

COMMITTEE DATE: 11/01/2017

APPLICATION No. **16/02730/MJR** APPLICATION DATE: 16/11/2016

ED: **BUTETOWN**

APP: TYPE: Outline Planning Permission

APPLICANT: Associated British Ports

LOCATION: LAND ADJACENT TO LONGSHIPS ROAD AND COMPASS ROAD, CARDIFF BAY, CF10 4RP

PROPOSAL: COMMERCIAL DEVELOPMENT (B2 AND B8 USE CLASSES)

RECOMMENDATION 1 : That planning permission be **GRANTED** subject to the following conditions :

1.
 - A. Approval of the details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
 - B. Plans and particulars of the reserved matters referred to in condition 1A above, shall be submitted in writing to the local planning authority and shall be carried out as approved.
 - C. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 - D. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of the last of the reserved matters to be approved, whichever is the later.

Reasons:

A. In accordance with the provisions of Article 2 of the Town and Country Planning (Development Management Procedure) Order 2012.

B, C and D. In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. Prior to the commencement of development, the developer shall notify the Local Planning Authority of the commencement of development, and shall display a site notice and plan on, or near the site, in accordance with the requirements of Article 12 of the Town & Country Planning (Development Management Procedure)(Wales)(Amendment) Order 2016.

Reason :

3. Outline Planning Permission with all matters reserved is Granted for a maximum of 50,000 sq metres of Commercial Development (B2 Industrial / B8 storage and distribution) on land identified on approved site location plan (ref. CA10948-201).
Reason: For the avoidance of doubt.
 4. This permission does not extend to the provision of buildings to be used for the purpose of the manufacture, storage, processing or distribution of any 'hazardous substances' in excess of the controlled quantity of such substances as indicated in column 2 of Part 1 [Hazardous substances and controlled quantities] or column 2 of Part 2 [Named Hazardous Substances] or column 2 of Part 3 [Substances used in an industrial chemical process] in Schedule 1 of the Town and Country Planning Wales The Planning (Hazardous Substances) (Wales) Regulations 2015 or in any subsequent Schedule to the Regulations or Subsequent Regulations as may replace such regulations.
Reason: For the avoidance of doubt and because this determination has been made on the basis of the development of land for the purposes of the manufacture and distribution of products and materials of a non-hazardous nature.
 5. In respect of the approval of reserved matters, the applicant should note that no part of the buildings to be provided shall exceed 8m eaves or 12m ridge height.
Reason : To accord with the indicative plans upon which this determination was based, and to ensure for an appropriate scale of development within the given context.
 6. Prior to the commencement of any development works a scheme to investigate and monitor the site for the presence of gases* being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to the Local Planning Authority for its approval.
Following completion of the approved monitoring scheme, the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the LPA. If no protection measures are required than no further actions will be required.
All required gas protection measures shall be installed and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the Local Planning Authority agrees in writing that the measures are no longer required.
- * 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas Monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 and or BS8485 year 2007 Code of Practice for the Characterization and Remediation

from Ground Gas in Affected Developments,.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

7. Prior to the commencement of the development an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person * in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) (not required)
- (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) an assessment of the potential risks to:
 - human health,
 - groundwaters and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - ecological systems,
 - archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
- (iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (2012), unless the Local Planning Authority agrees to any variation.

* A 'suitably qualified competent person' would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.

Reason: To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment in accordance with policy EN13 of the Cardiff Local Development Plan.

8. Prior to the commencement of the development a detailed remediation scheme and verification plan to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document 'Land Contamination: A guide for Developers' (July 2006), unless the Local Planning Authority agrees to any variation.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN13 of the Cardiff Local Development Plan.

9. The remediation scheme approved by condition 8 above must be fully undertaken in accordance with its terms prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document 'Land Contamination: A guide for Developers' (July 2006), unless the Local Planning Authority agrees to any variation.

Reason : To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with

policy EN13 of the Cardiff Local Development Plan

10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.
Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN13 of the Cardiff Local Development Plan.
11. Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.
Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.
12. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

13. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.
Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan.

14. The Reserved Matters application required by condition 1 shall include for a site plan indicating the location of, and facilities for the storage of waste and recycling for each unit, and provisions for waste and recycling collections.

