

WIRRAL COUNCIL

PLANNING COMMITTEE 25 JANUARY 2011

REPORT OF THE INTERIM DIRECTOR OF CORPORATE SERVICES

LIVERPOOL WATERS – CONSULTATION BY LIVERPOOL CITY COUNCIL
UPDATE REPORT ON WIRRAL WATERS AND SECTION 106 AGREEMENT
LATEST POSITION ON RSS AND THE VIEWS OF THE SECRETARY OF
STATE

1.0 EXECUTIVE SUMMARY

- 1.1 This report advises Members of the submission of the major mixed use planning application for Liverpool Waters. Liverpool City Council has consulted Wirral Council as an adjoining authority. The report also addresses a number of issues including the relationship between Liverpool Waters and Wirral Waters. These issues include the extent to which a cumulative impact assessment is required between the two schemes, the latest position on Regional Strategies, the views of the Secretary of State on Wirral Waters and progress with the drafting of a Section 106 Legal Agreement for Wirral Waters East Float.
- 1.2 Wirral's Planning Committee recommended approval of the Wirral Waters East Float planning application on 3rd August 2010 (minute 47 refers), but the prerequisite to refer the application to Government office and the need to prepare a complex and extensive legal agreement mean the decision notice has not been issued to date.
- 1.3 I conclude that the assessments and recommendations of the original report presented to Planning Committee in August are considered to remain relevant and accurate. The changes to the status of the Regional Strategy since the Wirral Waters East Float application was submitted and the cumulative impact assessment with regards to the Liverpool Waters application raise no new material considerations, which would affect the previous decision of the Planning Committee.
- 1.4 Members are asked to note the submission of the Liverpool Waters planning application and that a further report will be brought to Planning Committee setting out the formal response of Wirral Council at the appropriate time. Members are also asked to note the views of the Secretary of State who has advised that he does not wish to intervene in the determination of the Wirral Waters East Float planning application by Wirral Council.
- 1.5 Members are further asked to agree that the submission of Liverpool Waters and the current position on the Regional Strategy raise no significant material considerations sufficient to require reconsideration

of the Planning Committee recommendation of 3rd August 2010, to grant planning permission subject to a Section 106 Legal Agreement.

- 1.6 Finally, Members are asked to note the continuing negotiations in relation to the terms of the Section 106 Legal Agreement.

LIVERPOOL WATERS APPLICATION 100/2424

2.0 Liverpool Waters Planning Application

- 2.1 Liverpool City Council received a major mixed use planning application for Liverpool Waters on 27th October 2010. The original 21day deadline for response was set at 23rd of November 2010 but by agreement with Liverpool City Council officers, an extended deadline for response has not yet been set. It is intended that a fuller report will be presented to Wirral's Planning Committee when all the additional information has been received and assessed.

- 2.2 The planning application can be inspected in the Liverpool City website under the following web link:

http://northgate.liverpool.gov.uk/PlanningExplorer17/Generic/StdDetails.aspx?PT=Planning%20Applications%20On-Line&TYPE=PL/PlanningPK.xml&PARAM0=766792&XSLT=/PlanningExplorer17/SiteFiles/Skins/Liverpool_M3/xslt/PL/PLDetails.xslt&FT=Planning%20Application%20Details&PUBLIC=Y&XMLSIDE=/PlanningExplorer17/SiteFiles/Skins/Liverpool_M3/Menu/PL.xml&DAURI=PLANNING

- 2.3 The planning application has been submitted by Peel Land and Property (Ports) Ltd and is in Outline with all detailed matters reserved for subsequent approval.

