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Eich cyf. Your ref: 1297/46P

Ein cyf. Our ref: A-PP 145-07-027

Dyddiad: July 2002

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77

APPLICATION BY ANGLESEY BOAT COMPANY LTD FOR THE PROPOSED DEVELOPMENT OF A MARINA AND FACILITIES BUILDING, CAR PARK AND BOAT STORAGE AT GALLOWS POINT, BEAUMARIS, YNYS MON

Summary

The Planning Decision Committee is minded, for the reasons given below, to allow, subject to conditions, your client's application, subject to the submission of a signed and sealed Section 106 agreement including provisions for monitoring of water quality and surveying of ecological conditions.

1. Consideration has been given to the report of the Inspector Clive Cochran DipArch Reg Arch MSc MRTPI who held a local inquiry into your client's application for the proposed development of a marina and facilities building, car park and boat storage at Gallows Point, Beaumaris, Ynys Mon. Dr Terry Holt of the Liverpool Marine and Coastal Studies Laboratory was appointed as the Assessor to deal with the evidence on marine biology and ecology issues regarding the likely impact of the development on the mussel fishery, the Traeth Lavan Special Protection Area (SPA) and the proposed Marine Nature Reserve (MNR).

2. On 2 March 2000 the National Assembly for Wales directed under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act) that the application be referred to it rather than

be determined by the local planning authority. On 16 July 2002 the Assembly resolved that a committee, to be known as Planning Decision Committee 2002/6 be established, in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 77 of the 1990 Act, in respect of the application by Anglesey Boat Company described above.

3. The Inspector's conclusions are set out at paragraphs 5.3.1 to 5.3.8, 6.3.1 to 6.3.14, 7.7.1 to 7.7.17, 8.6.1 to 8.6.8 and 9.6.1 to 9.6.6 and 11.1 to 11.6 of his report, a copy of which is enclosed, together with that of the Assessor, and those paragraphs are at an Annex A to this letter. The Inspector recommended that planning permission be refused for the construction of a marina and facilities building, car park and boat storage at Gallows Point, Beaumaris, Anglesey.

4. The Planning Decision Committee (2001/2) originally established to consider this application met on 4 May 2001 and concluded that it would be necessary to seek further information relating to certain aspects of the landscape and ecological impact proposal before a decision could be reached on the application.

5. In the light of the view taken by Planning Committee 2001/2 further information was sought relating to the impact of the development on the view of the Strait and National Park gained from the A545 across the southern facing bay at Gallows Point to the Snowdonia Park beyond and on views from the Strait itself. An opportunity was also afforded for further information to be provided on the impact of the marina itself on views to be gained from boats within it at half and low tide.

6. It was also necessary to ensure that at the same time as a conclusion was reached on the planning merits of the application, there should also be available sufficient information to enable an appropriate assessment to be made for the purposes of Conservation (Natural Habitats etc.) Regulations 1994 (the Habitats Regulations). Such an assessment was required of the potential impact of the development on the Traeth Lafan Special Protection Area (SPA) and sufficient information had not been provided for such an assessment to be carried out. Having regard to the possibility of a significant impact on the SPA, it would not be possible, as a matter of law for a grant of planning permission to be made for this application unless an appropriate assessment had been undertaken.

7. Advice on the information to be sought on these matters was requested by the National Assembly Planning Division from the Countryside Council for Wales (CCW), in their capacity as the agency responsible for advising the National Assembly on nature conservation. This advice was requested solely in relation to the formulation of the request for evidence necessary to provide the information required by the Committee. As a party to the inquiry the CCW were advised that it would not be appropriate for them include at that stage further comment on the planning merits of the application or the implications for the decision on the application of the information being sought.

8. A letter from the National Assembly dated 11 June 2001, a copy of which is at Annex B to this letter, was subsequently sent to you seeking additional landscape and ecological information. In response you submitted to the Assembly's Planning Division a Boat Survey Data, a Bird Count and Impact Appraisal and a series of illustrations or photomontages together with an evaluation report relating to landscape impact.