Reason: To ensure for a sustainable waste and recycling solution for the development.

15. No development shall take place until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i. The parking of vehicles of site operatives and visitors
- ii. Loading and unloading of plant and materials
- iii. Storage of plant and materials used in constructing the development
- iv. The erection and maintenance of security hoarding
- v. Wheel washing facilities
- vi. Measures to control the emission of dust and dirt during construction
- vii. A scheme of recycling/disposal of waste resulting from any demolition and construction works
- viii. A construction lighting scheme and lighting regime which shall be designed to minimise the disturbance of birds using the foreshore;
- ix. A detailed site preparation and construction noise assessment; and
- x. Such measures as will be implemented to prevent soils and other contaminants from entering the estuary

Reason: In the interests of highway safety; public amenity; and to prevent any contamination of the estuary and any adverse impacts on the wildlife which use it.

16. No site preparation or construction works shall be undertaken during the migratory/overwintering period for wetland birds [October to March Inclusive] without the express consent of the Council's Ecologist.

Reason: To ensure that the development will not disturb migratory / overwintering wetland birds. To ensure that the development does not

disturb migratory / overwintering wetland birds which are designated features of the Severn Estuary European Marine Site.

17. The Reserved Matters applications required by Condition 1 shall include for cross-sections of the proposed development in context of the site and foreshore and also indicate any existing, proposed or temporary bunds, screening or other features in between.
Reason: In order to allow the LPA to assess whether there are any lines of sight between wetland birds on the foreshore and construction activities on the development site. In order to allow the LPA to assess, in accordance with Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (as amended), whether there are any lines of sight between overwintering and migratory wetland birds on the foreshore, and construction activities on the development site.
18. No site preparation or construction works shall be undertaken until a 'Precautionary Working Method Statement' in relation to reptiles has been submitted to and approved in writing by the Local planning Authority, and thereafter all works shall accord with the approved statement.
Reason: To ensure that appropriate working methods and mitigation are applied in order to maintain the conservation status of reptiles / protected species.
19. The measures outlined at section 4.1.7 of the Preliminary Environmental Assessment shall be implemented prior to and during the course of construction, full details of which having first been submitted to and approved in writing by the local planning authority.
Reason: To ensure for appropriate mitigation of the impact of the development on the Environment.
20. No development shall commence until a comprehensive drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul flows and any connection to the existing sewerage network, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in full in accordance with the approved details prior to the beneficial use of the development and thereafter no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
21. Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in

writing, by the local planning authority:

1. A preliminary risk assessment which has identified;
 - All previous uses;
 - Potential contaminants associated with those uses;
 - A conceptual model of the site indicating sources, pathways and receptors;
 - Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
Reason : The controlled waters at this site are of high environmental sensitivity and contamination is known/strongly suspected at the site from the previous historical uses.

22. Prior to the commencement of development (Or other such time as may be agreed with the local planning authority), a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.
Reason : To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.
23. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan

shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long- term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason : To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

24. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

25. Further to the completion of site investigation works but prior to the commencement of any site preparation or construction works, The Draft Construction Environmental Management Plan, produced by Wardell Armstrong, dated September 2016, shall be updated and supplemented in respect of :

- i) the measures to be taken for preventing materials entering the estuary and thereby any adverse impacts on the designated SAC/SPA/SSSI, and
- ii) the proposals for removal or the long-term management / control of Japanese knotweed on the site.

The updated plan shall thereafter be submitted to and approved by the local planning authority in writing prior to the commencement of any site preparation/construction works on the land, and such works shall thereafter accord with the approved plan.

Reason: To safeguard the environment

26. The reserved matters required by condition 1 shall include for a detailed construction methodology, and no site preparation or building construction works shall take place until such time as full details of the proposed building foundations, the nature of building construction, materials / product specifications have been approved as part of the reserved matters.

Reason: To ensure that appropriate regard and actions are taken to minimise the potential for contamination of the estuary and any adverse impacts on the wildlife which use it.

RECOMMENDATION 2 : In respect of the discharge of condition 20, It is recommended that developers should:

1. Follow the risk management framework provided in CLR11, Model procedures for the management of land contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency “Guiding Principles for Land Contamination” (which has been adopted by NRW) for the type of information required in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, e.g. human health.

