

PLANNING COMMITTEE	DYDDIAD: 24/07/2017
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	DOLGELLAU

Number: 2

Application Number: C16/1561/44/AM

Date Registered: 08/12/2016

Application Type: Outline

Community: Porthmadog

Ward: Gorllewin Porthmadog West

Proposal: Outline application with all matters reserved apart from access, for the erection of two non-food retail units(Class A1), a 60 bed hotel (Class C1) with integral ancillary café/restaurant, and associated works including associated parking and service areas, a new service access, amendments to the existing site access and ancillary landscaping.

Location: Tir ger Ffordd Penamser, Ystad Ddiwydiannol Penamser, Porthmadog, Gwynedd, LL499NY

Summary of the Recommendation: TO APPROVE WITH CONDITIONS

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1. Description:

- 1.1 The application is an outline application for the erection of two non-food retail units (Class A1), a 60 bed hotel (Class C1) with integral ancillary café/restaurant, and associated works including associated parking and service areas, a new service access, amendments to the existing site access and ancillary landscaping. Access forms part of the application, however the remaining matters (Appearance, Landscaping, Layout, Scale) have been reserved. If permission is granted the remaining reserved matters would be considered under a separate reserved matters application.
- 1.2 The indicative information submitted with the application shows that the retail units will comprise one retail unit of 3312m² which includes a mezzanine floor and a second retail unit of 800m². The hotel is to contain 60 bedrooms with an integral ancillary café/restaurant within a 4 storey building totalling 26688m². The application originally included 573m² of floor space for a garden centre but that element has now been omitted from the application.
- 1.3 The application site is currently vacant and is located on part of the Penamser Industrial Estate in Porthmadog just off the A497 which is the main highway link between Pwllheli and Porthmadog. The site is surrounded by various business and industrial uses including a petrol filling station, builders merchant and a hotel.
- 1.4 The application was supported by the following documents & assessments:
- Economic Benefits Summary.
 - Hotel Needs, Sequential and Impact Assessment.
 - Scope for Needs and Sequential Site Assessment
 - Design & Access Statement.
 - Planning Support Statement.
 - Community & Linguistic Statement.
 - Water Vole Survey.
 - Flood Consequence & Drainage Impact Assessment.
 - Highways & Traffic Statement.
 - Pre-Application Consultation Report.
- 1.5 This application, due to the site area and proposed floor space of the buildings, is defined as major development. In accordance with the requirements of the Town and Country Planning Order (General Development Procedure) (Wales), a pre-application consultation report was received as part of the application. The report shows that the developer has informed the public and statutory consultees of the proposal prior to submitting a formal planning application. The report concluded that the responses received were taken into consideration but no significant changes to the proposal were required.

2. Relevant Policies:

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2.1.2 of Planning Policy Wales emphasise that decisions should be in accordance with the Development Plan, unless material considerations dictate otherwise. Planning considerations include National Policy and the Unitary Development Plan 2001-2016 and the emerging Anglesey and Gwynedd Joint Local Development Plan.

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2.2 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet the 7 well-being goals within the Act. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

2.3 Gwynedd Unitary Development Plan 2009:

- STRATEGIC POLICY 1 – **Taking a Precautionary Approach**
- STRATEGIC POLICY 2 – **The Natural Environment**
- STRATEGIC POLICY 3 – **The Built and Historic Environment**
- STRATEGIC POLICY 4 – **Design Standards.**
- STRATEGIC POLICY 5 – **Developments Which Create Risk**
- STRATEGIC POLICY 6 – **Land Redevelopment and Re-use**
- STRATEGIC POLICY 12 – **Transport**
- STRATEGIC POLICY 15 – **Industrial Land**
- STRATEGIC POLICY 16 – **Employment**
- STRATEGIC POLICY 17 – **Tourism**
- STRATEGIC POLICY 18 – **Service Centres**

POLICY A1 - ENVIRONMENTAL OR OTHER IMPACT ASSESSMENTS

Ensure that sufficient information is provided with the planning application regarding any environmental impacts or other likely and substantial impact, in the form of an environmental assessment or assessments of other impacts.

POLICY A2 - PROTECT THE SOCIAL, LINGUISTIC AND CULTURAL FABRIC OF COMMUNITIES

Safeguard social, linguistic or cultural solidarity within communities against significant harm due to the size, scale or location of proposals.

POLICY A3 - PRECAUTIONARY PRINCIPLE

Refuse proposals if there is any possibility of serious or irreversible damage to the environment or the community unless the relevant impact assessment can show beyond doubt at the end of that the impact can be avoided or alleviated.

POLICY B12 - PROTECTING HISTORICAL LANDSCAPES, PARKS AND GARDENS

Safeguard landscapes, parks and gardens of special historical interest in Wales from developments which would cause significant damage to their character, their appearance or their setting.

POLICY B14 - PROTECTING THE LANDSCAPE CHARACTER OF SNOWDONIA NATIONAL PARK

Safeguard the character of the Snowdonia National Park landscape by refusing proposals which are visually obtrusive and/or are located insensitively and uncongenially within the landscape.

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POLICY B20 - SPECIES AND THEIR HABITATS THAT ARE INTERNATIONALLY AND NATIONALLY IMPORTANT

Refuse proposals which are likely to cause disturbance or unacceptable damage to protected species and their habitats unless they conform to a series of criteria aimed at safeguarding the recognised features of the site.

POLICY B22 - BUILDING DESIGN

Promote the design of good buildings by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and character of the local landscape and environment.

POLICY B23 - AMENITIES

Safeguard the amenities of the local area by ensuring that proposals conform to a series of criteria aimed at protecting the recognised features and amenities of the local area.