- 2.4 The application is for a mixed use development at Liverpool Central and Northern Docks (Bramley Moore, Nelson, Collingwood, Trafalgar, Clarence Graving, West Waterloo, Princes Half Tide and Princes Docks) and is worded as follows:

“The comprehensive redevelopment of up to 60 hectares of former dock land comprising a maximum of 305,479 sq m office space (Class B1 Businesses) , a maximum of 752,675 sq m of residential space accommodating 9,152 homes (Class C3 Dwellinghouses), a maximum of 69,735 sq m of hotel and conference facilities (Class C1 Hotels), a maximum of 24,696 sq m of comparison retailing (A1 Shops), a maximum of 7,768 sq m of convenience retailing (A1 Shops), a maximum of 8,588 sq m of financial and professional services (Class A2 Financial & Professional Services), a maximum of 33,638 sq m of restaurants and cafes (Class A3 Restaurants and Cafes), a maximum of 20,210 sq m of drinking establishments (Class A4 Drinking Establishments), a maximum 9,764 sq m of non-residential institutions

(Class D1 Non Residential Institutions), a maximum of 33,299 sq m of assembly and leisure (Class D2 Assembly & Leisure) a maximum of 17,600 sq m for a cruise liner facility (Sui Generis) with a maximum of 36,280 sq m of servicing (Sui Generis) together with car and cycle parking, structural landscaping, new means of access, formation of public spaces and associated infrastructure and public realm works (Outline Application)”

- 2.5 The total scheme floorspace at Liverpool Waters is 1,319,732 sq m, which compares with the total floorspace at Wirral Waters (East Float and Northbank East) of up to 1,505,000 sq m.
- 2.6 The background information states that the concept vision for Liverpool Waters:

‘Seeks to create a unique sense of place, taking advantage of the site’s cultural (sic) and heritage and integrating it with exciting and sustainable new development. Liverpool Waters will contribute substantially to the growth and economic development of the city, allowing ease of movement and strong connections between Northshore, its hinterland and the city centre. It will accommodate new and existing residents, attract national and international businesses and encourage a significant increase in the number of visitors to the city, adding to Liverpool’s cultural offer and providing a new and complementary destination.

Liverpool Waters will draw on the unique identify of the site and the city to define character areas, delivering a high density and accessible quarter to Liverpool which is both economically and environmentally sustainable and which will significantly reinforce Liverpool’s strong identity. Based on strong contextual and place-making principles, the area will be characterised by activity and diversity, providing public spaces that encourage formal and informal use. It will establish a stimulating and dynamic environmental (sic) that revitalises the whole area and responds to the needs of different communities.

Liverpool Waters will include mixed-use development of residential, visitor attractions and supporting uses, office/commercial and local shops and services. It will accommodate city centre expansion and will further stimulate economic and social regeneration and integration with the adjoining areas of the city centre, north Liverpool and the wider sub-region. Based on a 30-year programme, the aspiration is that Liverpool Waters will become a new city quarter with a substantial workforce and population, delivering many thousands of new jobs and homes through a multi-billion pound private sector investment.

As an integral part of Liverpool’s iconic skyline, and continuing its tradition of innovation, Liverpool Waters will symbolise the city’s 21st century renaissance alongside its 19th and 20th century heritage on the world stage.’

- 2.7 At this stage, a full assessment of the Liverpool Waters planning application has not been completed but a number of clear policy implications can be drawn. The development plan context for the Liverpool Waters planning application is the Liverpool Unitary Development Plan, North West Plan – Regional Spatial Strategy to 2021 (now Regional Strategy, following the integration with the Regional Economic Strategy) and the emerging Liverpool Local Development Framework Core Strategy. I refer to the status of the Regional Strategy at section 4.0 of this report.
- 2.8 In terms of Regional Strategy policy, the Liverpool Waters site is in a similar policy relationship to Liverpool City Centre as Wirral Waters, within the surrounding inner area, although the site can clearly be accessed physically from the City Centre without the river crossing. Policy LCR1 of the Regional Strategy supports interventions necessary to achieve a significant improvement in the sub-region's economic performance by encouraging investment and sustainable development in the Regional Centre and surrounding inner areas. A major regeneration investment such as Liverpool Waters is in principle appropriate in terms of Policy LCR1's economic development objectives.
- 2.9 Policy LCR2 of the Regional Strategy, states that residential development should be focused in the Inner Areas adjacent to the Regional Centre in order to secure a significant increase in population and to support major regeneration activity.
- 2.10 Policy LCR2 of the Regional Strategy also identifies the need to provide for employment within the inner areas in accordance with Policy LCR1, the spatial development principles of Policies DP1-DP9 and Policies W2 and W3.
- 2.11 Liverpool City Council has pursued a policy to retain and grow population within the city and Liverpool Waters offers the potential to create a dramatic new city quarter to the north of the city centre. This would act as a partner development to Wirral Waters and significantly enhance the city region offer for high density waterfront living.
- 2.12 The site's proximity to the World Heritage Site requires a very high quality design solution and I would support the City Council's efforts to ensure that reserved matters applications should be of the highest design standard. However, the question of the impact on the World Heritage Site is entirely a matter for the City Council to consider. I do not consider that the amenity of Wirral residents will be affected by high density development along the Liverpool waterfront.
- 2.13 The scale of employment development proposed is consistent with the site's location in the surrounding inner area to the Regional Centre. Employment opportunities will be made available to Wirral residents,

