

SECTION B – MATTERS FOR INFORMATION

AFAN VALLEY ADVENTURE RESORT - UPDATE REPORT

<u>APPLICATION NO:</u> P2018/0493	<u>DATE:</u> 25/07/2018
PROPOSAL:	Outline planning application (including access) for a proposed adventure resort comprising 600 no. lodges/apartments, 100-bed hotel with associated spa, central plaza containing restaurants, leisure activities and shops, adventure activities and associated buildings (including X-sports, alpine/ski, forest activities and Trax & Trail), restaurants and associated administration and maintenance buildings and parking for approx. 850 cars, plus associated landscaping, drainage and engineering operations including re-profiling of land, boundary treatment, retaining structures, external lighting and CCTV, and diversion of public rights of way. Additional and amended information received on 25/01/2019 and 07/02/2019 under Regulation 24 with regard to biodiversity, landscape and visual impact, social economic impact and transport together with modifications to the masterplan and parameters plan.
LOCATION:	Land At Pen Y Bryn, Croeserw Cymmer, Port Talbot
APPLICANT:	Afan Valley Limited
TYPE:	Outline
WARD:	Cymmer

BACKGROUND

Original Committee Resolution

On 19th March 2019 Officers brought the above planning application for the proposed 'Afan Valley Adventure Resort' before the Planning Committee, at which time Members resolved as follows:

1. That following the site visit prior to today's meeting on 19 March, 2019, and in accordance with Officers' recommendations, Application No.P2018/0493 be approved, subject to the conditions detailed in the circulated report (as revised in the circulated amendment sheet), and subject to the applicant entering into a

Section 106 Agreement with the broad Heads of Terms detailed in the circulated report: -

- Inclusion of a Legal Framework to address provision of Solar farm site and another off-site compensation site/s and associated Habitat Management Plans in accordance with a sequential approach
 - Contribution towards / provision of access to and improvements to National Cycle Network Route 885
 - Implementation (as far as practicable having regard to site works) of advanced structural landscaping.
2. That if the required section 106 agreement is not completed within six months of the date of this resolution (unless the LPA has otherwise agreed to an extension of this time limit in writing), that delegated authority is given to refuse planning permission on the basis that in the absence of the required legal agreement, the identified environmental impacts of the development, notably on biodiversity / habitat, would not be mitigated, precise reasons to be agreed in consultation with the Chair of Planning.
3. That delegated authority is given to the Head of Planning & Public Protection and Development Manager – Planning, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and outline consent issued.

Links are provided below to the Committee documentation from 19th March 2019: -

- [Officer's report](#)
- [Amendment Sheet](#)
- [Minutes](#)

Actions Subsequent to Committee Resolution

Following the original Committee resolution, little initial progress was made with the developer or its appointed agent towards resolving such legal issues. In addition, and as outlined in the [Update report](#) presented to Members on September 24th 2019, significant matters of concern were raised in the National press and on television concerning the alleged serious financial issues and irregularities concerning Northern

Powerhouse Developments (NPD) and its Director Gavin Woodhouse, the company and person behind the applicant, Afan Valley Limited.

Most pertinently for this Authority, these allegations of financial impropriety raised concerns relating to the information that was contained in the Business Plan submitted by the applicants on 7th February 2019, and which formed a significant part of the officer's appraisal of the application in question.

The 24th September 2019 Update report to members identified that, subsequent to reporting of financial allegations relating to Northern Powerhouse Developments, ongoing discussions have been led by Peter Moore who, despite stepping down from his role with NPD, has emphasised in writing and through recent actions that he remains committed to driving the project forward in conjunction with the appointed interim managers / administrators Duff & Phelps. It is also emphasised that Mr Moore was not the subject of or linked with any financial impropriety.

The further report put before Members on September 24th 2019 also provided an update with regards to the signing of the S106 Agreement and notably considered the updated business/ financial case which had been put forward and was required to be re-assessed against Policy TO1 of the LDP. At this meeting, and based upon that updated business / financial case, it was resolved that Members reaffirm their support for the development on the following basis:

1. That planning permission be GRANTED for the development subject to the conditions detailed below, and subject to signing of a legal agreement under section 106 based on the following broad Heads of Terms:
 - Inclusion of a Legal Framework to address provision of Solar farm site and another off-site compensation site/s and associated Habitat Management Plans in accordance with a sequential approach
 - Contribution towards / provision of access to and improvements to National Cycle Network Route 885
 - Implementation (as far as practicable having regard to site works) of advanced structural landscaping.
2. That if the required section 106 agreement is not completed by 31st March 2020, that delegated authority is given to refuse

planning permission on the basis that in the absence of the required legal agreement, the identified environmental impacts of the development, notably on biodiversity / habitat, would not be mitigated, precise reasons to be agreed in consultation with the Chair of Planning.

