach, shall be accompanied by a detailed specification for flood risk mitigation and resilience measures. The specification shall include as a minimum but not limited to:
- i) All habitable dwelling space above 4.4m AOD;
 - ii) Details of building design below the tide level;
 - iii) Details of building design and construction to include flood resilient measures to promote flood reparability and reinforced construction to ensure structural stability;
 - iv) Details of the location of key services and infrastructure within the buildings;
 - v) Details of the location of storage areas for siting of essential items and continuity of essential services to enable safe refuge during flood conditions;
 - vi) Details of the location, design and construction of flood walling in suitable locations;
 - vii) Details of the location, design and construction of flood defences, including walling and gates in suitable locations within the development sites and the immediate locality to contribute towards the provision of a strategic flood defence for East Cowes.

The above measures should be considered in the context of the submitted Flood Risk Assessment and associated FRA Addendum (January 2016).

Any measures as may be agreed through the approval of reserved matters shall be implemented during the development of the sites in accordance with the approved details.

- 33) Applications for the approval of reserved matters relating to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach shall be accompanied by a Flood Warning and Evacuation Plan for each individual use proposed. The Flood Warning and Evacuation Plan shall be informed by the 'Framework Flood Warning and Evacuation Plan' (dated February 2016). The uses shall be operated in accordance with the agreed Flood Warning and Evacuation Plan at all times.
- 34) Applications for the approval of reserved matters relating to the outline elements of the scheme (as identified on drawing SB002 rev e) either in combination or as a phased approach, shall be accompanied by a scheme for sound insulation of the proposed dwellings and the hotel. The scheme shall include measures to prevent, reduce or mitigate noise impacts resulting from road traffic, marshalling and ferry noise, and conflicts with other non-residential uses proposed through the development. Any measures proposed as may be agreed through the

approval of reserved matters shall be implemented during the development of the sites in accordance with the agreed details.