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Dear Sir or Madam,

Town and County Planning Act 1990 (As Amended)

Section 73 application for the variation of condition 1 of planning permission P2017/0296 to extend the temporary consent for an additional 5-year period.

Unit 3, Kenfig Industrial Estate, Margam, Port Talbot, SA13 2PE

Asbri Planning is appointed as planning agent to The Chocolate Factory in respect of the proposed Section 73 planning application to vary condition 1 of the approved planning consent (P2017/0296) at Unit 3, Kenfig Industrial Estate, Margam, Port Talbot.

The following documents are submitted in support of the application:

- Completed Application Forms
- Certificate A
- Location Plan
- Drawing GA/02 – Block Plan Including Zone Areas and Parameters
- Drawing GA/03-Rev D – Proposed Plans and Elevations
- Landscaping Plan
- Facilities Management Plan
- Woodchip Process Statement
- Air Quality Assessment
- The Chocolate Factory Statement
- Preliminary Ecological Assessment and Protected Species Assessment
- Cheque to the sum of £230

Background

Planning application P2017/0296 was approved on 17th December 2017 for the '*retention of storage containers to facilitate the operation of a 32X 199KW, wood chip fed biomass boiler system with a max output of 6368kw, together with wood storage area, and wood chipping area*'.

Condition 1 of the approved application reads as follows:

'The development hereby approved shall benefit for a period of 2 years from the date of this permission after which time all containers and associated wood chip drying equipment within the areas outside of the building, together with all wood stored within the application site shall be removed from site, and the site restored to its former use and condition.

Reason - As the proposed development, including the use of semi-permanent containers is not considered to be suitable for the long-term operation, and that the temporary period given will allow the applicant to provide a

more permanent and fixed proposition for this development, that will require further consideration of the impacts in the long term.'

It is proposed under this application that the condition is altered to the following:

'The development hereby approved shall benefit until 17th December 2026 after which time all containers and associated wood chip drying equipment within the areas outside of the building, together with all wood stored within the application site shall be removed from site, and the site restored to its former use and condition.

Reason As the proposed development, including the use of semi-permanent containers is not considered to be suitable for the long term operation, and that the temporary period given will allow the applicant to provide a more permanent and fixed proposition for this development, that will require further consideration of the impacts in the long term.'

The S73 application is required to facilitate the continual use of the biomass system beyond the period initially permitted by the original permission which is due to end in December 2021.

Site and Surrounding Area

The application site comprises Unit 3 Kenfig Industrial Estate. The unit is a large warehouse which is owned and occupied by The Chocolate Factory.

The unit is located to the south west of the Industrial Estate. Vehicular and pedestrian access is provided via an internal road network which runs to the north and east of the unit. To this end, direct access to the site is taken from the east of it.

The site is dominated by the main warehouse operation. There are servicing areas to the east and south of unit. Located to the south east of the unit (and relevant to this application) are storage containers used in conjunction with biomass burners. In association with this, logs are stored on the southern site boundary.

Surrounding areas comprise a mixture of industrial uses. The use of the site for such purposes is therefore entirely in keeping with that of the surrounding area and indeed its policy allocation.

The site is highly accessible given its location in close proximity to the M4. The location is a key element of the company's business plan and enables fast and effective distribution throughout the UK.

The Chocolate Factory

A Statement detailing background information on The Chocolate Factory and the operational requirements relating to the storage containers and wood logs on site is provided as part of this application. Notwithstanding, a summary of the operation is provided below:

- The company was established in 1992
- They are a significant local employer of 45 staff
- 5 staff are employed directly in relation to the biomass burners
- The use of biomass is part of the sustainable principles of the company and linked to the viability of the overall operation.
- They are a zero natural gas company

Pre-Application Discussions

A pre application submission and meeting was held with Officers at the Council as a forerunner to the submission of the application to which this statement relates (LPA Ref- Q2020/0192).

During the discussions, Officers acknowledged the impact of the Covid-19 health crisis on businesses generally including the Chocolate Factory. To that end, it was suggested that the Council would be supportive of the forthcoming application on the basis that additional landscaping was including in order to overcome visual impact concerns. A comprehensive landscaping plan is included as part of the submission package and was discussed with Officers prior to submission.

Planning Policy

Planning Policy Wales (PPW)

National planning policy is contained within the 11th edition of Planning Policy Wales (PPW), published by the Welsh Government in February 2021. PPW is supported by 19 topic-based Technical Advice Notes (TANs), which are also relevant. PPW is the Welsh Government's principal planning policy document, setting out the context for sustainable land use planning policy, within which Development Plans are prepared and development.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. PPW and future wales set out how the planning system at a national, regional and local level can assist in delivering these requirements through Strategic Development Plans (SDPs) and Local Development Plans (LDPs).