3. That delegated authority is given to the Head of Planning & Public Protection and Development Manager – Planning, to make changes to the conditions and/or Heads of Terms of the required legal agreement, subject to consultation with the Chair of Planning, up to the point where the legal agreement is signed and outline consent issued.

Since that date, positive discussions have been ongoing with Peter Moore and the appointed agents in respect of finalising the required section 106 legal agreement. In this respect, although the original 31st March 2020 'deadline' has passed, officers have continued with such negotiations/ discussions having regard to the potential strategic significance of the development and the inevitable impact on timescales during the ongoing Covid-19 pandemic.

Notably, these discussions have included the Council being kept informed of ongoing progress by Peter Moore to secure the development finance necessary to implement his overarching vision put before Members at previous meetings.

Matters have, however, recently stalled with it becoming increasingly clear that the site owners / administrators are looking first and foremost to achieve a planning permission for the development (presumably to maximise land value). While understanding the economic case for such a stance, there is significant concern that this will put at risk delivery of the vision put before the Council by Peter Moore and his partners. Accordingly, Officers are concerned that the overall deliverability of the vision, and ultimately compliance with Policy TO1, is at risk.

PURPOSE OF REPORT

Within the above context, the purpose of this report is to update Members of recent correspondence which has been sent to the applicants and the potential implications for this development and the resolution of Members to grant planning permission for the development.

Recent Correspondence

On 12th June 2020, the Director of Environment and Regeneration wrote to the applicant (owner/administrator) emphasising the positive ongoing progress and continued support of the Council for the project. A copy of the letter is provided in full at Appendix A.

The letter emphasised Officers' view of the important role of Peter Moore in the project 'vision' as follows: -

I think it is fair to say that we have been very impressed with Mr. Moore's passion for and dedication to this project, his history in delivering national tourism projects elsewhere in the country, his continuing relationships with key partners (such as Landal Green Parks, Bear Grylls, Neuman Aqua and SnowFlex), and more recently his ability to secure the interest of substantial investors who are key to delivering this scheme beyond the outline planning stage. For this reason, Mr. Moore's role in this project appears to be critical to ensure that it delivers on its vision and continues to remain in compliance with Policy TO1 of the Neath Port Talbot Local Development Plan which requires the developer to demonstrate deliverability.

Moreover, the letter noted the economic uncertainties surrounding Covid-19 and the importance of such a project being truly deliverable, as follows: -

The events of recent months have, however, brought firmly into focus the importance of planning as part of the economic recovery post Covid-19 for Wales as a whole and for NPT in particular. Indeed, this message is coming across very clearly from the Welsh Government. In this wider economic context, and having regard to the history of undelivered development on this site, together with other failed large-scale strategic projects elsewhere in Wales, the Council is understandably keen to ensure that any planning decision on such a significant development has the best prospects of being delivered. Issuing a planning permission would, on the face of it be a dramatic statement of intent for this part of Wales, and one which will be greeted with huge enthusiasm locally, but if it were to once again fail to deliver on its vision would undeniably represent a failure on the part of the Planning Authority to ensure such a project was truly deliverable and worthy of the unstinting support it has been given.

Officers thus sought assurances from the applicant to offer comfort by confirming what measures are in place to deliver this project in terms of creative vision, option agreements and /or securing finance.

Although discussions with the agent continued, the applicant failed to respond to the questions raised in the letter and progress has recently stalled, with no further response received to the section 106 agreement negotiations. Accordingly, on 11th September 2020 the Chief Executive

wrote to the agent expressing disappointment that we had not received a response to the earlier letter.

His letter (Appendix B) also expressed the view that *“the only way forward for this site is for [the applicant] to engage with Mr. Moore to deliver on his vision, with his partners. Without this, I feel it is unlikely that Members will be satisfied that the proposal is indeed deliverable in compliance with Policy T01 ... and I anticipate that Members may not look favourably in terms of its positive determination”*.

The letter has also given the applicant a deadline of **31st October 2020** for them to provide to the Council confirmation that there is a funded proposal which is deliverable.

Advising them that this report will be provided to members (with their opportunity to attend Committee and address members should they so wish) the letter also emphasises that *“without tangible evidence that funding agreements are in place to secure delivery of the project in accordance with the vision set out in the application submissions, then I feel it is very likely that the goodwill and support offered to date by this Authority can no longer be sustained, and a recommendation is likely to be made that the scheme no longer meets the required policy tests”*.

