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Our reference: CSC1001
Your reference: P/23/0065

9 April 2024

Mr Adam Foote
Planning Officer
Planning & Countryside Division
Merthyr Tydfil County Borough Council
Unit 5 Triangle Business Park
Pentrebach
Merthyr Tydfil
CF48 4TQ

Dear Mr Foote,

**Planning application for mixed leisure development ref: P/23/0065
Land to the south west of the A470/A4102 roundabout at Rhydycar West, Merthyr Tydfil**

Submission

Further to recent meetings and discussions, we are instructed by our client, Marvel Ltd, to submit the enclosed further information in respect of the above application:

- Environmental Statement Addendum (specifically in respect of Ecology and Flood Risk), comprising:
 - Main text;
 - Figures;
 - Appendices;
 - Non Technical Summary;
- Habitat Management Plan (HMP);
- European Protected Species Conservation Strategy;
- Green Infrastructure Strategy;
- LVIA review response; and
- WCHAR.

A Sustainability Charter will also be submitted shortly.

The enclosed Environmental Statement Addendum must be publicised in accordance with Regulation 24(3) to (5) of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. The relevant charge for the purposes of Regulation 24(9) is £50.00.

Policy requirements

While writing we also take this opportunity to 'signpost' relevant information in respect of the policy requirements relevant to this application.

At the time of the application's submission the national policy guidance comprised Planning Policy Wales v11. However, PPW v12 was published in February 2024. The principal changes contained in PPW v12 are as follows:



- Section 4.1 – Transport: Updates in line with Llwybr Newydd – The Wales Transport Strategy 2021 and updates to the text on Ultra Low Emission Vehicles to reflect changes to Building Regulations.
 - While the changes in relation to Llwybr Newydd are not relevant to the proposed development, paragraph 4.1.40 recognises the role the planning system can play in achieving the Welsh Government’s approach to delivering the electric vehicle charging infrastructure needed by 2050. The proposed development has committed to incorporating at least 10% electric vehicle charging spaces from day-1, which remains the Development Plan requirement for non-residential development (Policy 12 of Future Wales).
- Section 4.2 – Housing: relates to second homes and community-led housing.
 - Not relevant to the proposed development.
- Section 4.3 – Retail and Commercial Development: Update on retail assessments / sequential test for uses in town centres to complement and reflect Future Wales. Also, additional text emphasising the possible use of Local Development Orders for retail uses.
 - While the changes in relation to LDOs are not relevant to the proposed development, paragraph 4.3.18 states *“The Welsh Government operates a ‘town centres first’ policy in relation to the location of new retail and commercial centre development. Future Wales provides further context on ‘town centres first’ policy in respect of large scale and out of centre development. In implementing this policy, planning authorities should adopt a sequential approach to the selection of new sites in their development plan and when determining planning applications for retail and other complementary uses. By adopting a sequential approach first preference should be to locate new development within a retail and commercial centre defined in the development plan hierarchy of centres.”* While comprising new text in PPW, this does not change the requirement for or application of the sequential approach to site selection which is addressed in further detail below.
- Section 4.4 – Community Facilities: Additional text is provided regarding community assets in response to the Senedd’s Local Government and Housing Committee October 2022 report on ‘Community Assets’. Also, new text on ‘changing places toilets’ to reflect changes to Building Regulations.
 - The changes in relation to community assets are not directly relevant to the proposed development, which does not involve the redevelopment of any existing community asset. However, the proposed development would, of course, provide a significant community resource.
 - However, the new text on ‘changing places toilets’ to reflect changes to Building Regulations is directly relevant. Paragraph 4.4.5 states that *“Planning authorities should consider the needs of their communities and the visitors to their places. It is important that people are not excluded from places because the community facilities they need are not available. Local toilets, baby nappy changing facilities and changing places toilets can play an important role in making places accessible and inclusive for all. Planning authorities should ensure that where there is evidence to support the provision of these facilities, they are provided, particularly in new developments such as shopping centres, hospitals, transport hubs, leisure complexes and arenas.”* We can confirm that the proposed leisure facility would include toilets, baby nappy changing facilities and changing places toilets to serve not only paying guests, but also visitors to the locality more generally, such as those availing themselves of the Rights of Way network or the proposed circular heritage trail. In doing so, the development would make the locality more inclusive and a better used resource for the local community.
- Section 5.2 – Electronic Communications: Relocation of existing policy from Technical Advice Note 19: Telecommunications, which has been revoked as a result. Also, an update regarding fixed line broadband to complement and reflect Future Wales.
 - Not relevant to the proposed development.
- Chapter 6 – Distinctive and Natural Places: The changes (initially published in October 2023) address the nature emergency through the planning system, providing revised policy on net



benefit for biodiversity, designated sites and trees. The changes are addressed thematically, below.