9. In order to ensure that the additional information was subject to appropriate publicity and consultation having regard to the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the 1999 Regulations) a notice was placed in a local newspaper and a site notice displayed at Gallows Point, Beaumaris. For the purposes of the notices copies of the additional information were placed at the Isle of Anglesey County Council Office, Llangefni, the County Library, and ABC Powermarine, Gallows Point, Beaumaris where they were available for public inspection. Having regard to the 1999 Regulations the Isle of Anglesey County Council, the Countryside Council for Wales (CCW) and the Environment Agency were consulted in their capacity as statutory consultation bodies. The consultation with the CCW insofar as it related to the ecological impact of the proposed development i.e. the Boat Survey Data and the Bird Counts and the Impact Appraisal also served as a consultation with the appropriate nature conservation body for the purposes of Regulation 48 of the Conservation (Natural Habitats etc.) Regulation 1994 (the Habitats Regulations). All the parties who appeared at the inquiry were also invited to submit their written representations on the additional information and its effect, if any, on the planning merits of the proposed development.

10. The representations of the statutory consultation bodies, and that of the CCW as appropriate nature conservation body, were subsequently copied to all parties who appeared at the inquiry with an invitation to comment and copies of all submitted representations were sent to you and the Isle of Anglesey County Council.

11. The representations submitted in response to the above consultation have been taken into account by the Planning Decision Committee in reaching their conclusion on this application. The CCW and the Isle of Anglesey County Council stated in their representations that they did not consider that there was a need to re-open the inquiry to consider the additional information and you also indicated that you agreed with that position. The Planning Decision Committee agree that there is no need for the inquiry to be re-opened.

12. For the reasons given below the Planning Decision Committee disagree with the Inspector's recommendation that the application be dismissed. The Planning Decision Committee are minded to allow the application subject to conditions and the satisfactory conclusion of a planning obligation.

13. The Planning Decision Committee have carefully considered the Inspector's conclusions and recommendation as well as the additional information and the representations submitted in

response to the consultation referred to above.

Inspector's conclusions and recommendation

14. The Committee have noted your client's estimates that the direct and indirect employment to be created by the development would amount to 71 full-time jobs and 77 part time jobs and agree with the Inspector that, while the predicted levels of new employment in the marina and the town cannot be precise, the proposal would undoubtedly generate much needed employment and business for the economically deprived areas of Anglesey and Beaumaris. They also agree with him that the proposed mitigating measures, safeguards and monitoring procedures would be likely to be effective in safeguarding the marine environment, and accept that the development is unlikely to have a significant effect on the proposed Menai Strait Marine Nature Reserve (MNR), the possible Menai Strait and Conwy Bay Special Area of Conservation (cSAC) and the Gallows Point Regionally Important Geological Site (RIGS).

15. The Planning Decision Committee also accept the Inspector's finding that the development would cause substantial harm to the coastal landscape of the Area of Outstanding Natural Beauty (AONB), and would adversely affect future productivity and economic prospects for the Menai Strait mussel fishery. However, they have taken into account the Inspector's finding that the visual impact on the landscape would be limited because the site is well contained by the topography, the wooded coastline and the shoreline itself. Overall, they consider that the economic benefits likely to arise from the marina are so considerable as to outweigh the landscape and mussel fishery objections.

16. The Committee agree with the Inspector that in the circumstances of this case it is material to the planning decision to consider the availability and suitability of alternative sites for the proposed development. They have reached this view having regard to the guidance set out in Planning Policy Wales March 2002 (PPW) that applications for major development in AONBs should not take place in AONBs except in exceptional circumstances. This replaces the advice in Planning Guidance (Wales) Planning Policy First Revision (PGW), which was considered at the inquiry, but is not substantially different. The Planning Decision Committee notes that current guidance gives as an example of such exceptional circumstances a development which, after rigorous examination, is demonstrated to be an overriding public need such that refusal would be severely detrimental to the local economy. As regards the reference in the replacement guidance to the requirement that there be no potential for locating the development elsewhere or meeting the need in some other way, for the reasons given by the Inspector at paragraphs 11.3 and 11.4 of his report in relation to PPW, the Planning Decision Committee consider that nothing in this advice limits the need to assess the availability and suitability of alternative sites to those outside the AONB.

