



5 POLICY CONTEXT

Introduction

- 5.1 This chapter sets out the planning policy and legislative context against which the proposed development will be considered.
- 5.2 It provides a broad overview of the context relating to the proposed development with more topic-specific policy and legislation being referred to in individual chapters as necessary.
- 5.3 An analysis of the proposed development having regard to the planning policy and legislative context is provided in the Planning Statement that accompanies the applications.

National Legislation, Policy and Guidance

United Nations Framework Convention on Climate Change: The Paris Agreement (2015)

- 5.4 The Paris Agreement aims to strengthen the global response to the threat of climate change by keeping a global temperature rise this century below 2 degrees Celsius above pre-industrial levels, and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

Welsh Government Climate Emergency Declaration

- 5.5 On 29 April 2019 the Welsh Government declared a ‘climate emergency’, recognising:

“... it threatens our health, economy, infrastructure and our natural environment”

Welsh Government Commitment to 95% Reduction in Greenhouse Gases

- 5.6 On 11 June 2019 the Welsh Government also accepted the Committee on Climate Change recommendation for a 95% reduction in greenhouse gas emissions and an ambition to go further to reach net-zero by 2050.

Well Being and Future Generations Act 2015

- 5.7 The Well-being of Future Generations (Wales) Act 2015 (‘WBFGA 2015’) places a duty on public bodies to place the principles of sustainability and sustainable development at the heart of its decision-making processes. The objectives of the WBFGA 2015 are set out as follows:

“A Prosperous Wales

- *Promoting resource-efficient and climate change resilient settlement patterns which minimise land take and urban sprawl, especially through the reuse of suitable previously developed land and buildings, wherever possible avoiding development on greenfield sites;*
- *Play an appropriate role to facilitate sustainable building standards;*

- *Play an appropriate role in securing the provision of infrastructure to form the physical basis for sustainable communities;*
- *Support initiative and innovation and avoid placing unnecessary burdens on enterprises so as to enhance the economic success of both urban and rural areas, helping businesses to maximise their competitiveness;*

A Resilient Wales

- *Contributing to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems;*

A Healthier Wales

- *Contribute to the protection and, where possible, the improvement of people's health and well-being as a core component of achieving the well-being goals and responding to climate change;*

A More Equal Wales

- *Promoting access to, inter alia, employment, shopping, education and community facilities and open and green space, maximising opportunities for community development and social welfare;*
- *Promote quality, lasting, environmentally sound and flexible employment opportunities;*
- *Respect and encourage diversity in the local economy;*

A Wales of Cohesive Communities

- *Locating development so as to minimise the demand for travel, especially by private car;*
- *Fostering improvement to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity;*
- *Fostering social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides. This includes helping to ensure that the development is accessible by means other than the private car;*

A Wales of Vibrant Culture and Thriving Welsh Language

- *Helping to ensure the conservation of the historic environment and cultural heritage;*
- *Positively contribute to the well-being of the Welsh language;*

A Globally Responsive Wales

- *Support the need to tackle the causes of climate change by moving towards a low carbon economy.”*

The Milford Haven Conservancy Act 1958

5.8 The Port of Milford Haven (or MHPA) is a Trust Port, a statutory entity brought into existence by The Milford Haven Conservancy Act 1958. There have been subsequent acts of Parliament to amend this original act, with the result that the following acts of Parliament essentially encompass the entire body of legislation and consolidate the various acts that constitute the Port in its present form:

- Milford Haven Conservancy Act 1983
- Milford Haven Port Authority Act 1986
- Milford Haven Port Authority Harbour Revision Order 2000
- Milford Haven Port Authority Act 2002
- Milford Haven Port Authority Harbour Revision Order 2012

5.9 The obligation on the Port therefore is (1) first and foremost to comply with the MHPA Acts as a fundamental legal requirement and (2) operate so far as reasonably practicable and relevant to the particular circumstances of Milford Haven, in accordance with the guidance set out in "Ports Good Governance Guidance" (Department for Transport, March 2018).

Wales Spatial Plan Update 2008

5.10 The Wales Spatial Plan identifies ‘Pembrokeshire - The Haven’, comprising the ‘Haven Towns’ of Haverfordwest (including Merlins Bridge), Milford Haven, Neyland, Pembroke and Pembroke Dock, as a strategic Hub that perform an important regional role and should be a focus for future investment.

Draft National Development Framework 2020-2040 – now Future Wales – The National Plan 2040

5.11 The National Plan (NP), when adopted, will replace the Wales Spatial Plan. The draft version was issued on 7th August 2019 and was consulted upon until 15th November 2019. In September 2020 the Minister for Housing and Local Government laid a working version of the NP in the Senedd for a 60-day scrutiny period.