POLICY B25 - BUILDING MATERIALS

Safeguard the visual character by ensuring that the building materials are of high standard and in keeping with the character and appearance of the local area.

POLICY B27 - LANDSCAPING SCHEMES

Ensure that permitted proposals incorporate soft/hard landscaping of high standard which is appropriate for the site and which takes into consideration a series of factors aimed at avoiding damage to recognised features.

POLICY B29 - DEVELOPMENTS ON LAND AT RISK FROM FLOODING

Manage specific developments in the C1 and C2 flood zones and direct them towards suitable land in zone A unless they conform with a series of criteria relevant to the features on the site and to the purpose of the development.

POLICY B32 - INCREASING SURFACE WATER

Refuse proposals which do not include flood reduction measures or appropriate alleviating measures which will lead to a reduction in the volume and scale of surface water reaching and flowing into rivers and other water courses.

POLICY C1 - LOCATING NEW DEVELOPMENTS

Land within town and village boundaries and the developed form of rural villages will be the main focus for new developments. New buildings, structures and supplementary facilities in open countryside will be refused with the exception of a development which is permitted under another policy within the Plan.

POLICY C2 - ADOPTING THE SEQUENTIAL APPROACH

Proposals which will be used by a large number of people on sites not allocated in the Plan for those specific uses will be refused unless they are located within the Sub-regional Centre or within the Urban Centres and unless clear evidence can be produced to show that the sequential test has been used in choosing which site to develop.

POLICY C7 - BUILDING IN A SUSTAINABLE MANNER

Proposals for new developments or for adapting and changing the use of land or buildings will be refused unless consideration is given to specific environmental matters. Proposals must conform to specific criteria regarding sustainable building, unless it is not practical to do so.

POLICY CH18 - AVAILABILITY OF INFRASTRUCTURE

Development proposals will be refused unless there is adequate provision of necessary infrastructure for the development, unless they conform with two specific criteria which

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require that appropriate arrangements are made for sufficient provision or that the development is carried out in stages in order to conform with any proposed plan for the provision of infrastructure.

POLICY CH28 - IMPACT OF DEVELOPMENT ON JOURNEYS

Proposals for developments on a large scale will be refused if they cause a substantial increase in the number of journeys made in private vehicles where measures to reduce the environmental impact have not been introduced. Developments which are planned and designed in a way that promotes the most acceptable environmental and sustainable modes of transport will be favoured.

POLICY CH29 - SAFEGUARDING AND IMPROVING LINKS FOR PEDESTRIANS

Proposals within Centres and Villages will be refused unless they provide safe, attractive and direct footpaths for pedestrians across and out of the site where there is an obvious opportunity for such a provision to be made.

POLICY CH30 - ACCESS FOR ALL

Refuse proposals for residential, business/commercial units or buildings/facilities for public use unless it can be shown that full consideration has been given to the provision of appropriate access for the widest possible range of individuals.

POLICY CH31 - PROVIDING FOR CYCLISTS

Development proposals which do not provide specific facilities for cycling where there are obvious opportunities for doing so will be refused.

POLICY CH32 - INCREASING ACCESSIBILITY BY PUBLIC TRANSPORT

Developments will be refused if they are likely to lead to a substantial increase in the number of journeys in private vehicles unless there is adequate public transport as an alternative or unless the development will be effectively serviced by public transport in the future and that consideration has been given to promoting the use of public transport services within the planning and design of the development.

POLICY CH33 - SAFETY ON ROADS AND STREETS

Development proposals will be approved if they can conform with specific criteria regarding the vehicular entrance, standard of the existing road network and traffic calming measures.

POLICY CH36 - PRIVATE CAR PARKING FACILITIES

Proposals for new developments, extension of existing developments or change of use will be refused unless off-street parking is provided in accordance with the Council's current parking guidelines, and having given due consideration to accessibility of public transport, the possibility of walking or cycling from the site and the distance from the site to a public car park.

POLICY D2 - INDUSTRIAL SITES

Safeguard land and units on Industrial Sites for Class B1, B2 and B8 uses. Approve developments which do not come under Class B1, B2 and B8 uses if they are complementary business facilities on a small scale; provide waste management facilities or other 'sui generis' uses with similar characteristics to Class B1 and B2; or, do not lead to a shortage of land for units for B1, B2 and B8 uses.

POLICY D14 - SERVICED HOLIDAY ACCOMMODATION

New proposals or adaptation of existing buildings or extension of existing holiday accommodation establishments will be approved if the design, setting and appearance of the

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development is of high standard and if it conforms with the criteria regarding the location and scale of the development.

POLICY D27 - COMPARISON AND CONVENIENCE GOODS RETAIL STORES OUTSIDE DEFINED TOWN CENTRES

Proposals for new retail shops which sell comparison and /or convenience goods, or extensions to existing shops on sites within or close to defined town centres will be approved if they conform with criteria regarding the need for the development, the sequential test, impact on the viability, vitality and attractiveness of a town centre, traffic and parking issues and availability of facilities.