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to NRW's:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at www.naturalresourceswales.gov.uk for further guidance.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

RECOMMENDATION 3: That the applicant be advised:

The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- (i) determining the extent and effects of such constraints;
- (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management

license. The following must not be imported to a development site;

- Unprocessed / unsorted demolition wastes.
 - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
 - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer. Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

It is confirmed that in making the recommendation to grant planning permission the LPA has had due regard to the environmental information submitted as part of this application

1. **DESCRIPTION OF DEVELOPMENT**

- 1.1 Outline Planning Permission is sought for between Circa 36,000m² and Circa 46,000 sq metres of Commercial Development (B2 Industrial / B8 storage and distribution) development on a 15.4 hectare site to the NE of Queen Alexander Dock.
- 1.2 Submitted plans suggest 3 Masterplanning options which indicate how the site could be developed for the purposes mentioned.

The submission provides

- Completed Forms and Certificates
- Site Location Plan (ref. CA10948-201);

- Masterplan Option A (ref. CA10948-301 Rev A); - 8 Unit option
Indicating 2 large units of Circa 9600m²; 1 medium unit of Circa 5400m²; 3 medium units of Circa 5000m², and 2 smaller units 1200m² and 2400m² respectively.

- Masterplan Option B (ref. CA10948-302 Rev A); - 9 Unit option
Indicating 1 large unit of Circa 12250m²; and 5 medium units of Circa 4500m² to 5100m²; and 2 smaller units 3168m² and 1 unit of 2305m² .

- Masterplan Option C (ref. CA10948-303 Rev A); - 10 Unit option
Indicating 3 medium units of Circa 5760m²; 1 medium unit of Circa 4800m²; 2 medium units of Circa 3840m², 1 medium unit of Circa 3168m² and 3 smaller

units of 1152m².

The application is also accompanied by :

- Design & Access Statement;
- Planning Statement;
- Pre-Application Consultation Report;
- Preliminary Ecological Appraisal;
- Technical Note – Transport;
- Interim Travel Plan;
- Outline Construction Environmental Management Plan; and
- Phase 1 Geo-Environmental and Geotechnical Desk Study

2. **DESCRIPTION OF THE SITE**

- 2.1 The application site itself covers an area of approximately 15.39 hectares (38 acres) and is located to the north east of Queen Alexandra Dock.
- 2.2 The site is bounded by Longships Road to the south, beyond which lies Cardiff Flats and the Bristol Channel/Severn Estuary. Longships Road also bounds the site to the east, beyond which lie a number of industrial compounds and depots. The north of the site is bounded by Compass Road, its roundabout junction with Longships Road and by adjacent commercial units to the west which front onto Cold Stores Road. The Travis Perkins distribution centre and associated surrounding hardstanding bounds the site to the west. Surrounding land use is commercial, industrial and warehousing in nature, including port-related operational land. To the north east of the site is the Valero petrol storage depot. [This is regulated by the Health and Safety Executive (HSE)]
- 2.3 At present, the site accommodates two small aggregate recycling facilities. On the northwest and southwest parts of the site. The remainder (majority) of the site is vacant with areas of rough grass, scrub vegetation and an area of standing water to the north.

The site margins are marked by earth bunds, typically 1m to 2m in height, although the earth bund along the western boundary is up to 5m in height.

- 2.4 A Japanese Knotweed treatment area is located within the central site area, surrounded by Herras fencing. This was previously regulated as a Waste Management Area (WMA) and the subject of a Japanese Knotweed Management Plan.
- 2.5 The site lies at an elevation of 10m to 11m AOD and is partly located in flood zone B. The land/waters to the south of the site are designated as SINC, and the Severn Estuary is designated as a RAMSAR Site and SSSI. The site itself has no conservation or environmental designation.

3. **SITE HISTORY**

- 3.1 The site has previously been used for Rally / Motorsport activities with the

benefit of Planning Permission 00/01496/R Granted in Sept 2000.

3.2 Previously the site has been used for the production of construction fill from recycled bricks and concrete products.