5.12 Generally, the NP recognises the importance of ports to the Welsh economy and it also recognises Wales’ potential to become a world leader in renewable energy technology. Milford Haven is recognised as a Strategic Gateway in the Spatial Strategy on page 61 with Pembroke Port being located within one of the three identified Regional Growth Areas which are also identified in Policy 1.

5.13 Policy 10 relates to international connectivity and confirms the Strategic Gateway status of the Haven Waterway, specifically referring to the Ports of Milford Haven and Pembroke Dock. The policy confirms that the Welsh Government will work with the operators, investors and local authorities to support Strategic Gateways and maintain their international connectivity roles.

- 5.14 The NP splits Wales into four regions with Pembroke Dock being located within the South West Region. The South West Region is recognised as having significant renewable energy potential with Policy 29 supporting growth in the Haven Towns which include Pembroke Dock.
- 5.15 Policy 32 relates specifically to the Haven Waterway and Energy and states that the Welsh Government supports operations at the Waterway and recognises its location for potential new renewable and low carbon energy-related development, innovation and investment, with the policy confirming that on-shore developments associated with off-shore renewable energy projects will be supported in principle.

Welsh National Marine Plan

- 5.16 The Welsh National Marine Plan (WNMP) was published 12th November 2019. The WNMP introduces a framework to support sustainable decision-making for the marine environment and includes policies specific to the ports and renewables sectors.
- 5.17 The WNMP overlapping objectives with PPW in terms of the protection of biodiversity and enhancement of resilience of marine ecosystems and has also informed the production of the draft NDF.
- 5.18 The WNMP includes a goal to achieve or maintain Good Environmental Status (GES) in coastal and marine waters as required under the UK Marine Strategy. The plan also includes policies specific to the ports sector and to dredging and disposal of sediments and highlights the potential impacts that could occur in relation to ports.
- 5.19 The plan also highlights the potential opportunities for building in beneficial biodiversity features as part of project design and the need to consider mitigation where environmental impacts are predicted in order to ensure the risk of disturbance or damage to species or habitats is minimised.
- 5.20 In particular, of relevance to the proposed development, the draft WNMP includes the following policies:
- ECON_01: Sustainable economic growth– encourages proposals for economically sustainable activities
 - SOC_05: Historic assets – requires proposals to demonstrate how potential impacts on historic assets have been taken into consideration and seeks to avoid, minimise and/or mitigate impacts, or where impacts cannot be minimised requires justification for proceeding. The policy also encourages opportunities to enhance historic assets.
 - ELC_01: Low carbon energy – strongly encourages proposals for all types of marine renewable energy generation (wind, tidal and wave energy) and associated infrastructure especially in defined renewable energy technology test and demonstration zones and resource areas.
 - P&S_01: Ports and Shipping – encourages proposals for ports, harbours and shipping activities in Strategic Resource Areas.
 - P&S_02: Ports and Shipping – encourages proposals that provide for the maintenance, repair, development and diversification of port and harbour facilities.

Planning Policy Wales Edition 10 (December 2018)

- 5.21 Planning Policy Wales ('PPW') Edition 10 was completely revised in December 2018 to accord with the vision for Wales set out in the WBFGA 2015. PPW sets out 5 key planning principles aimed at 'achieving the right development in the right place' as follows:
- Growing our economy in a sustainable manner;
 - Making better use of resources;
 - Facilitating accessible and healthy environments;
 - Creating and sustaining communities; and
 - Maximising environmental protection and limiting environmental impact.
- 5.22 Paragraph 5.3.14 states functional and attractive ports, harbours, marinas and inland waterways, which meet current and future demand, make Wales an attractive location for businesses, visitors and freight transportation. Support and investment in these facilities unlocks potential to boost the economy both directly, from the greater use of the facilities, and indirectly through the opportunities that improved maritime transport infrastructure provide for other sectors (both nationally and internationally).
- 5.23 Paragraph 5.3.15 states the Welsh National Marine Plan (WNMP) provides a vision within which ports, harbours, marinas and inland waterways can plan their current and future operations, including options for expansion and diversification. Planning authorities must consider the land use implications of the WNMP.
- 5.24 Paragraph 5.3.16 states planning authorities should seek to promote the use of ports, harbours, marinas and inland waterways by the protection or provision of access to them and by the retention or provision of appropriate wharf, dock, harbour and rail transfer facilities to support economic activities in a way that minimises any adverse impacts on the environment. Planning authorities should also consider and, where appropriate, promote ports, and their surrounding area, for inter-modal freight interchanges and strategic employment sites.
- 5.25 Paragraph 5.4.1 defines economic development as development of land and buildings for activities that generate sustainable long-term prosperity, jobs and incomes.
- 5.26 Paragraph 5.4.2 states economic land uses include the traditional employment land uses (offices, research and development, industry and warehousing), as well as uses such as retail, tourism, and public services. It also states that the construction, energy, minerals, waste and telecommunications sectors are also essential to the economy.
- 5.27 Paragraph 5.4.4 states, wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration.
- 5.28 Paragraph 6.5.9 states development should not normally be proposed in coastal locations unless it needs to be on the coast. Where new development requires a coastal location, developed coastal areas will normally provide the best option, provided that issues associated with coastal change have

been taken into account. Such issues include the risks of erosion, flooding, land instability, and the preferred approaches to address such risks, and impacts on biodiversity and ecological resilience.