Gwynedd SPG 2009 – Planning and the Welsh Language
Gwynedd Design Guidance 2004

2.4 Anglesey and Gwynedd Joint Local Development Plan (July 2017) (As amended by the Inspectors report 30th June, 2017)

PS 1: Welsh language and culture

PS 2: Infrastructure and developer contributions
ISA 1: Infrastructure provision

PS 4: Sustainable transport, development and accessibility
TRA 1: Transport network developments
TRA 2: Parking standards
TRA 4: Managing transport impacts

PS 5: Sustainable development

PS 6: Alleviating and adapting to the effects of climate change
PCYFF 1: Development Boundaries
PCYFF 2: Development criteria
PCYFF 3: Design and place shaping
PCYFF 4: Design and landscaping
PCYFF 5: Carbon management
PCYFF 6: Water conservation

PS 13: Providing opportunity for a flourishing economy
CYF 1: Safeguarding, and allocating and reserving land and units for employment use
CYF 4: Alternative uses of existing employment sites

PS 14: The Visitor Economy
TWR 2: Holiday Accommodation

PS 15: Town centres and retail developments
MAN 3: Retailing outside defined town centres but within development boundaries

PS 19: Conserving and or enhancing the natural environment
AMG 3: Protecting and enhancing features and qualities that are distinctive to the local landscape character
AMG 5: Local Biodiversity Conservation

PS 20: Preserving and or enhancing heritage assets

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AT 1: Conservation Areas, World Heritage Sites and Registered Historic Landscapes, Parks and Gardens

2.5 National Policies

Planning Policy Wales, Edition 9, November 2016

TAN 4: Retail & Commercial Development

TAN 5: Nature Conservation and Planning

TAN 12: Design

TAN 13: Tourism

TAN 15: Development and Flood Risk

TAN 18: Transport

TAN 20: Planning & the Welsh Language

TAN 23: Economic Development

TAN 24: The Historic Environment

3 Relevant Planning History:

- 3.1 C14/1146/44/LL - Variation of conditions 1 and 2 of planning permission C11/0015/44/AM in order to extend the permission for a further 3 years and discharging condition 9 of the planning permission. Approved 20/01/15

C11/0015/44/AM - Create up to 5 non-food retail units a1 and one food and drink unit a3 to include a manager's living unit, together with parking provisions and services. Approved 13/03/12

C05D/0310/44/LL - Development of 3 non-food retail units together with car parking and ancillary services. Approved 21/11/05

C02D/0415/44/LL - Amended application to alter the design and increase the floor area of 2 retail units and garden centre, together with the provision of car parking, loading and unloading area, and landscaping. Approved 21/10/02

C97D/0264/24/MG – Reserved matters application for the details of 2 non-food retail units (1,142.7m² & 2,322.5m²) and garden centre (580m²) approved under permission 2/24/625F. Approved 06/11/97 (This permission was implemented and the consent safeguarded – confirmed by letter from the LPA dated 22/10/98)

4. Consultations:

Community / Town Council: **First Response:**

This application was discussed in a full meeting of Porthmadog Town Council on the 13th December 2016. It was decided through a vote to support the application but would like to make the following comments: The Welsh language should be given priority in every aspect of the development and work offered to local people. We will also discuss with the Economic Development Department of Gwynedd Council to ensure that the livelihood of small businesses that provide the same things / services are not threatened.

Second response:

None received.

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Transportation:

First Response:

Attached are comments provided to the pre-application advice given.

It is recommended that the applicant considers and replies to these comments as part of the formal application prior to the Highway Authority providing further comments on the proposal.

Pre application advice:

Gwynedd Council assess the parking requirements using the CSS Wales Parking Standards 2008.

The application as proposed includes parking for 165 cars, as a shared facility for use by both the retail units and hotel development. In accordance with CSS Wales Parking Standards 2008 parking for retail warehousing (DIY and Garden) should be provided at a ratio of 1 per 20m² of gross floor area, in addition to 3 commercial spaces for operation use. The combined retail floor area equates to approximately 4112m² therefore up to 206 spaces would be required.

Parking for hotel developments should be provided on a ratio of 1 space per 3 staff, in addition to 1 space per bedroom. This would equate to a requirement for 60 (plus staff) spaces. The Parking Demand Assessment that forms part of the Highways and Traffic Statement sufficiently addresses the shortfall in parking capacity and the difference in demand for both elements of the proposed development, i.e. the demand for parking associated with the hotel would be overnight in nature and would be unlikely to impact upon the daytime demand resulting from the retail aspect.

Retail Unit 1 is shown as located directly adjacent to the back of the existing footway adjacent to the site. It should be demonstrated as part of any further planning application that the building line does not obstruct the visibility splay for vehicles exiting the site, and also be demonstrated that the building line does not adversely restrict the forward visibility of vehicular traffic negotiating the junction to the rear of the development. It is recommended the building be set back sufficiently to allow clearance for any existing street furniture, prevent any part of the building overhanging the highway and to ensure all fire exits open outwards onto private land rather than directly onto highway land, i.e. a maintenance strip be provided between the building and highway.

It is also recommended the development provides improved footway linkages with Porthmadog in order to provide safe and sustainable links with the nearby town. The site is currently bounded by a pedestrian footway, which extends through the industrial estate back to Penamser Road by the Lidl Store. However, the most attractive and direct route on

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footway is assumed to be along Penamser Road passing along the front of the old Texaco forecourt. It is therefore recommended the development includes the provision of a footway along the grass verge that fronts the forecourt and adjacent plots, as far as the eastern entrance to the Penamser Industrial Estate, in order to provide a continuous link towards Porthmadog.

Second Response:

Confirmed that the proposed access is acceptable subject to standard conditions and the crossing point is acceptable in lieu of a pavement and could be secured via a section 278 agreement.

The total parking provision shown is lower than the maximum as recommended by the CSS Parking Standards Wales. However, it is considered that the number proposed is acceptable based on the information submitted within the 'Parking Demand Assessment'

Welsh Water:

First Response:

Standard advice and conditions required. (Drainage scheme, foul water discharge & install a grease trap)

Second Response:

Standard advice and conditions required. (Drainage scheme, foul water discharge & install a grease trap)

Local Flood Authority:

None received.

Biodiversity Unit:

First Response:

The updated water vole survey showed that they are no longer present on the site. There is no further concern regarding Water Voles on the site.