particularly if sustainable transport links are made with the Mersey ferry services and the Merseyrail network. Improvements to the Merseyrail station at Liverpool Central may be required, in order to allow interchange between the Wirral line and the Northern line but I would expect Merseytravel to be fully engaged with the development, as they have been with Wirral Waters. I would urge the City Council to consider the need to ensure adequate sustainable transport infrastructure to serve the site and provide wider linkages.

- 2.14 The Liverpool Waters and Wirral Waters proposals potentially impact on the River Mersey's ecologically important areas – the Mersey Narrows and North Wirral Foreshore potential SPA/RAMSAR and the Mersey Estuary SPA/RAMSAR. Whilst Natural England were satisfied that conditions imposed on the Wirral Waters application would mitigate impact over the timeframe of the development, the City Council will have to consider Natural England's view in their assessment of Liverpool Waters.
- 2.15 Whilst the overall economic impact of additional employment opportunities at Liverpool Waters is positive for the City Region, the impact on adjoining retail centres, such as Birkenhead Town Centre must be assessed. I have contacted the City Council and asked them to seek further information from Peel on the potential retail impact of the Liverpool Waters scheme on centres in Wirral. The assessment of that impact will be the subject of a separate report to Wirral Planning Committee in due course.

WIRRAL WATERS EAST FLOAT APPLICATION OUT/2009/06509

3. Government Office for the North West/Secretary of State's views

- 3.1 The Secretary of State wrote to Wirral Council on the 29th November that 'Having carefully considered all relevant planning issues and the representations received, in the light of his policy on call in the Secretary of State has concluded that neither prematurity considerations nor the potential conflict between certain aspects of the proposals with national planning policy are sufficient to warrant calling in the application for its own determination. He has also concluded there is no other sufficient reason to justify the exercise of his discretion and he has therefore decided that he should leave the decision on whether or not to grant planning permission in this case to the local planning authority.'
- 3.2 A full copy of the letter is attached at Appendix 1 to this report. The Wirral Waters East Float planning application (W/OUT/09/06509) can now be determined by the Council, subject to the completion of a Section 106 legal agreement and Planning Committee's consideration of the assessment of material considerations in this report.

