



DESIGN  
COMMISSION  
FOR WALES  
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DYLUNIO  
CYMRU

24<sup>th</sup> August 2020

Paula Jones  
Development and Building Control Manager  
Conwy County Borough Council  
Conwy LL30 9GN

Dear Paula

**Re:** Pier Pavilion, Llandudno Ref 0/47388, DCFW Desktop Review Request.

We carried out the requested desktop review of the above noted application on 19<sup>th</sup> August 2020. The panel was chaired by Ewan Jones, with myself, Angela Williams, Kedrick Davies and Efa Lois attending – all of whom are familiar with the site, the history of the proposals, the original planning application and who were also involved in the previous review meetings for the consented scheme.

Based on the materials available to us we have the following observations regarding the proposals, their treatment as a Section 73 application under the Town and Country Planning Act, and the difficulty we experienced in being able to assess the impact of the proposed changes as a result. Professional/legal advice appears to have been provided for the local authority and the applicant, which seems to have informed the decision to accept and validate the application under Section 73.

1. The materials available to DCFW indicate this application is being considered under Section 73 which affords the determination of applications to develop land without conditions previously attached to a planning consent and permits application to remove or vary conditions placed on the extant consent. The Section 73 application process may also be used to make non-material or minor-material amendments to a planning consent, the scale and nature of which results in a development which is not substantially different from the development that has been approved.

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2. A Section 73 application can only be made if the time within which development was due to begin has not expired and the development has not commenced.
3. If DCFW's understanding is correct, the Local Authority options are therefore to refuse the application, grant the application to remove or vary conditions, unconditionally, or grant the application to remove or vary conditions, but with further conditions attached. The development itself, already consented, is not the issue in question – rather the need for and nature of conditions. Section 73 allows for consent to be granted for the same development as that already granted, subject to different conditions. It does not allow for the consenting of a different development, even if that development is similar to the original. This being the case, our comments on the consented development proposals are unchanged.
4. The materials as they are presented for this application, accompanied by a written schedule of amendments, do not in our view clearly communicate the nature and effect of the proposed changes. The Local Authority can, and we suggest ought to request additional information in the form of a single document, ideally a revised DAS. This should include drawings/diagrams and direct comparisons, clearly identifying aspects of the development as consented and as proposed in the new application submitted as the Section 73.
5. The information submitted in the form of text and drawings as they stand are insufficient to fully communicate changes and allow full consideration and determination of their material impact and implications. A revised DAS showing side by side comparisons would allow consideration of the impact of the increase in number of residential units; total area of retail use; and what seem to be substantial changes to access arrangements, in the description of the scheme. There may be Section 106, use class and affordable housing contribution impacts, that warrant full consideration, informed by materials that are presented in such a manner which makes the proposed changes clear and explicit.
6. Currently these impacts are difficult to determine from the materials available and the way they are presented – though they seem substantial. It may be that the proposals represent significant impacts and could warrant a full, fresh planning application, rather than an attempt to address them as Section 73 condition changes.

Our previous comments on the scheme as consented are publicly available and detailed in the attached Appendix 1.

We hope this might be helpful and please come back to us if you have further queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CAD', with a horizontal line extending to the right from the end of the signature.

Carole-Anne Davies

Prif Weithredwr Chief Executive

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Ar gyfer ac ar ran y Bwrdd Cyfarwyddwyr

For and on behalf of the Board of Directors

## Appendix 1 Background

The Design Commission for Wales was consulted on these proposals on several occasions generating three Design Review Reports and a response to public consultations phase as follows: 24<sup>th</sup> March 2011; 30<sup>th</sup> June 2016 and 24<sup>th</sup> October 2017 and Comments on public consultation 11<sup>th</sup> November 2016. Representatives of the Conwy County Borough Council Local Planning Authority were present at the meetings and/or were in receipt of DCFW comment and correspondence. Email correspondence of 13<sup>th</sup> February 2018 notes the DCFW reports were in the public domain and were submitted as comment on the original planning application. They remain accessible on DCFW's website via the links below:

<https://s3-eu-west-1.amazonaws.com/dcfw-cdn/111-Pier-Pavilion-Site-Llandudno-DR-Report-June-16.pdf>

<https://s3-eu-west-1.amazonaws.com/dcfw-cdn/111-Pier-Pavilion-Site-Llandudno-DCFWD-consultation-comments11.11.161.pdf>

<https://s3-eu-west-1.amazonaws.com/dcfw-cdn/111-Pier-Pavilion-Site-Llandudno-DR-ReportOct-17.pdf>

In the email correspondence of 13<sup>th</sup> February 2018, the Commission was clear that the changes made to materials indicated an effect on visual appearance only and that our comments from the last review meeting were unchanged. The changes did not materially address the concerns set out in the final review report on strategic design, articulation of form, the central route or comfort and living quality. We could not have been clearer than in the last report. The Commission made clear its observations on the design quality, potential risk and implications on several occasions and that we could find nothing arising from the changes to warrant further comment. DCFW's response was therefore that our 'comments still stand'. At the time this was not reflected in reports to Members. Following this the Commission note that it had records of enquiries from members of the public and professionals involved in correspondence regarding call-in requests and procedures but was unable to trace any record of subsequent emails from the Council or the applicant in the period between 13<sup>th</sup> February 2018 and fresh correspondence in November 2018.

This correspondence now addresses an enquiry received on 5<sup>th</sup> August 2020 from the Council, via Paula Jones and David Watson regarding an application being treated as a Section 73 application for amendments to conditions and the earlier planning consent.

**End of Appendix 1.**