Realistically, this means confirmation that they have reached agreement with Peter Moore which will ensure that he remains as the driving force for delivery of the project, along with his partners.

This does not mean that Officers do not support the delivery of the Afan Valley Adventure Resort scheme – indeed quite the contrary. However it must be acknowledged that a number of leisure developments have been proposed for this site dating back decades, none of which have progressed beyond the planning stage. In contrast the currently proposed scheme, due to its vision, the experience of the parties involved and the funding that they are in the process of securing, suggests that there is a reasonable chance that a scheme will now be implemented. This is however reliant upon the continued involvement of experienced leisure operators including Mr Peter Moore, who has been instrumental in progressing this application to this stage in addition to securing the interest of major investors. In the absence of the continued involvement of these operators, it is not possible to confirm with any confidence the deliverability of this scheme in accordance with planning policy requirements. In other words, we can no longer support the grant of planning permission without any certainty of delivery, since to do so would risk granting a consent which would promise much but deliver

little, similar to the position experienced in relation to the previous proposals for this site.

During any time, offering such hope without delivery would be devastating for the community, but in the current economic times, and with an eye on the need to deliver post-Covid prosperity for NPT and the wider South Wales region, this would undeniably represent a failure on the part of the Planning Authority to ensure such a project was truly deliverable and worthy of the unstinting support it has been given.

It is emphasised that the appointed agent, Nineteen 47, and their specialist consultants have been in regular dialogue with Officers to progress this application since the amended resolution was made on 24th September 2019. They have also confirmed that Peter Moore is at a very advanced stage with a potential funder to deliver this project.

In this regard, it is sincerely hoped that the next six weeks will lead to constructive discussions between Peter Moore and the applicants/administrators which will give the required degree of confidence that legal mechanisms are in place to secure delivery of the vision brought before members, enable section 106 matters to be finalised, and for a planning permission to be issued.

Members are further advised that, provided a positive response is received, the further report will seek to address the outstanding matters raised by the s106 discussions, including a review of the 'planning balance' to reflect a biodiversity 'back-stop' financial contribution, together with changes to conditions, all to enable a decision to be issued shortly thereafter.

However, should the matters raised above not lead to a satisfactory response, then the further report will seek to re-assess the proposal to determine whether it remains in accordance with Policy TO1 in respect of the concerns over deliverability of the submitted scheme.

RECOMMENDATION

That Members note the above for information only.

APPENDIX A



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Dyddiad/ Date	12 th June 2020
Rhif Ffôn/ Direct Line	01639 686727
Ebost/ Email	s.ball@npt.gov.uk
Cyswllt/ Contact	Steve Ball
Eich cyf / Your ref	
Ein cyf/ Our ref	P2018/0493

Mr. Jamie Pyper
Nineteen47 Ltd
106 Micklegate
York
YO1 6JX

BY EMAIL ONLY

Dear Mr. Pyper,

Proposal: Outline Planning Application (including access) for a Proposed Adventure Resort comprising 600 no. lodges/ apartments, 100-bed hotel with associated spa, central plaza containing restaurants, leisure activities and shops, adventure activities and associated buildings (including X-Sports, Alpine / Ski, Forest Activities and Trax & Trail), restaurants and associated administration and maintenance buildings and parking for approx. 850 cars, plus associated landscaping, drainage and engineering operations including re-profiling of land, boundary treatment, retaining structures, external lighting and CCTV, and diversion of public rights of way.

Location: Land At Pen Y Bryn Croeserw Croeserw Cymmer, Port Talbot

Applicant: Afan Valley Ltd, C/O Agent

Ref: P2018/0493

I am writing to you further to our ongoing and productive discussions in respect of the above application.

As you are aware, my officers have been assisting me in progressing this important project through the planning system, with ongoing discussions being both positive and productive. Indeed, since a resolution to grant outline planning permission was agreed by Members, we have been in discussion with NRW and our Estates section to secure an acceptable off site strategic biodiversity site which aims to address the biodiversity impact of this development, and to address all outstanding matters relating to sustainable transport and the finer details of conditions.

Amgylchedd ac Adfywio

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG
Ffôn 01639 686868

Environment and Regeneration

Ceri Morris Head of Planning and Public Protection
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG
Phone 01639 686868

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Whilst these discussions have been positive to date, the additional compensation site has yet to be secured and therefore this has led the Authority to take a wholly proactive stance in developing appropriate clauses in the legal agreement to secure a sequential approach to the provision of such mitigation, along with an agreed 'financial backstop' contribution towards the implementation of biodiversity mitigation in the event such a site cannot be secured. Once we have finalised the finer details within the agreement, and sought ratification through Committee, this approach will help us achieve all of our objectives of bringing forward a potentially transformational development project to the Afan Valley. Which brings me to the issue in hand.