4.0 Regional Spatial Strategy

- 4.1 The prime material consideration to be addressed by this report is the status of the Regional Strategy, which was revoked by the Secretary of State in July 2010 but which decision has now been overturned. In its consideration of the Wirral Waters East Float planning application on 3rd August 2010, Wirral's Planning Committee was fully aware of the then current status of the Regional Strategy but also of the views of 4NW (the then Regional Leaders Board), which was a statutory consultee (paras 6.2, 7.0.1, 7.3.5-7.3.7, 7.5 and 7.6 of the report). 4NW had considered the East Float application against the then current Regional Strategy in their response made in January 2010.
- 4.2 CALA Homes, a house builder with interests in a development site in Winchester, challenged the Secretary of State's decision to revoke all Regional Strategies by way of a Judicial Review, which was heard on 22nd October 2010. The High Court issued its decision on 10th November 2010 that the Secretary of State had acted outside his powers and quashed the Secretary of State's decision. The North West Regional Strategy is therefore still a part of the development plan, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004.
- 4.3 The sequence of events on the status of the North West Regional Strategy is critical to Members' understanding of this issue. Following the Planning Committee of 3rd August 2010, the East Float planning application was referred to the Secretary of State for his views on 8th September 2010, via Government Office North West. Before the Secretary of State responded with his letter of 29th November 2010 (Appendix 1 to this report), the CALA Homes decision was issued. Following the CALA Homes decision to quash the Secretary of State's decision to revoke Regional Strategies, the Interim Director of Corporate Services wrote to Government Office North West on 23rd November 2010, setting out his understanding of the implications of the High Court decision for the East Float application (letter at Appendix 2 to this report).
- 4.4 The decision-makers in this planning application have therefore been made fully aware of the implications of Regional Strategy (at both current and revoked stages) for the application. The application was received when the Regional Strategy was in force as part of the development plan and 4NW commented appropriately. Wirral's Planning Committee considered the application in August in the context of a revoked Regional Strategy, although my report referred extensively to the level of compliance with the Regional Strategy.
- 4.5 The Secretary of State considered Wirral's Planning Committee report and the views of 4NW, as a statutory consultee, as the 4NW letters of 29th January and 2nd July 2010 were sent with the referral letter. Government Office also considered the letter submitted by the Council

setting out its interpretation in the light of the CALA Homes decision. Following all this, the Secretary of State decided not to intervene and to allow the Council to proceed to determine the application.

- 4.6 It is the Council's view that the East Float application has a high level of conformity with the Regional Strategy and 4NW's comments reflect their satisfaction over the proposals. 4NW was concerned that the proposals should gain the support of adjoining local authorities and this has been the case, particularly in the case of Liverpool City Council, which includes the regional centre of Liverpool City Centre.

5.0 Sustainable Transport – Section 106 Legal Agreement

- 5.1 Following the Planning Committee in August 2010, officers have been in discussion with Peel and their consultants about the detail of the Section 106 Legal Agreement. The Heads of Terms of the agreement were agreed by Members at Planning Committee and covered a wide range of issues. Members resolved that the Director of Technical Services be authorised to negotiate such a legal agreement and, upon its completion, to grant planning permission on the basis of the heads of terms identified in the original report.
- 5.2 A key element of discussion between all the relevant parties including Merseytravel has been the provision of sustainable transport through payments by the applicant at certain stages of the development. A tariff-based approach was proposed, which could accommodate market conditions and the progress of the development.
- 5.3 As a result of discussions with the applicant, the Sustainable Transport Tariff (STT) is still proposed to be £1,000 per residential unit, or per 100 sqm of commercial floorspace. The Council's primary concern is to ensure that suitable funding is secured for the delivery of appropriate sustainable transport measures at every stage of the development.
- 5.4 It was originally assumed that a rigid based tariff (i.e. equal amounts at each planning application) approach would not be able to support the sustainable transport aspirations of the scheme in the early stages and that there may have been a requirement for the S106 to allow for some "front loading" of the STT, which would be balanced by a reduced tariff at a later date.
- 5.5 Further discussions and consultation within the Transport Steering Group have resulted in an approach that will ensure that the scheme will be delivered through a development viability test. This has the support of both the Director of Technical Services and Merseytravel.
- 5.6 Development viability will provide flexibility to securing the STT and will also allow the Council to consider waiving, reducing or deferring the tariff payments in certain circumstances. In order for the Council to consider development viability, the developer will need to submit a "Sustainable Transport Viability Assessment" (STVA). This must, as a compulsory element, include costs and a timetable for the provision of

all those sustainable transport measures deemed essential by the Council for that particular phase of development and clear identification of the means by which funds would be provided to meet those costs in a manner that is acceptable to the Local Authority.