4. **POLICY FRAMEWORK**

Planning Policy Wales Edition 9, November 2016

Chapter 5 - Conserving and Improving Natural Heritage and the Coast

Chapter 7 - Economic Development

Chapter 8 - Transport

Chapter 13 - Minimising and Managing Environmental Risks and Pollution

WG Technical Advice Notes

TAN 5: Nature Conservation and Planning (2009)

TAN 11: Noise (1997)

TAN 12: Design (2009)

TAN 14: Coastal Planning (1998)

TAN 15: Development and Flood Risk (2004)

TAN 23 Economic Development (2014)

Welsh Office Circular

11/99: Environmental Impact Assessment 30/06/99

Cardiff Local Development Plan 2006-2026 (Adopted January 2016)

EC1: EXISTING EMPLOYMENT LAND

EN5: DESIGNATED SITES

EN6: ECOLOGICAL NETWORKS AND FEATURES OF IMPORTANCE FOR BIODIVERSITY

EN7: PRIORITY HABITATS AND SPECIES

EN12: RENEWABLE ENERGY AND LOW CARBON TECHNOLOGIES

EN13: AIR, NOISE, LIGHT POLLUTION AND LAND CONTAMINATION

EN14: FLOOD RISK

T5: MANAGING TRANSPORT IMPACTS

T6: IMPACT ON TRANSPORT NETWORKS AND SERVICES

W2: PROVISION FOR WASTE MANAGEMENT FACILITIES IN DEVELOPMENT

Other Material Considerations

Section 149 Equality Act 2010

Previous Local Plan/UDP Supplementary Planning Guidance
Access, Circulation and Parking Standards Jan 2010

5. **INTERNAL CONSULTEE RESPONSES**

5.1 **Ecology**

The proposed development site lies adjacent to the Severn Estuary European Marine Site.

Under Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 as amended, referred to as the 'Habitats Regulations', a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which...

- a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications for that site in view of that site's conservation objectives. These conservation objectives will be as set out in the most recent advice from Natural Resources Wales.

5.2 The process of establishing whether there is likely to be a significant effect upon a European Site, and if so undertaking an 'appropriate assessment', is known as a Habitats Regulations Assessment or 'HRA'.

5.3 When a planning application is submitted for a proposal which might affect a European Site, Cardiff Council will have to consider whether a HRA is required. In this instance, noting that much of the proposed development is close to the foreshore of the Severn Estuary, my view is that a HRA is required in this instance.

5.4 This being the case I agree with the statement in section 4.1.6 of the Preliminary Ecological Appraisal 'PEA' version C as to the scope of potential impacts upon the Severn Estuary European Marine Site features

However, the level of detail of the HRA must be appropriate to the level of detail of the plan or project concerned. Noting that application 16/02730 is for outline consent, a fully detailed HRA should be left to the subsequent Reserved Matters application.

5.5 At the Outline Planning Application stage I have the following comments in respect of the Severn Estuary European Marine Site:-

5.6 In general I support the measures proposed in section 4.1.7 of the PEA.

5.7 In relation to the second bullet point, it should be clarified that the main overwintering / migratory period for wetland birds should be taken as October to March inclusive. Therefore any construction works should be timed so as to avoid this period.