I have visited the site. The site has been landscaped and cleared approximately two years ago. Natural habitat has now re-established on the site with a mix of greenfield, wetland and very young trees.

It is likely that the habitat will mature further before works commence on site and the biodiversity interest will increase and will be used by birds to nest.

As this is an outline application I would like to include a condition requiring a Preliminary Ecological Appraisal prior to the determining of a Reserved Matters application. The report should follow CIEEM Guidelines.

Second Response:

Previous comments are still relevant.

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Environmental Health & Public Protection: None received.

Natural Resources Wales: **First Response:**

Flood Risk

We have considered the flood consequences assessment (FCA) (Flood Risk Consultancy Ltd, Penamser Road Site, Porthmadog, Report No. 2015 – 144, Rev. B, dated 31/08/2016 - revised version dated 29/11/2016), submitted in support of the application. Based on this information we can advise that the consequences of flooding can be adequately managed, subject to condition.

In order to protect the development from flooding, we recommend that you should only grant planning permission if you attach the following condition. This condition would address significant concerns that we have identified and we would not object provided you attach it to the planning permission.

Condition: The finished floor level (FFL) of the development shall be set no lower than 3.15m AOD.

Also, the site lies within the Glaslyn and Pencyflog Internal Drainage District and requires input from Natural Resources Wales to maintain the drainage regime. We require a 7m wide maintenance strip (easement) to carry out any maintenance required. NRW has agreed a reduced easement width of 5m on a small section of the watercourse on the eastern boundary. We welcome the proposals highlighted within the FCA to improve the condition of the trash screens on the drainage channels surrounding the site.

Protected Species

We are satisfied with the 2015 water vole survey report (Middlemarch Environmental, September 2015), and agree with its recommendations. We would also add that the exclusion fence will need to be checked and maintained until the works are complete. Should the fence be damaged at any point during this time, a further water vole survey will be required.

Environmental Management

Care should be taken to ensure that there is no contamination of the ditch on site during the construction process. Appropriate pollution prevention measures must be used to minimise the risk of contamination of the stream by silt or cement-rich water e.g. using straw bales, silt fencing etc. All litter generated during the construction process must be collected regularly. The applicant is advised to refer to PPG 5: Works and maintenance in or near water

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could result in closures and job losses.

- Previous permissions were granted on this site when other industrial land was available. However, all the vacant sites have been developed leaving a shortfall.
- Scheme will be detrimental to other food and drink operators, independent hotel & B&B operators.
- Detrimental to Porthmadog's unique character.

5. Assessment of the material planning considerations:

5.1 In line with the presumption in favour of sustainable development, applications for planning permission or to renew planning permission, should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise. Policies in an emerging development plan are material considerations. Planning Policy Wales states that all applications should be considered in relation to current policies. In terms of an emerging plan there is no certainty regarding its contents until the Inspector presents his final report. The Inspector's binding report was received on 30 July 2017. The Inspector's recommendations for amendments are binding. The policies and proposals of the Plan will not be further amended. On this basis, the policies and proposals of the Plan, as amended by the Inspector, are material considerations that carry substantial weight.

5.2 The current 'Development Plan' is the Gwynedd Unitary Development Plan (2001 - 2016) and the Joint Local Development Plan for Gwynedd and Anglesey (JLDP) will replace the Unitary Plan as the 'development plan' once it is formally adopted. It is likely that the JLDP will be submitted before the Council to consider its adoption during July 2017.

5.3 When dealing with any planning application the statutory test should be your first consideration at all times, i.e. it is necessary to determine planning applications in accordance with the development plan, unless other relevant considerations state otherwise. The JLDP is now a significant planning consideration for the purposes of development control. Paragraph 3.1.3 of Planning Policy Wales states: "Material considerations could include current circumstances, policies in an emerging development plan and planning policies of the Welsh Government. All applications should be considered in relation to up-to-date policies ...".

5.4 Paragraph 2.14.1 of Planning Policy Wales states: "...thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances

The principle of the development

5.5 As outlined above the application is for outline permission for the erection of two on-food retail units (Class A1) a 60 bed hotel

5.6 There are number of policies that relate to the principle of this application due to its location and land designations. Policy C1 of the GUDP relates to locating new developments and the policy's main focus is to support developments within the development boundaries of towns and villages and to refuse new developments in the

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countryside, with the exception of a development that is permitted by another policy in the GUDP. The application site lies entirely within the development boundary of Porthmadog and from that point of view the scheme complies with policy C1. Policy C1 is also consistent with the requirements of the PCYFF 1 contained within the JLDP. Both policies acknowledge that schemes must however comply with other relevant policies and give due weight to material planning considerations.

- 5.7 Given that the proposal entails retail and serviced holiday accommodation in the form of a hotel and that different policies are relevant to them, the matters regarding their principle and acceptability will be considered separately below.

Relevant Planning History

- 5.8 The planning history of a site can form a material planning consideration. In the case of this site, outline planning permission was granted and following that the reserved matters were approved under consent C97D/0264/24/MG for the erection of two non-food retail units and an associated garden centre. This development consented a total of 40458.8m² retail floorspace. Development was commenced by creating the vehicular access to the site and as a result the consent was safeguarded. The position was confirmed in writing by Gwynedd Council on 22/10/98.
- 5.9 In 2012 planning permission was granted for the erection of up to 5 non-food retail units (A1) and one food and drink unit (A3) and a manager's living unit. The permission was extended by virtue of application C14/1146/44/LL for another 3 years and as a result the reserved matters application must be submitted no later than 13/03/18 and consent implemented no later than the 13/03/20 or within two years of approving the last reserved matters. Although the consent was for 4,112m² of retail floorspace, condition number 5 restricted the net retail floorspace to a total of 3290m².
- 5.10 Given that one consent has been safeguarded and the other is extant, it is considered that significant weight can be attached to this as a material planning consideration in the consideration of the application.