- 5.29 Paragraph 6.5.10 states before permanent and long-term developments, including those of regional or national importance, can be granted permission it will be essential to demonstrate that a coastal location is required based on the characteristics of the coastline in question. Where development is considered to be justified it should be designed so as to be resilient to the effects of climate change over its lifetime and not result in unacceptable incremental increases in risk.

Technical Advice Note 5: Nature Conservation and Planning

- 5.30 Technical Advice Note (TAN) 5 (Welsh Assembly Government, 2009) provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. The TAN provides advice for local planning authorities on:

- The key principles of positive planning for nature conservation;
- Nature conservation and Local Development Plans;
- Nature conservation in development management procedures;
- Development affecting protected internationally and nationally designated sites and habitats; and
- Development affecting protected and priority habitats and species.

Technical Advice Note 23: Economic Development (October 2014)

- 5.31 Technical Advice Note (TAN) 23 paragraph 1.1.1 states economic development can include any form of development that generates wealth, jobs and income. It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations.
- 5.32 Paragraph 1.1.5 states economic land uses also include construction.
- 5.33 Paragraph 1.2.1 states the economic benefits associated with development may be geographically spread out far beyond the area where the development is located. Consequently, it is essential that the planning system recognises, and gives due weight to, the economic benefits associated with new development.
- 5.34 Paragraph 1.2.2 advises that planning for economic land uses should aim to provide the land that the market requires, unless there are good reasons to the contrary. Where markets work well, this will help maximise economic efficiency and growth.
- 5.35 Paragraph 1.2.5 states local planning authorities (LPAs) should recognise market signals and have regard to the need to guide economic development to the most appropriate locations, rather than prevent or discourage such development.
- 5.36 Paragraph 2.1.2 states economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary.

- 5.37 Paragraph 2.1.5 states that where an LPA is considering a planning application that could cause harm to the environment or social cohesion the following three questions should be asked to help clarity and balance the economic, social and environmental issues:
1. Alternatives: if the land is not made available (the site is not allocated, or the application is refused), is it likely that the demand could be met on a site where development would cause less harm, and if so where?
 2. Jobs accommodated: how many direct jobs will be based at the site?
 3. Special merit: would the development make any special contribution to policy objectives?
- 5.38 Paragraph 2.1.13 advises that the planning system should support, in particular, the low-carbon economy, innovative business or technology clusters and social enterprises which are defined as businesses that are particularly important in providing opportunities for social groups disadvantaged in the labour market. Developments that will provide space for these categories of businesses count as making special policy contributions.

Technical Advice Note 24: The Historic Environment (May 2017)

- 5.39 TAN 24 sets out conservation principles to assess the potential impacts of a development proposal on the significance of any historic asset(s) and to assist in the decision making where the historic environment is affected. The six principles are as follows:
1. Historic assets will be managed to sustain their values;
 2. Understanding the significance of historic assets is vital;
 3. The historic environment is a shared resource;
 4. Everyone will be able to participate in sustaining the historic environment;
 5. Decisions about change must be reasonable, transparent and consistent;
 6. Documenting and learning from decisions is essential.
- 5.40 Paragraph 1.12 encourages the use of these principles when considering development proposals and other works to historic assets. There are four heritage values which need to be understood before the significance of the asset can be assessed.
1. Evidential value;
 2. Historical value;
 3. Aesthetic value;
 4. Communal value.
- 5.41 An understanding of these values forms the basis of a statement of significance prepared as part of a heritage impact statement.

Local Planning Policy

- 5.42 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions made in under the planning acts should be made in accordance with the Development Plan unless material considerations indicate otherwise.