- 5.8 In relation to the third bullet point, cross-sections of the proposed development should be provided, which include the foreshore and any bunds etc in between. This will help us to assess whether there are any lines of sight between wetland birds on the foreshore and construction activities on the development site.
- 5.9 The threshold of visual disturbance, beyond which any disturbance effects are not considered to be significant, is taken as 200m. Therefore, approximately half of the site (i.e. the northern half) is beyond this threshold and so effects of disturbance upon wetland birds need not be considered.
- 5.10 Measures to avoid mobilisation of ground contaminants such that they enter the Severn Estuary have been proposed by NRW in their response of 1st November 2016. Provided these are implemented then it should be possible to avoid significant contamination of the Estuary.
- 5.11 If these measures are implemented and this information provided, then in principle it should be possible to avoid a likely significant effect upon the Severn Estuary European Marine Site, such that an appropriate assessment is not needed.
- 5.12 In relation to other nature conservation issues, at point 4.1.12 of the PEA there is a suggestion that further GCN surveys are needed. We have no records of GCN in this part of Cardiff, and this area has been heavily modified by industrial usage over the last 200 years, so I would say that it is very unlikely that this species would be present. Therefore I do not see the need for further GCN surveys.
- 5.13 I look forward to commenting on a Precautionary Working Method Statement in relation to reptiles, which should be submitted in support of any Reserved Matters application.
- 5.14 **Traffic and Transportation**
- 5.15 The Transport Officer notes that the development is part of the secure port, but will connect with the adopted highway. The submitted technical note on Transport and Submitted travel plan acknowledge the principle of providing and maintaining car parking standards below a maximum threshold in accordance with the Council's SPG and committing to more sustainable transport modes including walking and cycling as well as public transport. Approval of such matters can therefore be left to a reserved matters stage.
- 5.16 The Highway network to the secure port and application site have been constructed to accommodate heavy vehicles and long vehicles of both fixed and articulated axle design. As such there is no objection to the principle of the use of the land for industrial/storage and distribution purposes, especially as it is designated as employment land.
- 5.17 As all matters are reserved, access and manoeuvring will need to be considered at

a detailed level in the future, however the principles of road design offered within the supporting documentation would appear appropriate as there is no objection to any of the indicative road / distribution arrangements proposed.

5.18 Waste

5.19 In the Reserved Matters application, a location for the storage of waste and recycling, and presentation for collection must be included on site plans, refuse storage must thereafter be retained for future use. Waste must not be stored on the highway.

5.20 Waste Management have no preference over which site plan option is chosen. All are equally suitable in regards to access for waste collections.

5.21 Please remind the agent/applicant that a commercial contract is required for the collection and disposal of all commercial waste (see extract from the Waste Collection and Storage Facilities SPG below):

5.22 Pollution Control Noise and Air
No Comment

5.23 Pollution Control Contaminated Land

In reviewing available records and the application for the proposed development, the site has been identified as formerly commercial/industrial. In addition former landfill/raise sites have been identified on and within 250m of the proposed development. Such sites are associated with the generation of landfill gases, within subsurface materials, which have the potential to migrate to other sites. These factors may give rise to potential risks to human health and the environment for the proposed end use. This is supported by the following information submitted as part of the application:

Wardell Armstrong, 21/09/2016; Phase I Geo-Environmental and Geotechnical Desk Study Report Ref: CA10948

5.24 An assessment of the risks associated with potential contamination and ground gas is therefore required. The above report negates the need for a contamination desk study and the standard contamination condition should be amended to reflect this.

5.25 Should there be any importation of soils to develop the landscaped areas of the development, or any site won recycled material, or materials imported as part of the construction of the development, then it must be demonstrated that they are suitable for the end use. This is to prevent the introduction or recycling of materials containing chemical or other potential contaminants which may give rise to potential risks to human health and the environment for the proposed end use.

5.26 Shared Regulatory Services requests the inclusion of the following conditions and informative statements in accordance with CIEH best practice and to ensure that the safety of future occupiers is not prejudiced in accordance with policy EN13 of the Cardiff Local Development Plan:

Ground gas protection
Contaminated land measures – assessment (amended).
Contaminated land measures – remediation & verification plan
Contaminated land measures - remediation & verification
Contaminated land measures – unforeseen contamination
Imported soil
Imported aggregates
Use of site won materials
Contamination and unstable land advisory notice

- 5.27 **Cardiff Harbour Authority**
Any Comments will be reported at Committee

6. **EXTERNAL CONSULTEE RESPONSES**

6.1 **Health and Safety Executive**

HSE have been consulted and have referred the LPA back to the web consultation system. HSE advice is that the development is within the consultation distance of a hazardous installation and that further advice should be sought. Any further advice will be reported at committee.

6.2 **Welsh Water**

We have reviewed the information submitted as part of this application and note that the submission does not include a drainage strategy. Our records indicate the drainage within the vicinity of this site is private. We therefore recommend that if you are minded to grant planning consent for the above planning application that the following conditions and advisory notes are included within any subsequent consent notice.