Safeguarded Employment Land

- 5.11 The application entails the erection of two retail units, one measuring 3,312m² and the second unit measuring 800m² and a 60 bed hotel with ancillary café /restaurant. The application site is located within the development boundary of Porthmadog within the GUDP and also the JLDP. The application site is located on land safeguarded for employment uses in both the GUDP and JLDP.
- 5.12 Policy D2 of the GUDP safeguards the use of the land for business / employment uses falling within B1 (Business Uses) and B8 (storage & Distribution) and is relevant to this site. The JLDP also safeguards the site for employment uses falling under B1 (Business Uses) and B2 (General Industrial). The retail units proposed fall under class A1 of the use classes order and the hotel falls under class C1. As a consequence, it is considered that the proposal does not comply with policies D2 of the GUDP or PS13 and CYF 1 of the JLDP.
- 5.13 The second part of Policy D2 does permit developments that do not fall within use classes B1, B2 and B8 if they are small ancillary business facilities that provide services solely for the employees of the industrial site, they are other 'sui generis' uses similar to B2 or B8 uses and that the proposal would not result in a shortage of

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land for B1, B2 and B8 uses. Given that the scheme is for two retail units and a hotel, it is not considered that the proposal conforms with the second part of Policy D2. Policy CYF 4 of the JLDP also deals with alternative uses of existing employment sites. It states that other uses will only be approved in special circumstances providing that they conform with one or more of the policies criteria. Based on the information submitted with the application it is not clear if the proposal could comply with policy CYF 4.

- 5.14 Nevertheless, as discussed above, the site benefits from a safeguarded consent and an extant consent for uses other than B1, B2 and B8. Although the policy considerations have changed since the granting of previous consents and this is acknowledged, the site could still be developed under the existing safeguarded consent and this is considered to be a realistic fallback position. In this case it is considered that weight should be given to the sites planning history and that taking into consideration the fallback position the current application should not be refused on the basis of policies D2 of the GUDP or PS13 and CYF 1 of the JLDP.

Proposed Retail Units

- 5.15 As highlighted above the application site lies within Porthmadog's defined development boundary in both the GUDP and the JLDP. However, the site lies outside of the towns retail centre which is the main focus for retail provision. Policy D27 and C2 of the GUDP is relevant to the provision of comparison and convenience stores outside defined town centres but located within development boundaries. The policy permits schemes such as this providing the scheme conforms with the following criteria:

1. that a need exists for the additional comparison or convenience goods floor space
2. that the sequential test shows that a more suitable site is not available or likely to become available;
3. that the proposed development does not significantly harm the viability, vitality and attractiveness of the defined town centre or other adjacent shopping centres;
4. that the site is genuinely accessible to a variety of modes of transport enabling customers and staff to reach the site without using the private car;
5. that the development does not significantly harm travel patterns or create an unacceptable increase in the use of the private car;
6. there is provision for refuse collection and recycling facilities on the site (in accordance with the scale and nature of the development).

- 5.16 Policy D27 of the GUDP broadly reflects policy MAN 3 and PS15 of the JLDP and also PPW and TAN 4.

- 5.17 As discussed above, it is acknowledged that there is a realistic fallback position. However, since the granting of the previous permissions the policy situation has changed and this should be given due weight and consideration.

- 5.18 The Planning Support Statement received as part of the application considers that there is no need to undertake the tests set out in PPW and TAN 4 (which is similar to the requirements of policies C2 & D27 of the GUDP, PS15 and MAN 3 of the JLDP) in relation to need and the sequential approach given that the establishment of non-food retail is established on this site by virtue of the safeguarded permission and also that the current scheme does not exceed the previously consented permissions in

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terms of floorspace. PPW & TAN 4 also require a Retail Impact Assessment for developments over 2500m².

- 5.19 In terms of the current situation the JLDP has not identified a need for additional retail floor space in Porthmadog. Topic paper 7 Retail, that was published as part of the JLDP process summarised the findings of the retail study conducted by Applied Planning Consultants in 2012 and provided the background evidence base for the JLDP. The Study assessed the need for additional retail floorspace in 25 centres over the Plan Period up to 2026.
- 5.20 The findings of Topic paper 7 Retail, acknowledges Porthmadog has a healthy retail centre, very low vacancy rates, good range of quality comparison shops many catering for the tourist market together with a Tesco, Aldi and Lidl supermarkets and two extant planning permissions for new retail floorspace on the Penamser Industrial Estate. Based on this assessment it was found that there was no need for additional retail floorspace over the plan period. As the JLDP progressed this has not changed.
- 5.21 Whilst the findings of the Council's retail study (Topic Paper 7) suggest there is no need for additional retail floorspace in Porthmadog, it is important to emphasise that the retail study took into account the extant permissions for retail development on the Penamser Industrial Estate, including the application site, as retail commitments. Those retail commitments are assumed to absorb the additional expenditure generated within Porthmadog over the plan period. Therefore, the findings regarding future retail floorspace need relates to new floorspace, over and above that already committed. There have been no other significant retail permissions granted that would undermine the findings. Given this, it would be unreasonable to refuse the application on the basis that the JLDP has not identified the need for additional retail floorspace in Porthmadog or the lack of assessment submitted as part of the application.
- 5.22 To inform the decision making process, the applicant has also outlined why the safeguarded consent and extant consent has not come forward. This included viability reasons, potential operators pulling out and an unstable market situation. However, they consider that the absence of any development on the site is not a result of a lack of interest or demand from retailers. They consider that the latest proposals represent the right balance for the current market whereby the proposed hotel (which also has an identified need – discussed below) will help meet the development costs therefore making the rest of the scheme more viable with the current retailers who have expressed an interest.
- 5.23 Having taken into consideration the assessment within the Planning Support Statement and additional comments received from the applicant, the LPA broadly agrees with the conclusions made. Based on the lack of a full Retail Impact Assessment, Needs and Sequential test, it is acknowledged that the proposal does not fully comply with policies A1, A3, C2 and D27 of the GUDP, PS15 and MAN 3 of the JLDP and PPW and TAN 4.
- 5.24 Nevertheless, the proposal is not seeking to increase the retail floor space previously consented and as a consequence the proposal is unlikely to have a greater detrimental impact on the viability and vitality of the town centre than the current fall back position. Should the current application be approved it is likely that some improvement could be attained in terms of the potential impact on the town centre against the current fall back position.