As you and your clients are aware, this site and its tourism potential has for over 20 years been the subject of much anticipation. A number of developers have come and gone over the years with promises of delivering a scheme which would positively benefit the fragile economy and natural environment of the Afan Valley and beyond. For various reasons, and despite positive progress in relation to the regulatory system, none of the developments has progressed beyond the outline planning stage. The local Community has had its hopes dashed previously, and yet welcomes this development with open arms.

For this reason, and given the very strict planning policies in place with regard to developments within the open countryside, we took a very cautious approach before reporting this application to committee back in September 2019, whereby we sought letters of intent from the partners involved in the scheme. Whilst this approach was not positively received at the time by Mr. Woodhouse, I think you will agree that the approach was the right one to take given the position which subsequently unfolded.

Since that time, the former applicant Mr. Gavin Woodhouse has been removed from the project and there remain various interested parties including Mr. Mishon as site owner, the administrators on behalf of Afan Valley Ltd (the applicant, now excluding Mr. Woodhouse) and Mr. Peter Moore who has been leading on the vision and more recently the funding associated with this project.

I think it is fair to say that we have been very impressed with Mr. Moore's passion for and dedication to this project, his history in delivering national tourism projects elsewhere in the country, his continuing relationships with key partners (such as Landal Green Parks, Bear Grylls, Neuman Aqua and SnowFlex), and more recently his ability to secure the interest of substantial investors who are key to delivering this scheme beyond the outline planning stage. For this reason, Mr. Moore's role in this project appears to be critical to ensure that it delivers on its vision and continues to remain in compliance with Policy TO1 of the Neath Port Talbot Local Development Plan which requires the developer to demonstrate deliverability.

The events of recent months have, however, brought firmly into focus the importance of planning as part of the economic recovery post Covid-19 for Wales as a whole and for NPT in particular. Indeed, this message is coming across very clearly from the Welsh Government. In this wider economic context, and having regard to the history of undelivered development on this site, together with other failed large-scale strategic projects elsewhere in Wales, the Council is understandably keen to ensure that any planning decision on such a significant development has the best prospects of being delivered. Issuing a planning permission would, on the face of it be a dramatic statement of intent for this part of Wales, and one which will be greeted with huge enthusiasm locally, but if it were to once again fail to deliver on its vision would undeniably

represent a failure on the part of the Planning Authority to ensure such a project was truly deliverable and worthy of the unstinting support it has been given.

With this in mind, and having regard to the importance of Peter Moore to the project, I am especially mindful that, to our knowledge, Mr. Moore does not currently have a 'legal interest' in this project despite being critical to its delivery. Indeed I understand any option agreements that may exist on the land do so only with Afan Valley Ltd. which Mr. Moore is not part of (due to the recent issues with Mr. Woodhouse). Accordingly at this stage he would not be a signatory to the legal agreement. I have therefore been in discussion with our legal service to establish how we can secure legal comfort which would address this concern.

Such discussions have included the potential to secure the submission of a delivery agreement prior to the submission of reserved matters, thus maximising deliverability of this scheme and reducing the potential for our communities to be let down again. However, of course, it is quite possible that the owner and administrators will have sought themselves to introduce appropriate measures to secure and retain Mr. Moore's involvement, given his importance to the project. Nevertheless, we would be grateful if you could respond to offer us some comfort in this regard by confirming what measures you have put in place to deliver this project in terms of creative vision, option agreements and /or securing finance I look forward to receiving your thoughts on this.


Whilst I am waiting for our legal advice to be finalised, I considered it important to advise you that it is not my intention to report this application to Members of the Planning Committee until I have received that advice and have an agreed way forward with the applicant which enables me to confirm that this scheme remains fully in compliance with Policy TO1.

Please note, however, that the above should not place in any doubt that the Authority remains wholly committed to delivering this potentially Regionally-significant project through to outline planning permission as soon as possible, and beyond to delivery. In this respect, I would reiterate the firm view of my officers and I that Mr. Moore and his team of companies, consultants and potential funders gives this project the best, and probably only, chance of progressing swiftly to delivery. Moreover, I trust that you will understand that the underlying economic issues identified above require us all to work together to ensure planning permission is ultimately issued for a deliverable development.