Conditions:

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul flows and any connection to the existing sewerage network, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

6.3 **Natural Resources Wales**

Based upon the information provided, we would recommend that the LPA should only grant planning permission if conditions were attached to any permission granted. These would address significant concerns that we have

identified and we would not object provided these conditions were attached to any future permission.

6.4 Land Contamination

The desk study has highlighted numerous historical uses of the site, which have the potential to have caused contamination of the soil and groundwater. The site is located on Secondary A and B aquifers and adjacent to the Severn Estuary Special Area of Conservation (SAC), which we consider to be of high environmental sensitivity with respect to controlled waters. If any planning application was submitted we would request the following conditions to be imposed on any planning permission granted.

Condition 1

Prior to the commencement of the development approved by this planning permission (or such other date or stage in the development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified;
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason

Natural Resources Wales considers that the controlled waters at this site are of high environmental sensitivity and contamination is known/strongly suspected at the site from the previous historical uses.

Condition 2

Prior to [commencement of development]/ [occupation of any part of the permitted development], a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a

“long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason : To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition 3

Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason : To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

Condition 4

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

Construction Environmental Management Plan

Condition 5

The Draft Construction Environmental Management Plan, produced by Wardell Armstrong, dated September 2016, should be updated once the site investigation works are completed. In addition, further details are required in the Construction Environmental Management Plan regarding i) the measures to be taken for preventing materials entering the estuary – see comments below regarding the SAC/SPA/SSSI, and ii) the proposals for removal or the long-term management / control of Japanese knotweed on the site.

6.6 Site Drainage

Condition 6

There has been no information on potential site drainage submitted. At the planning application stage, details on foul water and surface water drainage should be included in a drainage strategy. Depending on the level of

information provided, further details may then be required to be submitted as part of a condition of any permission granted.

6.7 We recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model procedures for the management of land contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency “Guiding Principles for Land Contamination” (which has been adopted by NRW) for the type of information required in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, e.g. human health.

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

We recommend that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at www.naturalresourceswales.gov.uk for further guidance.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

6.8 Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), RAMSAR, Site of Special Scientific Interest (SSSI)

The proposed development is located 50metres away from the above statutory designated sites. Due to the close proximity of the application site to these designations, there is the potential for the proposals to affect the features of the above protected sites during both the construction and operational phases of the development.

We have reviewed the 'Prairie Site, Longships Road, Port of Cardiff Ecological Appraisal Rev – A' dated June 2016. We support the suggested approach to assessing the potential effects of the development on breeding and wintering birds using the foreshore, as advised by Cardiff's in-house Ecologist. We also support the measures detailed in 4.1.7 which are to be employed during the construction phase of the development. An appropriate lighting regime should be chosen for the site both during and post construction which minimises the disturbance of birds using the foreshore and we would also recommend that a noise assessment be included with the planning application.

Great care must be taken to prevent soils and other contaminants from entering the estuary as part of the proposals, particularly during construction. We would expect details of construction activities and associated measures for preventing materials entering the estuary to be included with the planning application documentation as referred to in section 4.1.7 of the above document.

6.9 Great Crested Newts- European Protected Species

We note that the Ecological Appraisal report submitted in support of the above application produced by Wardell Armstrong, dated June 2016 has identified that Great Crested Newts were not using the application site. We therefore have no further comments to make on this matter.

Our comments above relate specifically to matters that are included on our checklist Natural Resources Wales and Planning Consultations (March 2015) which is published on our website at this link

(<https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

6.10 South Wales Police

Raise no objection to the proposals but would urge the developer to ensure for adequate site protection and security measures at a reserved matters stage, and that the development be designed to achieve:

- 1 A Design and layout which provides for parking is close to and well over looked from the industrial units to reduce risk of vehicle related crime.
- 2 All ground floor entrance/exit doors (other than designated fire exit doors) comply with PAS24: 2012. To reduce risk of burglary.
- 3 All buildings should be fitted with police policy compliant monitored alarm systems reason to reduce the risk of burglary.
- 4 All ground floor windows should be PAS24 2012 compliant reason to reduce risk of burglary.
- 5 A scheme of work should be submitted to the local authority for approval in terms of estate lighting to enhance public safety.