- Green Infrastructure. Green infrastructure statements are now required to be submitted with all planning applications to embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes. Design measures can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places. Wider landscape measures, should be considered for larger scale development. (paras 6.2.11 to 6.2.13 refer). The enclosed Green Infrastructure Strategy fully meets the requirements of PPW, drawing on the substantial ecological information available, the significant ecological management proposed and the significant potential of the development to incorporate positive design measures within the outline parameters applied for.
- DECCA Framework. This is now specifically mentioned in respect of 'Section 6 Duty' under The Environment (Wales) Act 2016. The enclosed Green Infrastructure Strategy fully references the DECCA Framework (see section 5).
- Collaborative arrangements. PPW recognises that it may not be possible to achieve a net benefit for biodiversity within administrative boundaries. However, in the case of the proposed development, the ES Addendum and HMP confirm that a net benefit is not only able to be achieved within the MTCBC administrative boundary, but in fact will be achieved within the site and immediately adjoining land holding, including Blaencanaid Farm (which has been procured by our client as ecology mitigation and compensation land – see in particular ES Addendum and HMP enclosed).
- Stepwise Approach.
 - In accordance with para 6.4.12 and Figure 12, the enclosed GI Strategy provides evidence that the stepwise approach has been followed and that a scheme of enhancements has been provided to ensure a net benefit for biodiversity (see also the submitted ES Addendum and HMP in this regard).
 - In accordance with para 6.4.13, ecosystem resilience, including improving connectivity to the immediate surroundings at Blaencanaid Farm has been a key element of the proposed mitigation and enhancement strategies.
- SSSIs. It remains the case that there is a presumption against development in SSSIs which are not necessary to secure their role as a living landscape. However, PPWv12 now includes a recognition that *"In wholly exceptional circumstances and only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for mitigation and enhancement as part of a development plan should development be proposed. This means that development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI."* (para 6.4.27)
 - The ES and ES Addendum (Chapter 8) confirm that the development is *appropriate and is not likely to damage* [the] SSSI;
 - The HMP and European Protected Species Conservation Strategy set out the proposed mitigation and enhancement. NRW's consultation response to this will, we hope, confirm the required *broad and clear agreement*;
 - It is for the decision maker to conclude whether the proposed development is "wholly exceptional". However, given the nature and scale of the proposed development coupled with all of the other significant benefits summarised at para 5.16.12 of the Planning Statement, it is very clear that the proposal is wholly exceptional in the MTCBC, Wales and UK contexts. The many reasons for this include:
 - the creation of c1,594 net additional direct employment opportunities over the construction period and c.842 gross direct jobs during the operational phase (including training and apprenticeship opportunities in the local and wider area).