17. In view of their conclusion that the development would cause substantial harm to the coastal landscape of the AONB the Planning Decision Committee consider that a rigorous

examination of whether the economic benefits associated with the proposal could be achieved without the same degree of adverse impact is justified. The Planning Decision Committee are not prepared to give as much weight as did the Inspector to the possible availability of a viable alternative site to the east side of the Point, where a development giving rise to equivalent economic benefits would cause significantly less visual harm to the natural landscape of the AONB, and where it would not encroach onto the Several Fishery Order areas leased out to the mussel fishermen. The Planning Decision Committee, whilst accepting that the alternative Beaumaris Bay site would be likely to have a somewhat less harmful visual impact overall, have had regard to the potential effects on views into and out of the historic town of Beaumaris. Additionally, they do not consider that there is sufficient evidence for them to conclude that a development of the alternative site would necessarily take place and would achieve the economic advantages they consider would be offered at Gallows Point. The Planning Decision Committee accept that the development of the alternative site would be likely to have little or no effect on the mussel fishery but they do not consider that this of itself would justify refusal of the Gallows Point application. Taking all these factors into account, the Planning Decision Committee do not agree with the Inspector that the possibility of an alternative development taking place on the alternative site should weigh significantly against the economic benefits of the application proposal.

18. The Planning Decision Committee therefore disagree with the Inspector's conclusion, based on the material available to him, that there are no exceptional grounds for allowing this major development within the AONB to proceed. However, before reaching a decision on the application the Planning Decision Committee have considered the additional landscape and ecological information and the related consultation responses.

Additional information

19. The Planning Decision Committee consider that the additional information submitted has been subject to appropriate publicity and consultation having regard to the 1999 Regulations. The CCW noted that the illustration document did not contain the viewpoint location map listed in the contents but the Planning Decision Committee do not consider that this omission significantly affected the adequacy of the submitted additional information. The Planning Decision Committee also consider that the additional information in respect of the ecological impact comprising boat survey data and bird counts and impact appraisal is sufficient for the competent authority, in this case the Planning Decision Committee, to undertake an appropriate assessment for the purposes of the Conservation (Natural Habitats etc.) Regulation 1994.

Landscape

20. The Planning Decision Committee have accepted the Inspector's conclusion, on the basis of the evidence before him at the inquiry, that the proposal would have a significant major

impact when viewed from the road and Gallows Point and that future views of the Strait would be across the dominating car park and facilities building on the coastal landscape as seen from the road and Gallows Point. Having regard to their conclusion that the economic arguments in favour of the development would outweigh the objection to the proposal on the grounds of its adverse visual impact identified by the Inspector the Planning Decision Committee have gone on to consider what effect if any the additional landscape evidence should have on this conclusion.

21. The CCW have argued that the proposal would result in a significant intrusion into the AONB and the Planning Decision Committee accept that it is clear, having regard to the additional evidence, that from the A545 where it passes the site, views of the foreground, middle ground and most of the estuary would be largely obscured. The Planning Decision Committee do not consider that the additional evidence either invalidates that conclusion nor, on the other hand, suggests that the adverse visual impact of the proposal would be significantly worse than that identified by the Inspector on the basis of the evidence available to him at the inquiry. In reaching this conclusion the Planning Decision Committee have borne in mind that the "panorama" which would be largely obscured is only available along a very short stretch of road and that while there would be adverse effects on views to the shore from mid channel, and those from within the marina site, these are not generally available to the public.

Ecology

22. The Habitats Regulations impose requirements on the decision making authority to access the implications for a European site in this case the Traeth Lafan Special Protection Area (SPA) . A competent authority, in this case the Planning Decision Committee, before giving any consent for a project which is likely to have a significant effect on a European site, and which is not directly connected with the management of the site, must make an appropriate assessment of the implications for the site in view of the site's conservation objectives. A review by the Joint Nature Conservation Committee (JNCC) published in September 2001 indicated that the Traeth Lafan SPA no longer qualifies for the population of great crested grebes. The site will continue to qualify, however, as a severe weather refuge for wintering oystercatchers. The revision to the designation is not likely to be made until 2003 and therefore the Planning Decision Committee consider that the assessment should be carried out on the basis of the current designation.