Sustainable development is defined as:

"Sustainable development" means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals. Acting in accordance with the sustainable development principle means that a body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. "

Up-to-date development plans are the basis of the planning system and set the context for rational and consistent decision making. Plans at all levels of the development plan hierarchy must be prepared in accordance with national planning policies. Planning applications must be determined in accordance with the adopted plan, unless material considerations indicate otherwise.

In achieving the objectives of PPW and accompanying Acts, the use of previously developed land (when suitable for development) is preferred to greenfield land. Paragraph 3.55 states; *"In settlements, such land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome."*

Further to the above, Paragraph 3.56 states; *"Planning authorities should work with landowners to ensure that suitably located previously developed sites are brought forward for development and to secure a coherent approach to their development."*

Economic Development

Paragraph 5.4.1 states that *“the planning system should ensure that the growth of output and employment in Wales as a whole is not constrained by a shortage of land for economic uses.”*

In accordance with the above, Paragraph 5.4.4 emphasises that planning authorities, wherever possible, *“should encourage and support developments which generate economic prosperity and regeneration.”*

The importance of evidence-based decision making is stressed in Paragraph 5.4.7; *“development plans and development management decisions should be based on up-to-date local and sub-regional evidence.”*

PPW highlights that the most effective form of planning for the economy requires *“planning authorities to work strategically and co-operatively directing development and investment to the most efficient and most sustainable locations, regardless of which local authority area they are in.”*

Future Wales the National Plan: 2040

Future Wales – the National Plan 2040 is our national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems and improving the health and well-being of our communities.

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act came into force in 2015 and seeks to improve the social, economic, environmental and cultural well-being of Wales. The Act puts in place seven well-being goals in order to make sure that everyone works towards the same vision.

Technical Advice Notes

PPW is supported by 21 Technical Advice Notes (TAN's) which provide more detailed guidance on a variety of issues. In respect of this application, the following TAN's are considered to be of relevance.

TAN 23-Economic Development

This Technical Advice Note provides guidance on economic development and planning. According to Welsh Government, the guidance covers:

- *Planning economic development at a strategic level*
- *Working with neighbouring authorities and relevant stakeholders*
- *Identifying and assessing economic benefits of development proposals*
- *Establishing an evidence base to help prepare economic development policies for LDPs.*

Development Plan Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning application decisions be made in accordance with the development plan unless material considerations indicate otherwise. The statutory development plan for this site is provided by Neath and Port Talbot Local Development Plan which was adopted by the Council in January 2016.

The site is identified on the Proposals Map as within the settlement boundary. As such, the following policies are considered relevant to this application:

Policy Reference	In relation to
<i>Overarching Policies</i>	
SC1	Settlement Limits
<i>Area Based Policies</i>	
SP5	Development in the Coastal Corridor Strategy Area
<i>The Economy</i>	
SP11	Employment Growth
EC2	Existing Employment Areas
EC3	Employment Area Uses
EC4	Protection of Existing Employment Uses
<i>Environment and Resources</i>	
SP15	Biodiversity and Geodiversity
SP16	Environmental Protection
SP18	Renewable and Low Carbon Energy
W1	In-Building Waste Treatment Facilities

Planning Considerations

The applicant comprises The Chocolate Factory who own the site and have traded since 1992. They employ 45 people with 5 of those directly linked to the biomass operation. It is therefore clear that the company is a significant, long term employer who's occupation and trading from the site has resulted in significant economic benefits for the locality and surrounding area. Furthermore, the current use of the site is considered an employment use (B1, B2 or B8) in accordance with the Use Class Order 1987.

Given the site's location within Kenfig Industrial Estate, it is situated within an area allocated for employment in accordance with Policy EC2 of the adopted Local Development Plan. It is therefore considered that the continual retention of the site for storage containers to facilitate the operation of a biomass boiler system which results in employment is in accordance with Policy EC2 and paragraph 5.4.4 of PPW.

To that end it is considered common place that large scale storage yards, particularly those which are in excess of the area required for operational purposes are used for alternative purposes such as the storage of goods where required in order to facilitate the needs of businesses.

The company require biomass burners on the site for two principle reasons:

- The significant emphasis they place on a sustainable, carbon free operation.
- Linked to viability and profitability in uncertain economic times.