I therefore trust that we can all work to pull together the various strands of the legal agreement, project team and funding in the very near future so that we can then look positively towards the next stages of the planning process together.

I trust that this sufficiently updates you on my position and look forward to hearing from you.

Yours sincerely,



Nicola Pearce
Director of Environment & Regeneration

Mr. Jamie Pyper
Nineteen47 Ltd
106 Micklegate
York
YO1 6JX

BY EMAIL ONLY

Dear Mr. Pyper,

Proposal: Outline Planning Application (including access) for a Proposed Adventure Resort comprising 600 no. lodges/ apartments, 100-bed hotel with associated spa, central plaza containing restaurants, leisure activities and shops, adventure activities and associated buildings (including X-Sports, Alpine / Ski, Forest Activities and Trax & Trail), restaurants and associated administration and maintenance buildings and parking for approx. 850 cars, plus associated landscaping, drainage and engineering operations including re-profiling of land, boundary treatment, retaining structures, external lighting and CCTV, and diversion of public rights of way.

Location: Land At Pen Y Bryn Croeserw Croeserw Cymmer, Port Talbot

Applicant: Afan Valley Ltd, C/O Agent

Ref: P2018/0493

I am writing to you further to Nicola Pearce's letter dated 12th June 2020, and our ongoing and productive discussions in respect of the above.

While I am aware that there have been some discussions following our letter with my Development Manager – Planning, Steve Ball, to date we have not received a formal response from the applicant / administrator. I find this very disappointing given the important content of that correspondence.

Chief Executive's Office
Swyddfa'r Prif Weithredwr

Steven Phillips
Chief Executive
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In particular, I would wish to again reiterate the importance that the Council places on the role of Mr. Peter Moore in seeking to deliver on the vision for the site and, most pertinently, in ensuring that the development continues to remain in compliance with Policy TO1 of the Neath Port Talbot Local Development Plan which requires the developer to demonstrate deliverability. Indeed, I would now go so far as to say that I consider the only way forward for this site is for you to engage with Mr. Moore to deliver on his vision, with his partners. Without this, I feel it is unlikely that Members will be satisfied that the proposal is indeed deliverable in compliance with Policy TO1 as referred to above, and I anticipate that Members may not look favourably in terms of its positive determination.

In this context, Nicola's letter requested a response to provide the council with comfort by confirming what measures you have put in place to deliver this project in terms of creative vision, option agreements and /or securing finance. I am led to understand that Mr. Moore has been very busy behind the scenes in securing funding and so I would assume that discussions are ongoing between all parties to secure appropriate option agreements, and thereby secure a fully funded and deliverable proposal. Despite this we have failed to receive a response to that letter.

I must therefore advise that not only do we require an urgent response to this letter, but we also now seek **by no later than 31st October 2020** confirmation that there is a funded proposal which is deliverable.

Please also note that we will be taking a report to our Planning Committee on or around the 29th September to update Members of the above, and a further report in early November following the passing of the above deadline. You or your clients will be able to attend either or both (remote) Committee meetings should you/they wish and to address Members. However, I would advise that without tangible evidence that funding agreements are in place to secure delivery of the project in accordance with the vision set out in the application submissions, then I feel it is very likely that the goodwill and support offered to date by this Authority can no longer be sustained, and a recommendation is likely to be made that the scheme no longer meets the required policy tests.

As previously advised, issuing a planning permission would on the face of it be a dramatic statement of intent for this part of Wales, and one which will be greeted with huge enthusiasm locally, but if it were to once again fail to deliver on its vision would undeniably represent a failure on the part of the Planning Authority to ensure such a project was truly deliverable and worthy of the unstinting support it has been given. We will not, therefore, support a proposal at the site other than that which has been brought before members in recent years.

I therefore sincerely hope that you will be able to make appropriate progress in the next six weeks to provide the Council with the required confirmation that will then allow a final report to come before Members for a resolution and for the section 106 agreement to be

Chief Executive's Office
Swyddfa'r Prif Weithredwr

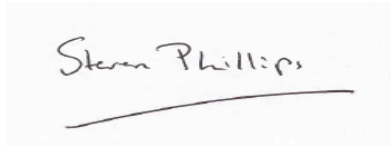
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finalised and permission granted. And moreover, that this potentially transformational scheme can become reality in the next few years.

I trust that this sufficiently updates you on my position and look forward to hearing from you shortly.

Yours sincerely,

A handwritten signature in black ink that reads "Steve Phillips". The signature is written in a cursive style and is positioned above a solid black horizontal line.

Steve Phillips
Chief Executive

Chief Executive's Office
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