23. With regard to the site's conservation objectives the Traeth Lafan SPA is designated for supporting a regular coastal autumn moulting population of great crested grebes. The SPA also qualifies supporting wintering populations of oyster catcher and curlew and is notable for various wintering/passage of other species including the red-breasted merganser. As regards the information necessary for an appropriate assessment in respect of this application the advice of the CCW was accepted that information should be sought on the present status of the great crested grebe and red breasted merganser on the SPA with monthly high water

counts in July, August and September advised.

24. The CCW were consulted as the appropriate consultation body for the purposes of the appropriate assessment under the Habitats Regulations and indicated that the additional data provided sufficient information for the competent authority to undertake an appropriate assessment of the implication for the SPA. The CCW had previously expressed concern about the lack of an assessment of the potential impact of the proposal on moulting crested grebes on the water in late summer when the birds might be using the channel at low water and so might be disturbed by boat traffic using that same channel. However, in their consultation response the CCW accepted that the additional evidence demonstrated that the birds do not generally use this main channel and instead occur elsewhere in the Afon Ogwen estuary at a significant distance from the proposed development for there to be little or no disturbance impacts and were satisfied that no significant conflict was likely to arise in this regard. Having carefully considered the evidence before them including the consultation responses on the additional information submitted the Planning Decision Committee see no reason to disagree with the CCW's assessment and conclude that the development would not have a significant impact on the site, would not destroy its integrity or have an adverse effect on the nature conservation interest of the site.

25. The Planning Decision Committee have taken account of the JNCC review into account as a material consideration but do not consider, on the basis of the evidence before them, that the proposed development would be likely to significantly affect the Special Protection Area having regard either on the basis of its present or its likely revised designation.

Conclusion

26. While the Planning Decision Committee accept the Inspector's assessment that there are substantial objections to the proposal on the grounds of its impact on the coastal landscape of the AONB, and the mussel fishery, they conclude that the economic benefits, which they consider likely to result from the proposed development, are so considerable as to outweigh these objections. They also, for the reasons given above, do not consider that the possibility of development of the alternative Beaumaris Bay site invalidates that conclusion. Having reviewed the Inspector's conclusions in the light of the additional information on landscape impact they do not consider that this information affects their assessment of the weight to be given to the adverse visual impact of the proposal. They also consider, having made an appropriate assessment required by the Habitats Regulations, that the project would not adversely affect the integrity of the Traeth Lafan SPA. The Planning Decision Committee are therefore minded to allow the application.

27. The Inspector recommended that if the National Assembly were minded to grant planning permission for the proposed development a Section 106 agreement, submitted to the inquiry in draft form as Document ABC 6, should be submitted, amended as recommended by the

Assessor in paragraph A4.15 of his report and satisfying the further criteria referred to in paragraph 10.5 of the Inspector's report, before the grant of planning permission. The Planning Decision Committee agree, for the reasons given by the Inspector and the Assessor, that this amended agreement should be submitted signed and sealed by the relevant parties prior to the grant of planning permission. The Planning Decision Committee also consider that a grant of planning permission should be subject to conditions on the lines of those referred to by the Inspector at paragraphs 10.6 to 10.7 of his report and at inquiry document YMCC4.

28. The Planning Decision Committee have taken into consideration the environmental information as defined by the 1999 Regulations, and the additional landscape and ecological information subject to the consultation referred to above, in reaching their decision on this application.

29. The consultation responses on the additional landscape and ecological information included comments on other planning issues related to the application. In reaching their decision the Planning Decision Committee have taken into account those comments together with representations made in all other correspondence received after the inquiry had closed. They consider that that no new evidence or new matter of fact has been raised which would materially affect their decision.

FORMAL DECISION

30. Your client is accordingly invited to conclude an agreement with the relevant parties in respect of the matter referred to at paragraph 27 above and to submit it to the National Assembly Planning Division not later than 3 months from the date of this decision letter. On receipt of the completed agreement a grant of planning permission implementing the Planning Decision Committee's decision set out at the beginning of this letter will issue.

31. A copy of this letter has been sent to the Director of Planning Anglesey County Council.

Yours faithfully

Richard Edwards AM

Chair

Planning Decision Committee 2002/6