In accordance with the above, it is clear that the shipping containers and storage of logs represent an operational requirement which is critical to the viability of the company's operation from the site. Moreover, it is considered that the carbon free element of the operation accords with criterion 1 of Policy SP18 (Renewable and Low Carbon Energy) which aims to encourage all forms of renewable energy and low carbon technology development.

It is acknowledged that the Council were concerned regarding safety linked to the storage of woodchip and potential fire hazards as part of the previous application (Ref: P2017/0296), consequently, the following documents which were originally submitted also form part of this application:

1) Facilities Management Plan

The Facilities Management Plan highlights the processes and safety measures linked to the storage and handling of biomass fuel, the emergency procedure in the event of such circumstances and monitoring processes including key performance indicators order to ensure safety measures going forward.

2) Wood Chip Method Statement

The Wood Chip Method Statement highlights the processes undertaken on site in respect of the preparation, storage and use of wood chip at the site.

The storage containers and indeed wood longs are generally at a low level and sit well below the perimeter fencing on the boundaries of the site. To that end, it is considered that they do not raise and concerns in respect of visual impact of safety.

Notwithstanding, it is accepted that the appearance of the shipping containers is somewhat disjointed at present. To that end, and as suggested by senior officers at the Council, it is proposed to recolour them grey in order to present an improved image of the site, particularly when viewed from the train line to the south and road network in the vicinity of the site.

3) Air Quality Assessment

The application is accompanied by an Air Quality Assessment prepared by Air Quality Consultants. The report concludes that the biomass boilers at the Chocolate Factory generate negligible contributions to existing pollutant concentrations or deposition rates at relevant receptors in the area around the plant. As such, no change in the stack height is deemed necessary. Consequently, it is considered that the development is in accordance with criterion 1 of Policy SP16 (Environmental Protection).

4) Preliminary Ecological Assessment

As part of the original application (P2017/0296), Hawkeswood Ecology prepared a Preliminary Ecological Assessment and Protected Species Assessment. The assessment confirmed that no evidence was found of the Site being used by protected species and the buildings were not considered to support features suitable for bat roosting purposes. It is therefore considered that no protected species will be impacted on through the continual use of the site as storage containers for a biomass boiler system in accordance with Policy SP15 (Biodiversity and Geodiversity) of the adopted LDP.

5) Landscaping Plan

Officers at the Council confirmed during pre-application discussions, *"I would advise that, as it currently stands, we would have overriding concerns in terms of visual amenity to retain the plant/equipment on a permanent basis, as it was never intended to be permanent."*

In accordance with the above, a Landscaping Plan forms part of the application package. The plan shows intended planting along the Southern and Eastern boundaries of the site which will provide comprehensive screening of the containers.

Finally, the Covid-19 health crisis has had a direct impact upon the property market through the disruption of both existing property transactions and proposed development and construction projects. The full 'demand-side' impact upon the wider economy is yet to unfold. Notwithstanding, the Bank of England and Office of Budget Responsibility have both predicted that the UK could face its deepest recession in over 200 years.

The crisis has had an immediate impact on the use of employment floorspace. Whilst a number of national stores have recently announced closures resulting in job losses. It is therefore considered to be of paramount importance that the jobs created through the construction of the retail units are protected.

It is therefore concluded that the proposed development comprises sustainable economic development which will continue to enable sustainable economic growth in an appropriate location via a long term employer of a significant number of staff.

Conclusion

The principle of using the site as storage containers in order to facilitate the operation of a biomass boiler system was established through planning permission P2017/0296. This application merely involves the variation of condition 1 to extend the life of the permission which will enable the continual use of a successful business which contributes to the local economy and promotes the use of low carbon technology in accordance with policies EC2 and SP18 of the adopted Local Development Plan.

The applicant comprises a locally based, long term occupier who employs 45 people with 5 of those specifically linked to the biomass operations on site. Linked to site safety and in order to provide clarity, clarification is provided in the supporting documents relating to the Facility Management and Methods used on site regarding wood chips. It should be emphasised that during the operation of the site for storage containers as consented through planning permission P2017/0296, no complaints had been made in regard to its use. Consequently, the continual operation of the site as proposed through this application is not considered to disadvantage any third parties.

It is therefore respectfully requested that Neath Port Talbot County Borough Council, grant planning permission for the proposed Section 73 application which will retain the use of the site for storage yard purpose to facilitate the continual use of the biomass boiler system.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Gray', with a large, loopy flourish underneath.

Matthew Gray

Associate

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