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- 5.25 The conditions linked with the safeguarded consent C97D/0264/24/MG (& 2/24/625F) restricts the use to non-food retail but it does not prevent the subdivision of the units into smaller retail units. Planning permission is generally not required to subdivide retail units into smaller units. The impact of this could significantly change the impact of the development on the town centre.
- 5.26 The extant permission granted (C11/0015/44/AM & C14/1146/44/LL) was for up to 5 non-food retail units. The conditions do prevent the subdivision of the units; however, it is considered that five smaller units on this site has greater potential to compete with units in the town centre given their smaller size.
- 5.27 Policy D27 acknowledges when a development will be approved planning conditions or agreements will be used to ensure that the unit will not change its make-up in a way that would significantly harm the attractiveness, viability or vitality of a town centre. If this scheme is granted, it is therefore considered reasonable and necessary to impose a condition on both units to prevent their sub-division into smaller units and to restrict the net retail floor space. A condition would also be required restricting the use to non-food retail.
- 5.28 Although it is acknowledged that the proposal does not fully comply with the requirements of policies A1, A3, C2 and D27 of the GUDP, PS15 and MAN 3 of the JLDP and PPW and TAN 4 due to the lack of a full Retail Impact Assessment, Needs and Sequential test, based on the other relevant material planning considerations, which includes the sites fallback position in terms of safeguarded and extant planning permissions and the likely impact of those consents, it is not considered reasonable to refuse the application on this basis.

Proposed Hotel Development

- 5.29 Part of the scheme includes the erection of a 60 bed hotel with ancillary café / restaurant. Policy D14 of the GUDP deals with applications for serviced holiday accommodation. Policy D14 permits the development of new permanent serviced holiday accommodation providing that the scheme is of high quality in terms of design, layout and appearance and in the case of new build it is located within the development boundary and the proposed development is of appropriate scale considering the site, location and/or settlement in question.
- 5.30 Policy TWR 2 of the JLDP is also similar in its requirements as policy D14. The policy aspects of design, layout and appearance would be given consideration at the reserved matters stage if permission is granted. However, given that the scheme is located within the development boundaries of both the the GUDP and the JLDP it is considered that the principle of erecting a hotel on this site is acceptable in terms of local planning policy. The scale of the proposal is also considered acceptable given the sites location and surrounding developments.
- 5.31 However, PPW edition 9 was updated which now identifies hotel use as an “other appropriate retail and commercial centre use” and as such it is now subject to the sequential test. In response to this a Hotel Needs, Sequential and Impact Assessment was submitted as part of the application.
- 5.32 An objection was received to the scheme stating that the scheme will be detrimental to other food and drink operators, independent hotel & B&B operators. Despite the concern raised, the findings of the assessment conclude that there is a need for the proposed hotel, which is established through planning policy and also qualitatively,

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there are no sequentially preferable sites that are suitable or available to accommodate the proposed development and the assessed potential impact on the vitality and viability of Porthmadog Town Centre would be insignificant.

- 5.33 Based on the findings of the Hotel Needs, Sequential and Impact Assessment it is considered that the proposal accords with the requirements of PPW and the application would not warrant refusal based on the findings of the assessment or the objection received.

Land Drainage and Flooding

- 5.34 The application site is located on land classified as a C1 Flood Zone. Policy B29 of the GUDP is therefore relevant to the application. Strategic policy PS6 and PCYFF 2 of the JLDP is also relevant however there are no detailed policies relevant to the assessment of the acceptability of developments at risk from flooding. This is contained within Chapter 13 of PPW and detailed guidance within TAN 15.
- 5.35 TAN 15 categorises C1 flood zones as areas of the floodplain which are developed and served by significant infrastructure, including flood defences and it indicates that development can take place subject to application of justification test, including acceptability of consequences.
- 5.36 TAN 15 also categorises different development types according to risk. Given that hotel development is a form of residential use, it is classed as being highly vulnerable whereas retail is classified as less vulnerable. Development in zone C1 should only be permitted if it can be justified in that location. The justification tests require developments to be:
- necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; **or**
 - its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
 - **and** It concurs with the aims of PPW and meets the definition of previously developed land (PDL);
 - and the potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.
- 5.37 Given that the application site is located within the development boundary of Porthmadog and accords with policies regarding the locating of business and employment developments it is considered that the proposal accords with the first two tests. The application was supported by a flood consequence assessment and Natural Resources Wales has confirmed that the potential consequences can be adequately managed on this site subject to the imposition of a condition ensuring the finished floor level of the development is set no lower than 3.15m AOD. It is therefore considered that the fourth test has been met.
- 5.38 The third test requires the development to concur with the aims of PPW and meet the definition of previously developed land (PDL). Having made an initial assessment, the LPA was of the opinion that the site failed to meet the definition of previously developed land. In response the applicant submitted evidence as to why they consider the land is previously developed. The evidence included historical evidence regarding the development of the industrial site and aerial photographs. Based on the

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information submitted the LPA is still of the opinion that the site fails to meet the definition of PDL.