- A very significant boost to GVA of c.£38.1 million per annum (for comparative purposes the GVA generated by the Principality Stadium in Cardiff stood at c.£19.5 million in 2017-18) and c.£317.6 million during the construction period.
- The development will include the longest and largest Snow Centre in the UK and is supported by Snowsport Cymru Wales and GB Snowsport. The Snow Centre would be the UK centre of excellence for snow sports and the training headquarters for the Welsh and GB national, Olympic and Paralympic snow sports teams and elite athletes. The snow centre would meet international standards and attract international competitions and events.
- The development incorporates onsite renewable energy generation (photovoltaic panels), an 'all electric' energy strategy and a heat exchange system to enable excess heat from cooling the Indoor Snow Centre to be used to heat the Indoor Water Park, such that in combination with other design and mitigation measures, achieve a ~92% reduction in energy demand and therefore a ~92% reduction in regulated emissions compared to the Part L 2022 Wales notional building.
- The wholly exceptional nature of the development is further evidenced by the support received from other regional entities and Councils that have written letters of support for the development to MTCBC including; Cardiff Capital Region City Deal, Cardiff Council, Torfaen Council, Newport Council and Blaenau Gwent Council. The direct and indirect effects on the local and South Wales economy, in particular the Northern Valley will be very significant. The development will:
 - Meet the objectives of the Cardiff City Region's City Deal vision by creating prosperity and opportunity, increasing inclusion and equality and providing/contributing to a clear identity and strong reputation as a City-Region for trade, innovation, and quality of life.
 - Meet Visit Wales' Priorities for the Visitor Economy by contributing to/providing great products and places, outstanding visitor experiences, an innovative Cymru Wales brand and an engaged and vibrant sector.
 - Provide a major leisure-oriented development, comprising Indoor Snow Centre, Indoor Waterpark, Indoor and Outdoor Activity, Hotel Accommodation and Woodland Lodges in Merthyr Tydfil, with the ability to contribute to the wider regeneration of the local area.
 - Provide a year round all weather destination which accords with the aims of Merthyr Tydfil County Borough Destination Management Plan and Visit Wales initiatives.
 - Further enhance the reputation of the South Wales Valleys, the Northern Valleys and Bannau Brycheiniog as a sport and leisure destination.
 - Be transformational for the local economy, which in turn will make a significant contribution to the growth of the leisure sector and the economy of Wales.
 - Accord with the Well-being of Future Generations (Wales) Act 2015.
- Non-statutory Designations. Para 6.4.33 has been added to PPWv12 states that *"Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience. Where harm is unavoidable it should be minimised by mitigation measures and offset as far as possible by compensation measures designed to ensure there is no reduction in the overall conservation value of the area or feature, and a net benefit for biodiversity secured."* The enclosed ES and ES Addendum (Chapter 8), HMP and EPS Conservation Strategy set out how the scheme has avoided, minimised, mitigated



and compensated to ensure there is no reduction in the overall conservation value of the area and how a net benefit for biodiversity will be secured.

- Trees. PPW paras 6.4.40 to 6.4.42 note that tree loss should be avoided but where such trees are lost, measures should be taken to replace them in an effective and economic manner, either with new planting (at a minimum ratio of 3:1) or by allowing them to grow to their full potential. The submitted GI Statement confirms that trees that are unavoidably lost to the proposed development will be replaced 3:1 on site.

Given the foregoing, we consider the proposed development to be in accordance with PPW v12.

While addressing policy matters, we note that the MTCBC Planning Policy and Implementation Section provided policy comments on 10th May 2023. These comments conclude that *“The proposals are contrary to Policies SW4 and EcW7 of the LDP. In relation to Policy SW4, the proposed countryside location has not been fully justified. In relation to Policy EcW7, the proposed development cannot be classed as low-impact tourism in accordance with paragraph 6.7.60 of the LDP. Further work also needs to be carried out in relation to the sequential approach of site selection, as the information currently submitted does not fully comply with national guidance and Policy 6 of Future Wales.”* We address these points in turn.

Policy SW4: the proposed countryside location has not been fully justified.

Policy SW4 states that *“Outside defined settlement boundaries, proposals will be regarded as ‘countryside development’ and will not be permitted unless the development:… is for tourism, recreation or leisure facilities or complementary development where the need for a countryside location is fully justified.”*

Reasoned justification to this policy, provided at para 6.4.30 of the LDP, notes that the economy of the countryside can be complemented by “sustainable tourism and other forms of economic development” and that “Complementary tourism, leisure and recreation development could include, for example, visitor accommodation and new access.” It is clear, therefore, that the proposed development (which comprises a substantial economic development and includes visitor accommodation) can, in principle, satisfy the SW4 policy requirements. As set out in the Planning Statement, a countryside location is central to the vision to create a flagship Welsh and UK leisure resort. We note that the Policy comments state that “This issue is only very briefly covered in the Planning Statement”. However, section 4.2 of the ES sets out the position in detail (see paras 4.2.7 to 4.2.26 in particular), including the locational scheme parameters. It is clear from these that an ‘in settlement’ site simply does not exist which could meet the needs of the development. The size of the development and the need for a natural slope for the Indoor Snow Centre has precluded an ‘in-settlement’ location, resulting in a countryside location being appropriate and justified.

While the Policy comments state that the proposed countryside location has not been fully justified, they stop short of addressing the justification which has been provided or setting out precisely what further justification is required. Moreover, it is not clear that the full justification has been read. Given the very significant benefits of the proposal to the local population and area, the Council’s Policy Section should be working with the applicant to satisfy this requirement and our client has always been clear they are open to working together. However, in the absence of a positive and collaborative approach, we remain of the view that justification has been fully provided and Policy SW4 is satisfied.