6 A scheme of work should be submitted to the local authority for approval in terms of CCTV reason to deter crime / assist in any necessary prosecutions.
7 Site enclosure by 2.1 min weld mesh fencing and gating when not in use to prevent crime.

7. **REPRESENTATIONS**

Adjacent Occupiers have been consulted and the proposals have been advertised on site and in the local press. No representations have been received.

8. **ANALYSIS**

8.1 **Environmental Impact Assessment**

The proposal has been screened with regard to the need for the preparation of an Environmental Statement under screening application SC16/00007/MJR where it was concluded that the proposals were a Schedule 2 Development for the Purpose of the Regulations but were not an EIA development necessitating the submission of an Environmental Statement as the Development of industrial units in the location and the given context were not considered to have any significant environmental effects to warrant the submission of an Environmental Statement provided that any subsequent application for planning permission was accompanied by sufficient technical documentation to allow the Local Planning Authority to consider the local environmental impacts of the proposals.

This has been undertaken.

8.2 **Overview**

The proposal is for industrial and storage/distribution uses on an area of land of limited ecological value allocated for employment use in the Local Development Plan. The land is however located next to the foreshore and Severn Estuary which holds several environmental/ecological designations; and close to a petrol chemical storage installation. As such the principal issues to be considered are the quantum of development, the nature of the industrial / storage proposals; the impact on the highway network; and the prevention of pollution, both generally and to the designated sites.

8.3 **Land Use**

The application proposes Industrial and Storage and Distribution uses on an area of land designated for employment use in the Local Development Plan. The proposals therefore raise no land use policy objection.

The application confirms that there is no intention to manufacture, store or distribute hazardous substances. This can be controlled by means of planning condition.

8.4 Design

Three indicative options of between Circa 36,000 and 46,000m² have been submitted. As the application is in outline, a ceiling level of 50,000 m² of development floorspace is considered appropriate, and would allow the developer further flexibility in design. This can be controlled by condition. All of the three indicative layout options proposed indicate buildings with an eaves height of 8m and ridge height of 12m. The scale of the units is not objectionable within this industrial setting and can again be controlled by condition.

8.5 The Natural Environment

The site is a previous land fill site on reclaimed land with industrial history, and a large proportion of it has previously been used for rally car racing. It offers limited habitat potential, although a precautionary approach is suggested in respect of reptile protection.

The site bounds the Severn Estuary which contains a number of protective designations, principally relating to the marine environment and in respect of available habitat for overwintering and migratory birds. An assessment has been made in accordance with Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (as amended). Conditions have been proposed by the Council's own ecologist and by Natural Resources Wales to avoid significant harm to the features of the Severn Estuary nature conservation designations. Provided the proposed conditions are implemented, it is not considered likely that the proposed scheme would be likely to have a significant effect upon those features, as required by the Conservation of Habitats and Species Regulations, however a more detailed appraisal of these impacts will take place at the reserved matters stage.

There is nothing within the conclusions/recommendations of either party which would suggest that the site should not be used for the purposes proposed, and the Planning Officer considers that the recommended conditions are appropriate and meet planning tests.

8.6 Pollution

The Planning Officer notes the site to be some 600m away from the nearest existing residential development at Adventurers Quay and separated from it by the operational dock. The site is also some 470m away from the nearest proposed residential development at Roath Basin South (Porth Teigr) and similarly separated by the operational port. Given the allocation of the land for employment purposes, and the nature of the context it is considered unlikely that the use of the land for industrial and storage and distribution uses would cause any undue disturbance to existing or future residents located at this distance. The lack of objection from the Council's pollution control officer (Noise and Air) is also noted and the planning officer is also of a mind that any additional requirement for sound proofing as might be necessary for any potentially noise intensive B2 use can be accommodated at the point of the consideration of reserved matters.

8.7 Flood Risk

A proportion of the site falls within flooding zone B, in respect of which there may have been a history of flooding, and where TAN 15 suggests a precautionary approach where site levels should be checked against the extreme (0.1%) flood level. The TAN suggests that if site levels are greater than the flood levels used to define adjacent extreme flood outline there is no need to consider flood risk further.

The site is also predominantly higher than 10-11m AOD. and the Phase 1 Geo-environmental and geo-technical desk study submitted with the application suggests that the site is at less than a 1 in 1000 risk of flooding in any year.