Pembrokeshire Local Development Plan (February 2013)

- 5.43 The Pembrokeshire Local Development Plan ('LDP'), adopted February 2013, Proposals Map identifies the application site as within the settlement boundary of Pembroke Dock (Policy SP 13) and within a Conservation Area (Policy GN.38). The site, including the foreshore, is also within an area designated for Port and Energy Related Development (Policy SP 2) and Hard Rock Resource (Policy GN.22).
- 5.44 To the north east of the application site lies a designated Existing Mineral and Quarry Site (Policy GN.23) within the north-eastern perimeter of Pembroke Port. In addition, two Scheduled Ancient Monuments ('SAMs') are indicated near the southern and south-western boundary of the site (Policy GN.38) together with an area of Amenity Open Space (Policy GN.35) to the south east along Meyrick Owen Way. The Milford Haven Waterway, at approximately 250 m to the north of the quayside, is designated as a Special Area of Conservation ('SAC') (Policy GN.37).
- 5.45 Policy SP1 'Sustainable Development' states all development proposals must demonstrate how positive economic, social and environmental impacts will be achieved and adverse impacts minimised.
- 5.46 Policy SP 2 'Port and Energy Related Development' states development at the Port of Milford Haven, which includes Pembroke Port at Pembroke Dock, will be permitted for port related facilities and infrastructure, including energy related development.
- 5.47 Policy SP 13 'Settlement Boundaries' states Settlement Boundaries define the areas within which development opportunities may be appropriate.
- 5.48 Policy GN.1 'General Development Policy' states development will be permitted where the following criteria are met:
1. The nature, location, siting and scale of the proposed development is compatible with the capacity and character of the site and the area within which it is located;
 2. It would not result in a significant detrimental impact on local amenity in terms of visual impact, loss of light or privacy, odours, smoke, fumes, dust, air quality or an increase in noise or vibration levels;
 3. It would not adversely affect landscape character, quality or diversity, including the special qualities of the Pembrokeshire Coast National Park and neighbouring authorities;
 4. It respects and protects the natural environment including protected habitats and species;
 5. It would take place in an accessible location, would incorporate sustainable transport and accessibility principles and would not result in a detrimental impact on highway safety or in traffic exceeding the capacity of the highway network;
 6. Necessary and appropriate service infrastructure, access and parking can be provided;
 7. It would not cause or result in unacceptable harm to health and safety;
 8. It would not have a significant adverse impact on water quality; and
 9. It would neither contribute to the coalescence of distinct settlements nor create or consolidate ribbon development.
- 5.49 Policy GN.2 'Sustainable Design' states development will be permitted where relevant criteria are met:
1. It is of a good design which pays due regard to local distinctiveness and contributes positively to the local context;

2. It is appropriate to the local character and landscape/townscape context in terms of layout, scale, form, siting, massing, height, density, mix, detailing, use of materials, landscaping and access arrangements/layout;
 3. It incorporates a resource efficient and climate responsive design through location, orientation, density, layout, land use, materials, water conservation and the use of sustainable drainage systems and waste management solutions;
 4. It achieves a flexible and adaptable design;
 5. It creates an inclusive and accessible environment for users that addresses community safety;
 6. It provides a good quality, vibrant public realm that integrates well with adjoining streets and spaces and
 7. It contributes to delivering well designed outdoor space with good linkages to adjoining streets, spaces and other green infrastructure.
- 5.50 GN.6 'Employment Proposals' states Class B1, B2 and B8 uses on unallocated land will be permitted on sites within Settlement Boundaries.
- 5.51 GN.9 'Extensions to Employment Sites' states proposals to diversify or intensify employment uses and/or extend them onto adjacent land will be permitted where the scale and nature of the original development together with the extension is compatible with its location.
- 5.52 GN.37 'Protection and Enhancement of Biodiversity' states all development should demonstrate a positive approach to maintaining and, wherever possible, enhancing biodiversity. Development that would disturb or otherwise harm protected species or their habitats, or the integrity of other habitats, sites or features of importance to wildlife and individual species, will only be permitted in exceptional circumstances where the effects are minimised or mitigated through careful design, work scheduling or other appropriate measures.
- 5.53 Policy GN.38 'Protection and Enhancement of the Historic Environment' states development that affects sites and landscapes of architectural and/or historical merit or archaeological importance, or their setting, will only be permitted where it can be demonstrated that it would protect or enhance their character and integrity.

References

- Well-being of Future Generations (Wales) Act 2015 (2015)
- Wales Spatial Plan 2008 Update (Welsh Assembly Government, July 2008)
- Draft National Development Framework 2020-2040 – now called Future Wales – The National Plan 2040 (September 2020)
- Welsh National Marine Plan (Welsh Government, November 2019)
- Planning Policy Wales Edition 10 (Welsh Government, December 2018)
- Technical Advice Note 5: Nature Conservation and Planning (Welsh Assembly Government, 2009)
- Technical Advice Note 23: Economic Development (Welsh Government, October 2014)
- Technical Advice Note 24: The Historic Environment (Welsh Government, May 2017)
- Pembrokeshire Local Development Plan (Pembrokeshire County Council, February 2013)