



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Planning Committee

**At:** Remotely via Microsoft Teams

**On:** Tuesday, 7 December 2021

**Time:** 2.00 pm

**Chair:** Councillor Paul Lloyd

**Membership:**

Councillors: C Anderson, P M Black, P Downing, W Evans, M H Jones, M B Lewis, R D Lewis, P B Smith, D W W Thomas, L J Tyler-Lloyd and T M White

**Watch Online:** <https://bit.ly/3oBou46>

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<b>3</b>	<b>Minutes.</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	<b>1 - 9</b>
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**Next Meeting:** Tuesday, 11 January 2022 at 2.00 pm

*Huw Evans*

**Huw Evans**  
**Head of Democratic Services**  
**Tuesday, 30 November 2021**

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**Contact: Democratic Services - 636923**

# Agenda Item 3



City and County of Swansea

## Minutes of the **Planning Committee**

Remotely via Microsoft Teams

Friday, 22 October 2021 at 10.30 am

**Present:** Councillor P Lloyd (Chair) Presided

### **Councillor(s)**

C Anderson  
M H Jones  
R D Lewis  
L J Tyler-Lloyd

### **Councillor(s)**

P M Black  
W Evans  
D W W Thomas

### **Councillor(s)**

P Downing  
M B Lewis  
T M White

### **Officer(s)**

Gareth Borsden  
Matthew Bowyer  
Ian Davies  
Sally-Ann Evans  
Tom Evans  
Simon Hughes  
Steve Smith  
Rachel Willis  
Jonathan Wills

Democratic Services Officer  
Principal Telematics Engineer  
Development Manager  
Lead Lawyer  
Strategic Planning Team Leader  
Principal Planning Officer  
Placemaking and Heritage Lead  
Principal Planner, Planning Policy and Environment  
Lead Lawyer

### **Apologies for Absence**

None.

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## **32 Disclosures of Personal and Prejudicial Interests.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:

Councillor P Lloyd – Minute No 34 - Determination of Planning Applications under the Town and Country Planning Act 1990 (2021/1331/FUL) – Personal and Minute No 38 - Adoption of Supplementary Planning Guidance: Placemaking Guidance for the Gower AONB – Personal.

## **33 Items for deferral/withdrawal.**

None.

**34 Determination of Planning Applications under the Town and Country Planning Act 1990.**

A planning application was presented on behalf of the Head of Planning & City Regeneration.

Amendments/updates to this schedule were reported and are indicated below by (#)

1) the undermentioned planning application **Be Approved** subject to the conditions in the report and/or indicated below:

**#(Item 1) – Planning Application 2021/1331/FUL – New indoor pitch, extensions to existing leisure centre buildings together with an internal reconfiguration to allow for the provision of improved gym and changing facilities, a community room, reception and cafe area, re-purposed existing fitness studio to enable beneficial use by the school, refurbishment of existing tennis courts with associated fencing and lighting, interconnecting pedestrian routes between the school and leisure areas and existing external connections surrounding the site, new car park with a new access off Cefn Hengoed Road at Cefn Hengoed Leisure Centre , Caldicot Road, Bonymaen, Swansea**

A visual presentation was given.

Report updated as follows:

Report and informatives to include reference to LDP Policy RP6 (Land Contamination).

Delete the last sentence of the 'Land Stability' section (in relation to ground gas).

The following new section to be added after the 'Land Stability' section:

**Land Contamination**

Due to past activities in and around the site there is the potential for land contamination within the site. In order to address this issue the application has been accompanied by a Geo-Environmental and Geotechnical Assessment prepared by Earth science Partnership. The assessment highlights the potential requirement for remediation measures in order to address historic land contamination including the potential for gas protection measures. A remediation strategy has been provided based on the limited site investigations undertaken to date, however, further site investigation work will be required in order to inform the final remediation options appraisal and remediation strategy. Having regard to the information provided within the Geo-Environmental and Geotechnical Assessment, and having regard to the requirements within LDP Policy RP 6, it is recommended conditions are imposed to address the residual risks arising from land contamination at the site, should planning permission be granted. In relation to the risks to controlled waters, NRW have raised no concerns in relation to this matter. The Geo-Environmental and Geotechnical Assessment considers the risks to controlled waters from the development of the site is likely to be low and considers no further assessment is warranted. This conclusion is accepted.

Add the following new conditions:

17. Prior to the commencement of any development the following components of a scheme to deal with the risks associated with contamination of the site, including ground gas, shall each be submitted to and approved in writing by the local planning authority:

1. A further site investigation scheme, based on the Recommendations within the Geo-Environmental and Geotechnical Assessment prepared by Earth science Partnership (ESP7263mte.3241).