- 5.39 It is acknowledged that development was carried out to safeguard consent C97D/0264/24/MG by constructing the vehicular access points, however no further development took place and the site has remained with a 'green' natural appearance. The creation of the accesses would have formed part of the site's curtilage, however one of the exclusions from the definition of PDL states that land in built-up areas which has not been developed previously, for example parks, recreation grounds and allotments, even though these areas may contain certain urban features such as paths, pavilions and other buildings are not considered to be previously developed land. It is considered that this exclusion is relevant to this site and the works undertaken and given that no further development took place, it is considered that the site fails to meet the definition of previously developed land.
- 5.40 However, and as discussed above, the site benefits from an extant planning permission and a safeguarded consent. The applicant could carry out further works by virtue of consent C97D/0264/24/MG without the need to seek further planning consent to conform with the definition of PDL. Even if the likelihood of progressing the historical consent fully is low, it would take very little construction work and cost for the site to become PDL. It is considered that this represents a realistic fallback position that significant weight should be attached to. As a consequence, it is not considered that the application should be refused on the basis of the site failing to meet the definition of PDL.
- 5.41 Having given due weight and consideration to policy B29 of the GUDP, strategic policy PS6 and PCYFF 2 of the JLDP, Chapter 13 of PPW, TAN 15 and the fallback position in terms of an extant and a safeguarded consent it is considered that the proposal in this location is justified and acceptable.
- 5.42 In terms of infrastructure and general land drainage issues connected with this site, Welsh Water had no objection to the proposal but requested conditions requiring the approval of an integrated drainage scheme that should give priority to disposing of surface water by sustainable means, a foul drainage condition and a condition requiring the installation of a grease trap. The proposed conditions are considered reasonably necessary and ensure that the proposal complies with policies B32, C7 and CH18 of the GUDP and ISA 1, PS 5 and PCYFF 6 of the JLDP.

Linguistic Impacts

- 5.43 In accordance with the requirements of the Supplementary Planning Guidance – 'Planning and the Welsh Language' a Community and Linguistic Statement was submitted with the application. Given the type, size and location of the proposed development, it is not believed that the proposed development is likely to cause a significant growth in the population that could have a detrimental impact on the Welsh language in the Porthmadog community nor in the wider area. Nevertheless, comments regarding the statement are expected from the Joint Planning Policy Unit and should be received prior to the committee. If the comments received are favourable it is considered that the proposal is in keeping with the aims of Policy A2 of the GUDP, that aims to safeguard the social and linguistic fabric of local communities and PS1 of the JLDP.

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Residential & Visual Amenity

- 5.44 Policy B23 of the GUDP and Policy PCYFF 2 of the JLDP both seek to protect residential amenities. The nearest residential properties are located approximately 170m to the north east on the opposite side of the A497. Given the separation distance and other intervening land uses such as industrial units and petrol filling it is not considered that the proposal will have a negative impact on residential amenities in the area.
- 5.45 Given that the application is for outline consent, with matters such as appearance, layout and scale reserved, there are no detailed plans as to what the development will look like. However, the indicative information shows a possible layout of buildings and that the retail buildings would have a maximum height of 11m and the hotel a maximum height of 17m. The buildings on Penamser vary in terms of height, shape and construction, therefore based on the information submitted it is likely that the site could accommodate a development of the scale proposed without having a harmful impact on the visual amenities of the immediate area.
- 5.46 The application site is located within the Aberglaslyn Registered Historic Landscape and the Snowdonia National Park is located just over 1km away to the north. Given the topography it is likely that the development will be visible from locations within the National Park. However, the development will be viewed within the developed context of Porthmadog and the industrial estate which has varying types and sizes of building. With careful use of materials and sensitive design it is not considered that the development would have a detrimental impact on extended views into or out of the National Park or upon the Registered Historic Landscape.
- 5.47 It is considered therefore that the proposal is acceptable in principle and that the development can be satisfactorily accommodated into the streetscene and wider landscape whilst complying with Policies B12, B14, B22, B23, B25, B27 of the GUDP as well as Policies PS6, PCYFF 2, 3, 4 PS20, PS19, AMG 3, AT 1 of the JLDP.
- 5.48 Landscaping has also been reserved for further consideration, nevertheless sensitive landscaping will help integrate the development into the streetscene and soften the impact from extended views. It is considered that the scheme can, through the consideration of reserved matters comply with policy B27 of the GUDP and PCYFF 3 and 4 of the JLDP, both of which refer to landscaping.

Highway Impacts

- 5.49 Given the scale and nature of the application, it was supported by a Highways & Traffic Statement. Although planning permission has previously been granted on this site for retail uses, this scheme differs as it includes a hotel. As a consequence, the traffic movements and impacts will be different to the previous consents.
- 5.50 Although the application is for outline consent the application has included the means of access as part of the application. The application intends to use an existing access on the western side of the site to provide access to the retail units and hotel and also create a service access on the northern side of the development. The Transportation unit has confirmed that there is no objection to this aspect of the application.
- 5.51 Comments were received from the Transportation Unit regarding the number of parking spaces shown within the development but this would require further

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consideration at the reserved matters stage and would depend on the final size and location of the buildings. Nevertheless, it is considered that the site can provide sufficient parking for the scale and nature of development proposed.