Policy EcW7: the proposed development cannot be classed as low-impact tourism in accordance with paragraph 6.7.60 of the LDP.

We believe this is a simple misunderstanding of the text at paragraph 6.7.60 of the LDP. That paragraph reads as follows: “Low-impact tourism, leisure and recreation development is development that, through its low environmental impact, either enhances or does not significantly diminish environmental quality. It should directly benefit local communities and be respectful to wildlife. It includes tourism, leisure and recreation land-based activities that are capable of being removed without leaving a permanent trace or where impacts are small-scale or seasonal such as camping, orienteering, rock climbing and treks and trails for hiking, mountain biking and horse riding. The plan



seeks to support low-impact tourism, leisure and recreation that minimises environmental impacts, in 'countryside locations'". (our underlining)

The requirements, therefore, for development to be considered low impact have absolutely nothing whatsoever to do with the scale of development, as claimed in the Policy comments. Had scale been a factor it would have been clearly stated as such in the policy text or, at the very least, in the reasoned justification. No such wording exists. Rather, to comprise low impact development proposals must:

- either enhance or not significantly diminish environmental quality (see enclosed ES Addendum (chapter 8) and associated HMP);
- directly benefit local communities (see especially Chapters 5 (economy) and 17 (health) of the ES and the Strategic Economic Benefits report);
- be respectful to wildlife (see ES and ES Addendum (Chapter 8), HMP and EPS Conservation Strategy); and
- minimises environmental impacts (see especially DAS and ES and ES Addendum (Chapters 6 and 8)).

Low impact development can "include" activities that are capable of being removed or where impacts are small-scale or seasonal, but it is not the case that it can only comprise such activities. Again, had such attributes been a mandatory requirement of low impact development, it could and would have been clearly stated as such in the policy text or the reasoned justification. It is not permissible to 'read into' the policy a requirement which does not exist.

It is clear that not only can the proposed development be classed as low-impact tourism, but it should be so classed.

Future Wales Policy 6: further work needs to be carried out in relation to the sequential approach of site selection, as the information currently submitted does not fully comply with national guidance.

The Policy Section's comments state "There is no actual assessment of any alternative site included. Again, given the scale and nature of the proposals, a sequential test proportionate to the proposals would be expected. The approach taken towards the sequential test does not fully comply with Technical Advice Note 4: Retail and Commercial Development The planning statement does not consider any out of centre options, or alternative sites outside settlement boundaries."

Development Plan policy (Future Wales Policy 6 and LDP Policy EcW3) and TAN 4 are aligned in requiring a sequential approach be used "to inform the identification of the best location for these [including leisure] developments" (Policy 6). TAN 4 provides most detail as to what a sequential approach entails, noting at para 7.1 that "Only when retail and commercial centres and edge of centre locations have been considered and found to be unsuitable can out-of-centre options within, and then outside, a settlement area be considered. Where out of centre sites are concerned preference should be given to brownfield sites which are or will be well served by a choice of means of transport and are close to an established retail and commercial centre." Suitability is explained at para 7.2 thus: "Suitability refers to a site or building's attributes and whether these are sufficient to meet the development requirements of a particular proposal. Where a developer favours a development site on the edge of or outside a retail and commercial centre the developers will need to provide evidence to explain why potential sites or buildings within the centre are unable to accommodate the format, scale and design of a proposed development."

Accordingly, we are seeking a site sufficient to meet the development requirements of this specific development proposal. As set out in section 5.6 of the Planning Statement and section 4.2 of the ES, the development requirements can only be met by a very large site and appropriate topography to provide the slope for the Snow Centre. There is no policy/guidance requirement to name individual sites and no need to do so if it is plainly obvious that no such suitable site exists. However, if the LPA can identify a town centre, edge of centre or out of centre site which it considers suitable and available to meet the requirements of the development we would gladly assess it from a sequential approach perspective.



In conclusion, we consider the changes to PPW v12 have been addressed in the original submission or in the documents enclosed with this letter. Moreover, notwithstanding the Policy Section's comments on the application, we believe the application meets the policy requirements of the Development Plan and that weighty material considerations also weigh in favour of granting permission.

We trust this submission is in order and look forward to hearing from you in due course.

Yours sincerely



Peter Waldren
Director
CarneySweeney

Encl

Cc Rhydydar West client team