2. Based on the information provided in 1. an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken together with a timescale for their implementation.

The scheme shall be implemented strictly in accordance with the approved details and timescales for their implementation.

Reason: In the interests of health and safety and to protect the environment.

18. Upon completion of the remediation works, and prior to the occupation of the development hereby approved, a verification report to demonstrate that the remediation works have been carried out to a satisfactory standard and remediation targets have been achieved, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of health and safety.

### **35 Planning Annual Performance Report (APR) - 2019-20 & 2020-21.**

The Head of Planning & City Regeneration presented for information the Annual Performance Report. The report is seen by Welsh government as important mechanism for monitoring Local Planning Authorities performance against a key set of national performance indicators. He stated that because of the Covid pandemic Welsh Government had indicated that the report wasn't needed to be prepared both last year or this year, but the Authority had produced this report despite this fact.

The report is also an important tool for benchmarking the performance of Local Authorities across Wales. The draft report for the period April 2019-March 2021 was detailed at Annex A to the report.

The actual performance figures, the substantial improvements achieved over the past few years and the issues to be further addressed were all detailed in the report, along with a series of appeal decisions from applications that decisions had been made on, contrary to officer recommendations.

Members asked questions on various issues relating to the report including enforcement action and backlog, and the informing of local members regarding enforcement in their wards, the officer indicated he would report back further on enforcement issues and look to update and improve the information passed to local members.

**36 Adoption of the Swansea Local Development Plan 2nd Annual Monitoring Report 2020-21 (AMR 2)**

The Head of Planning and City Regeneration presented a report which informed Members of the findings of the 2<sup>nd</sup> LDP Annual Monitoring Report (AMR) covering the period 2020-21, and sought approval to formally submit it to Welsh Government.

He stated the report presents the findings of a key part of the statutory development plan process, and sets out how the aims, objectives and policies of the Swansea Local Development Plan have been implemented for the period April 2020-March 21.

A detailed visual presentation relating to the main areas outlined in the circulated report was provided.

**Resolved that**

- 1) the findings of the 2<sup>nd</sup> AMR, as summarised in this report and set out in full in the AMR document (Appendix A to the report), be noted;
- 2) the final version of the 2<sup>nd</sup> AMR be approved for submission to Welsh Government in accordance with statutory requirements;
- 3) the Head of Planning and City Regeneration, or appropriate delegated Officer, be authorised to make any outstanding typographical, grammatical, presentational or factual amendments to the 2<sup>nd</sup> AMR prior to its submission and publication.

**37 Adoption of Supplementary Planning Guidance: Placemaking Guidance for Residential Development; Placemaking Guidance for Infill and Backland Development; and Placemaking Guidance for Householder Development.**

The Head of Planning and City Regeneration presented a report which informed Members of the representations received during the public consultation on draft Placemaking Guidance for various scales of residential development, and highlighted officer responses to these, and sought approval to adopt the amended versions as Supplementary Planning Guidance (SPG).

The background and context to the report were outlined, as well as public and stakeholder consultation undertaken, the responses received and the main issues arising from the exercise.

A detailed visual presentation relating to the main areas outlined in the circulated report was provided.

**Resolved that**

- 1) The issues raised in the representations made during the consultation process, and the responses of the Planning Authority to these (set out at Appendix A, B and C to the report), be noted;
- 2) The final versions of the three SPGs for Placemaking Guidances for Residential Development, Infill and Backland Development and Householder

Development (set out at Appendices D, E and F to the report) all be approved and adopted;

- 3) The Head of Planning and City Regeneration, or appropriate delegated officer, be authorised to make any outstanding typographical, grammatical, presentational or factual amendments to the adopted final versions of the SPG prior to its final publication.

**38 Adoption of Supplementary Planning Guidance: Placemaking Guidance for the Gower AONB.**

The Head of Planning and City Regeneration presented a report which informed Members of the representations received during the public consultation on draft Placemaking Guidance for the Gower Area of Outstanding Natural Beauty (AONB), and highlighted officer responses to these, and sought approval to formally adopt the amended version as Supplementary Planning Guidance (SPG).

The background and context to the report were outlined, as well as public and stakeholder consultation undertaken, the responses received and the main issues arising from the exercise.

A detailed visual presentation relating to the main areas outlined in the circulated report was provided.