- 5.52 In terms of the sites basic location it is located just off the A497 which is the main highway between Pwllheli and Porthmadog and is served by a regular bus service. The nearest bus stop is approximately 250m away. Porthmadog also has a train station. The indicative plans show the intention to provide a cycle store as part of the development. The site is within reasonable walking distance from the town centre and the use of non-vehicular modes of transport should be encouraged and is supported in planning policy. It is therefore considered that the site is located in a suitably sustainable location.
- 5.53 The Transportation Unit recommended that the development provides an improved footway linkage with Porthmadog in order to provide safe and sustainable link with the town. The site is currently bounded by a pedestrian footway, which extends through the industrial estate back to Penamser Road by the Lidl Store. However, the most attractive and direct route on foot is assumed to be along Penamser Road passing along the front of the old Texaco forecourt. It was recommended the development includes the provision of a footway along the grass verge that fronts the forecourt and adjacent plots, as far as the eastern entrance to the Penamser Industrial Estate, in order to provide a continuous link towards Porthmadog.
- 5.54 Following this the developer has suggested that a crossing island is provided across the A497 instead of a pavement along the northern side of the highway as it would be a safer option as pedestrians would need to cross fewer highways / accesses to reach the town centre. The crossing island would also act as a natural traffic calming measure and prevent the overtaking of vehicles. In response to this the Transportation Unit had no objection to the proposal.
- 5.55 Given that the potential impacts of this development are different to those of the previous consents, the comments of the Transportation Unit are considered reasonable and necessary to ensure the impacts of the development are acceptable in planning terms. The provision of safe links for pedestrians is supported by policy CH29 of the GUDP and PS4, TRA4, PS2 and ISA1 of the JLDP. The highway improvements can be secured by a suitably worded planning condition. The provision of the crossing island would also have wider benefits as it would improve safety for cyclists crossing the A497 to the pavement which is a cycle route.
- 5.56 Although some matters require further consideration as part of a reserved matter application, based on the information received, it is considered that the proposal as a whole is acceptable and conforms with policies C7, CH28, CH29, CH30, CH31, CH32, CH33, CH36 of the GUDP and PS4, TRA 1, TRA 2, TRA 4, PS5, PCYFF3, PS2 and ISA1 of the JLDP.

Biodiversity

- 5.57 Policy B20 of the GUDP seeks to protect species and their habitats that are internationally and nationally important and policy PS19 of the JLDP. The application was supported by a Water Vole Survey as they had previously been present in the area. NRW and the Council's Biodiversity Unit both accepted the contents of the assessment, which showed that they are no longer present.

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- 5.58 The comments also acknowledge that the site has been landscaped and cleared approximately two years ago and that natural habitat has re-established on the site with a mix of greenfield, wetland and very young trees and that the biodiversity interest will increase and will be used by birds to nest. The recommendations request that a condition is imposed requiring that a Preliminary Ecological Appraisal be carried out prior to the determining of a Reserved Matters application. Whilst these comments are fully noted it is not considered reasonable to request this information given the fallback position of the site and the fact that development can already proceed. Nevertheless, this does not circumvent other environmental legislation beyond the planning system that protects species and their habitats that the developer would have to conform with.
- 5.59 It is therefore considered that the application accords with Policy B20 of the GUDP and policy PS19 of the JLDP.

The Economy

- 5.60 Technical Advice Note 23, Economic Development states: in determining planning applications local planning authorities need to bear in mind that traditional business use, classes B1-B8, only account for part of the activity in the economy. It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations. It further states that: Local planning authorities should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.
- 5.61 The application was supported by an Economic Benefits Survey which identifies that the proposal when completed is likely to create 50 full time equivalent jobs and a further 25 full time jobs indirectly. The hotel has the potential to attract 14,900 visitors a year generating an additional visitor expenditure of £500,000. Whilst the proposed figures / benefits are indicative it, it is acknowledged that, there are economic benefits to be derived from the proposal and the proposal is likely to make a positive contribution to the economy of the area in accordance with Strategic Policy 16 of the Unitary Development Plan and PS 13 of the JLDP.

Response to the public consultation

- 5.62 The main concerns raised by third parties in response to consultation the application has been listed above. The Local Planning Authority has considered these objections as material considerations in preparing a recommendation for this application. Furthermore, the material considerations relevant to this proposal have been assessed having regard to the relevant planning policies and guidance and it is not considered that there is justification to refuse this application.

6. Conclusions

- 6.1 In light of the above assessment, it is acknowledged that the proposal does not fully comply with the policies of the Gwynedd Unitary Development Plan or the Joint Local Development Plan. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 3.1.2 of Planning Policy Wales emphasise that decisions should be in accordance with the Development Plan, unless material considerations dictate otherwise. In this instance it is considered that there are

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material considerations that dictate otherwise and justify the granting of planning permission despite the policy conflict.

- 6.2 The above assessment acknowledges that the site benefits from a safeguarded planning permission and also an extant planning permission, both of which represent a realistic fallback position that significant weight should be afforded to. The creation of 50 full time jobs that could be derived from the development, together with the associated economic benefits should also be given weight.
- 6.3 Having given full consideration to all material planning considerations, including the objections and submitted observations, it is considered that this proposal is acceptable and should be approved.

7. Recommendation

To approve the application subject to the following conditions:

1. Time
2. Submission of reserved matters
3. In accordance with approved plans
4. Welsh Water
5. Retail conditions to restrict floor space, no subdivision into smaller units
6. Café/Restaurant floorspace within hotel to be used for purposes incidental to the hotel only
7. Finished floor levels
8. Highways access conditions
9. Provision of a crossing island on the A497
10. Biodiversity