- 5.7 The definition of the STVA must include, as an integral part of its operation, suitable mechanisms to ensure that the development's progress will provide for all sustainable transport interventions deemed necessary to service the development at every phase of its progress.
- 5.8 If an individual reserved matters application cannot demonstrate that there is a source for the funding of essential sustainable transport measures, then that phase is likely to be considered as unacceptable, by the Transport Steering Group. The Planning Committee would, however, at each reserved matters stage of the planning process take the final decision on whether such a phase of the development should proceed.
- 5.9 The review of the exact figure of the Sustainable Transport Tariff is now proposed to be carried out every 5 years rather than the previously proposed 10 years, which should give the Council more control over any change in the economic situation. This more frequent review will be based on the most contemporaneous data as well as the availability of any external funding sources. It would also allow adjustment of the tariff to be made such to be aligned with the most up to date East Float Transport Plan and this could include adjustment of the tariff to cover circumstances where the Council had allowed waiving or reductions in the tariff to be made for an earlier phase of development. Such an approach would lead to a deferral of the tariff rather than loss or reduction should this be necessary to deliver the sustainable transport Strategy elements of the East Float Transport Plan. The Transport Steering Group would make a recommendation on the level of any adjusted tariff proposed, with the final decision being made by the Planning Committee.
- 5.10 Given the timescale of the development, payments identified through the Section 106 Agreement would be index linked to include appropriate allowances for inflation using the retail price index.

6.0 Cumulative Impacts Assessment

- 6.1 The Liverpool Waters application has now been submitted. In terms of the cumulative impact assessment in the form of PPS4 – Planning for town Centres – “Practice guidance on need, impact and the sequential test” suggests that cumulative impact assessments take into account the effect of known commitments i.e. schemes with planning permission. In some cases it is suggested that it may be relevant, in policy terms, to judge the cumulative effect of other proposals, particularly where there is a choice between two competing proposals and the combined impact of both needs to be considered.
- 6.2 However, in this instance, Liverpool Waters is the ‘sister project’ of Wirral Waters (also being promoted by Peel Holdings). The Applicant, Liverpool City Council and Wirral MBC are working together to ensure that the schemes are complementary and create a critical mass of

development, which enables the City Region to compete on an international level.

7.0 Conclusion

7.1 Overall it is concluded that there are no issues arising from the High Court ruling with regards to RSS and the cumulative impact with the now-submitted Liverpool Waters planning application, which give grounds for revising the original recommendation to planning committee in relation to planning application W/OUT/2009/06509 or the proposed planning conditions or s106 Agreements on that application.

8.0 Financial Implications

8.1 There are no financial implications arising directly from this report.

9.0 Staffing Implications

9.1 There are no staffing implications arising directly from this report.

10.0 Equal Opportunities Implications

10.1 There are no equal opportunities implications arising directly from this report.

11.0 Community Safety Implications

11.1 There are no community safety implications arising from this report.

12.0 Local Agenda 21 Implications

12.1 There are no local agenda 21 implications arising directly from this report.

13.0 Planning Implications

13.1 As detailed within the body of the report.

14.0 Anti-Poverty Implications

14.1 There are no anti-poverty implications arising directly from this report.

15.0 Human Rights Implications

15.1 There are no human rights implications arising directly from this report.

16.0 Social Inclusion Implications

16.1 There are no social inclusion implications arising directly from this report.

17.0 Local Member Support Implications

17.1 The proposed developments would be located within the ward of Seacombe

18.0 Background Papers

18.1 The committee reports relating to each of the applications are ref OUT/2009/5110 and OUT/2009/6509

19.0 Recommendations

19.1 Members are requested to note the decision by the Secretary of State not to intervene further in the planning application W/OUT/2009/06509, the current position in relation to regional planning policy, update of the 106 Legal Agreement, and the submission of the Liverpool Waters application.

19.2 Members are requested to endorse this report which concludes that there are no material considerations arising from the above that give grounds for revising the decision of Planning Committee in relation to planning application W/OUT/2009/06509 or the proposed planning conditions and associated s106 Legal Agreements.

K ADDERLEY

Interim Director of Corporate Services

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