**Resolved that**

- 1) The issues raised in the representations made during the consultation process, and the responses of the Planning Authority to these (set out at Appendix A and B to the report), be noted;
- 2) The final version of the SPG (attached at Appendix C and D to the report) be approved and adopted;
- 3) The Head of Planning and City Regeneration, or appropriate delegated officer, be authorised to make any outstanding typographical, grammatical, presentational or factual amendments to the adopted final version of the SPG prior to its final publication.

**39 Adoption of Supplementary Planning Guidance: Trees, Hedgerows and Woodland.**

The Head of Planning and City Regeneration presented a report which informed Members of the representations received during the public consultation on draft versions of the Trees, Hedgerows and Woodlands document, and highlighted officer responses to these, and sought approval to formally adopt the amended version as Supplementary Planning Guidance (SPG).

The background and context to the report were outlined, as well as public and stakeholder consultation undertaken, the responses received and the main issues arising from the exercise.

A detailed visual presentation relating to the main areas outlined in the circulated report was provided.

**Resolved** that

- 1) the issues raised in the representations made during the consultation process, and the responses of the Planning Authority to these (set out at Appendix A and B to the report), be noted;
- 2) the final version of the SPG (attached at Appendix C to the report) be approved and adopted;
- 3) the Head of Planning and City Regeneration, or appropriate delegated officer, be authorised to make any outstanding typographical, grammatical, presentational or factual amendments to the final version of the SPG prior to its final publication.

The meeting ended at 12.34 pm

**Chair**





City and County of Swansea

## Minutes of the **Planning Committee**

Council Chamber, Guildhall, Swansea

Tuesday, 2 November 2021 at 2.00 pm

**Present:** Councillor P Lloyd (Chair) Presided

**Councillor(s)**

C Anderson  
M H Jones  
R D Lewis  
T M White

**Councillor(s)**

P M Black  
W Evans  
P B Smith

**Councillor(s)**

P Downing  
M B Lewis  
D W W Thomas

**Officer(s)**

Gareth Borsden  
Matthew Bowyer  
Ian Davies  
Sally-Ann Evans  
Andrew Ferguson  
Liam Jones  
Jonathan Wills

Democratic Services Officer  
Principal Telematics Engineer  
Development Manager  
Lead Lawyer  
Area Team Leader  
Area Team Leader  
Lead Lawyer

**Apologies for Absence**

Councillor(s): L J Tyler-Lloyd

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**40 Disclosures of Personal and Prejudicial Interests.**

Councillor P M Black – Minute No 42 - Determination of Planning Applications under the Town and Country Planning Act 1990 – Item 3 (2021/2253/FUL) - Personal and Prejudicial and left prior to discussion.

Councillors C Anderson, P Downing, W Evans, M H Jones, M B Lewis, R D Lewis, P Lloyd, P B Smith, D W W Thomas & T M White – Minute No 42 - Determination of Planning Applications under the Town and Country Planning Act 1990 – Item 3 (2021/2253/FUL) - Personal.

**41 Minutes.**

**Resolved** that the Minutes of the Planning Committee held on 5 October 2021 be approved and signed as a correct record.

**42 Determination of Planning Applications under the Town and Country Planning Act 1990.**

A series of planning applications were presented on behalf of the Head of Planning & City Regeneration.

Amendments/updates to this schedule were reported and are indicated below by (#)  
(Note: Updates to the report referred to below were circulated to Members of the  
Committee and published on the Council's website prior to the meeting)

(#)Note;

Since the reports were signed off for Committee, the following Supplementary  
Planning Guidance (SPG) had been adopted at the Special Planning Committee  
held on the 22<sup>nd</sup> October 2021, superseding the SPG quoted in the reports:

- Placemaking Guidance for Residential Development (2021)
- Placemaking Guidance for Household Development (2021)
- Trees, Hedgerows and Woodlands (2021)

Any substantive changes in SPG as a result of this will be identified below and where  
not, the main thrust of the newly adopted SPG is considered to accord with the  
previous iterations of the relevant documents (albeit references may have changed).

This is only considered relevant in regards to Items 1 and 3.

1) the undermentioned planning applications **Be Approved** subject to the conditions  
in the report and/or indicated below:

**#(Item 1) – Planning Application 2020/2559/RES - Proposed cessation of landfill  
and other operations enabled by residential development circa 300 dwellings,  
public open space, associated highway and ancillary work (Details of  
appearance, landscaping, layout and scale pursuant to outline planning  
permission 2014/0977 granted on appeal 11th January 2018) for phases 3 (73  
dwellings) and 4 (36 dwellings), open space and ancillary infrastructure  
(Amended plans received) at Cwmrhydyceirw Quarry Co Ltd , Great Western  
Terrace, Cwmrhydyceirw, Swansea.**

A visual presentation was given.