It is the Planning Officer's opinion that non residential use of the land is therefore appropriate, and that the likelihood of damage to plant or stored materials or products would be very low, and that the consequences of flooding can therefore be appropriately managed within the detailed design of the buildings.

8.8 Transport

The Transportation Officer has noted that the site is located within the secure port area, but is accessed from the adopted highway network.

That network however is designed to accommodate the largest and heaviest of vehicles, as it serves a number of industrial areas and processing facilities. The Planning Officer therefore concurs that the development is unlikely to place any unacceptable additional burden on the network

The final access point and road layout within the development are therefore considered appropriate to evaluate at the reserved matters stage.

8.9 Waste Management

A commercial contract will be required for the disposal of commercial wastes, whether utilising local authority, private, or specialised services. It will be an expectation of the design however that it accords with Local Authority adopted standards. A condition is recommended in this regard.

8.10 Other Issues

The site is located adjacent to the Valerto Petrol Depot which is covered by COMAH Regulations. The applicant confirms that it is not envisaged that the industrial uses for which planning permission is sought will involve the manufacture, processing or storage or distribution of any notifiable quantities of hazardous substances as may require hazardous substance consent.

The planning officer considers that the proposed use will undoubtedly provide

for a more intensive use of Longships Road, but that the carriageway is both constructed for vehicle weight and size and that therefore the proposed use should not present any significant impact on the safe operations of the fuel depot.

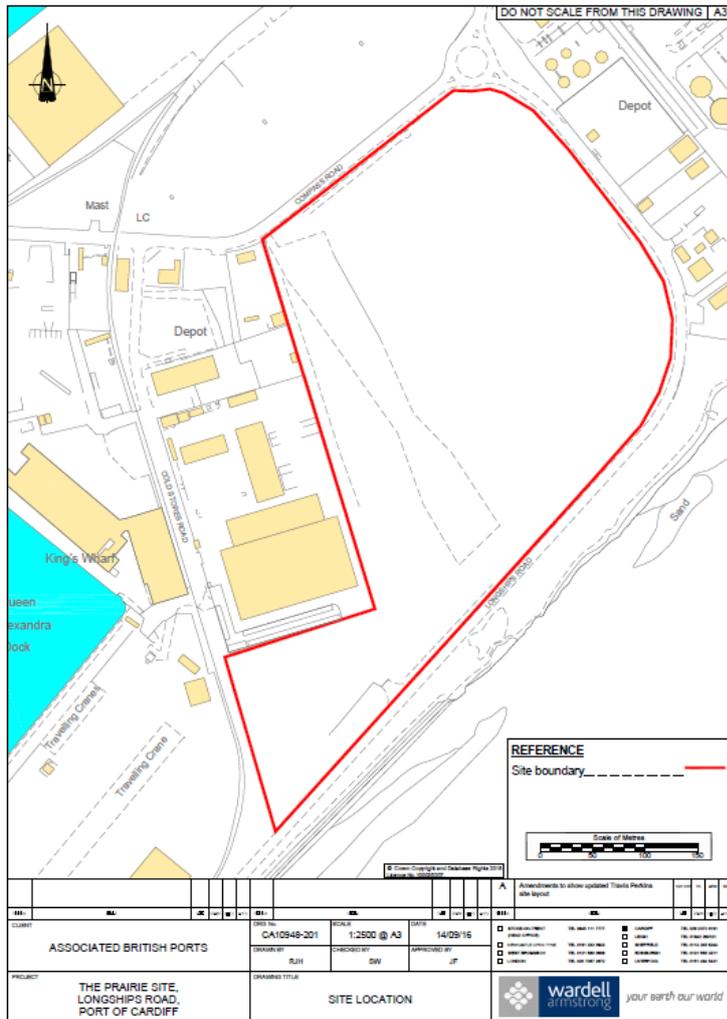
Any contrary advice or specific requirements of received from HSE will be reported at planning committee.

9. **SECTION 106 MATTERS**

9.1 None

10. **RECOMMENDATION**

10.1 That OUTLINE Planning Permission be Granted subject to conditions relating to matters which are not reserved for future consideration.



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