Report updated as follows:

- There are two instances (plots 194 & 195) where a 12m minimum back to side  
separation distance would be achieved as required by the previous Design Guide  
SPG, whereas the newly adopted Placemaking Guidance SPG requires a minimum  
15m back to side separation distance in such situations.
- A 10.5m minimum separation distance is specified within the newly adopted  
Placemaking Guidance SPG where upper floor windows may overlook neighbouring  
gardens and 13.75m in the case of three storey properties. The previous Design  
Guide SPG required 10m in such situations. There are several instances within the  
proposed development where the previous SPG separation standards are achieved,  
but not the current standards.

**#(Item 2) – Planning Application 2021/2116/FUL - Car sales dealership and  
associated works at Land West Of Heron Drive, Swansea Vale, Swansea.**

A visual presentation was given.

**#(Item 3) – Planning Application 2021/2253/FUL - Installation of pitched roof over the front bay window at 115 Cecil Street, Manselton, Swansea.**

A visual presentation was given.

Report updated as follows:

No substantive changes as a result of new SPG.

**#(Item 4) – Planning Application 2021/0867/FUL - Construction of purpose-built student accommodation (studio apartments) and associated works comprising of a 12 / 10 storey building with ancillary communal facilities, cycle / bin storage, and external landscaped courtyard at The Strand, Swansea.**

A visual presentation was given.

Gareth Hooper (agent) addressed the Committee.

Approved subject to a S106 agreement.

**#(Item 5) – Planning Application 2021/2474/S73 - Construction of a purpose built student accommodation building ranging from 4 to 6 storeys high, plus duplex, incorporating 287 bedrooms with ancillary communal facilities/services, 3 no. commercial units (Classes A1/A3), 43 space undercroft car park, servicing area, associated engineering and landscaping works - Variation of condition 1 of planning permission 2016/1333 granted 21/04/2017 to extend the time period in which to commence the development by a further 5 years at Site J , Trawler Road, Maritime Quarter, Swansea.**

A visual presentation was given.

Report updated as follows:

One further letter of objection received.

Approved subject to a S106 agreement.

The meeting ended at 3.21 pm

**Chair**

# Agenda Item 5



## Report of the Head of Planning and City Regeneration

Planning Committee – 7 December 2021

### Commons Registration - Application to Correct the Register of Common Land (Application No. 002/19)

#### Register Unit CL74: Pentwyn Mawr & Craig y Bedw and Register Unit CL45: Cefn Drum & Graig Fawr

<b>Purpose:</b>	An application has been received to amend the Register of Common Land to correct an alleged error whereby the rights associated with Tyle Coch Farm are exercisable over register unit CL74 but have been recorded as exercisable over CL45.
<b>Policy Framework:</b>	Commons Registration Service
<b>Consultations:</b>	Legal, Finance and Access to Services and all the statutory consultees, including local members, landowners, commoners, community councils and the prescribed organisations.
<b>Recommendation:</b>	It is recommended that the application be accepted and the necessary amendments are made to the Register of Common Land to record the rights as being exercisable over register unit CL74.
<b>Report Author:</b>	Kieran O'Carroll
<b>Finance Officer:</b>	Adele Harris
<b>Legal Officer:</b>	Jonathan Wills
<b>Access to Services Officer:</b>	Catherine Window

## 1 Introduction

- 1.1 An application made under Section 19(2)(b) of the Commons Act 2006 by a Mr Teifion Vernon Malcolm Davies ("the Applicant") of Tyle Coch Farm, Felindre was received by the Commons Registration Authority on the 4<sup>th</sup> December 2019 ("the Application"). The Application related to the rights

located in the Register of Common Land (“the Register”) at Entry No. 25 relating to register unit CL45 (See Appendix 1).

- 1.2 Entry No. 25 (“the Entry”) was originally recorded into the Register of Common Land on 18<sup>th</sup> September 1968 as the result of an application made by Mr Teifion Vernon Malcolm Davies on the 24<sup>th</sup> June 1968. The result was the recording on the Register of a right to pasture and estovers at all times, the right to carry bracken, and to graze 30 head of cattle and 150 sheep (“the Rights”). The rights were recorded as being exercisable over the whole of the land comprised in register unit CL45 i.e. Cefn Drum and Graig Fawr Commons.
- 1.3 The Applicant contends that the recording of the Rights as being exercisable over register unit CL45 was an error and the intention was to record the Rights over register unit CL74 i.e. Pentwyn Mawr and Craig y Bedw Commons. The effect of the Application, if granted, would be to remove the Rights recorded over CL45 in the Register and to record the Rights over CL74.

## **2 Legal Principles**

- 2.1 The application has been made under Section 19(2)(b) of the Commons Act 2006 (“the Act”) which allows any person to make an application to correct a mistake in the commons register that was not one made by the Commons Registration Authority and where the amendment would not affect:
  - (i) The extent of any land registered as common land or as a town or village green; or
  - (ii) What can be done by virtue of a right of common.
- 2.2 Further, Section 19(5) of the Act allows a Commons Registration Authority to refuse to correct a mistake if it deems it would be unfair to make a correction with regard to its effect on other persons with rights of common
- 2.3 The onus of proving the case in support of the correction of the register of common land rests with the person making the application, and the burden of proof to apply is the normal civil standard, namely, the balance of probabilities.
- 2.4 The procedure for determining an application for correction made under the Act is set out in the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (“the Regulations”)
- 2.5 The Regulations require that publicity must be given to this type of application via the Council website. Notice of the application must also be served on the statutory consultees, the owner of the land affected by the application and the owners of any rights of common which are exercisable over the area affected by the application.

### **3 Consultations**

- 3.1 The public notice of application appeared on the Council's website on 5<sup>th</sup> February 2020.
- 3.2 If the application were to be granted the effect would be the registration of these rights over CL74. Therefore, on the 5<sup>th</sup> February 2020, the notice under cover letter was sent to all others with rights over this common, the owners of the common, the relevant commoners' association, the local members for the Mawr electoral ward, Mawr Community Council, the Open Spaces Society and Natural Resources Wales.
- 3.3 The statutory notice period under the Regulations is 42 days. Therefore, the notice specified that any representations or objections would need to be submitted to the Commons Registration Authority by the 20<sup>th</sup> March 2020 to allow time for postage. Two objections to the Application were received.
- 3.4 One objection was received by a commoner with recorded rights to graze on register unit CL74 ("the Objector") and one was received from the Open Spaces Society ("the Society").

### **4 Determination**

- 4.1 The Applicant has provided a sworn Statutory Declaration in support of the Application as evidence to show that an error occurred when he made the original application to record the Rights in the Register in 1968. The original application is not available for inspection.
- 4.2 The Statutory Declaration states that the Applicant has grazed the Pentwyn Mawr Common (CL74) for 60 years and has never grazed on CL45. He states that the Commoners Association which manages both CL74 and CL45 have confirmed that they have never received any complaints from any graziers with regard to the fact his animals are grazing on CL74.
- 4.3 The Applicant has exhibited correspondence from the former secretary of the relevant Commoners Association confirming that having lived in the area for 35 years and in that time the Applicant has grazed on CL74. The information the Applicant has supplied tends to support the fact that he made an error on the original application in 1968 to record the Rights.
- 4.4 The Commons Registration Authority does not possess any additional evidence to assist the Applicant's case. However, it is noted that the Applicant's land directly abuts onto register unit CL74 and is some distance away from CL45. Whilst not conclusive in itself, this would also suggest that the Rights were supposed to be recorded against CL74. Given the evidence shows he has always grazed his animals on CL74 then a change to the Register would merely be the regularisation of the current position.
- 4.5 It is also noted that of all the holdings with rights recorded against register unit CL74 that were sent the notice of the Application (thirty-five in total) only one holding opposed the Applicant's case suggesting the majority are indifferent.

- 4.6 The Objector has questioned the validity of the Application due to the fact that the Applicant has taken over 50 years to address the error in the recording of the Rights. However, when the Register was originally compiled applications were invited in two stages between 1967 and 1970. All entries made as a result were provisional only. Following each stage objections were invited and all provisional entries were capable of challenge. Unchallenged entries were immediately confirmed and made final entries. Those entries that were opposed were sent to the Commons Commissioner Hearings. These were held predominantly during the 1980s and 1990s. The Commons Commissioner would hear evidence of errors at these hearings and would determine whether to make entries final or to remove them from the register.
- 4.7 The Entry to which this Application refers in the Register i.e. Entry No. 25 is referred to in a further entry with regard to register unit CL45. Entry No. 141 (see Appendix 2) was made on the register on 6<sup>th</sup> April 1995. The entry reads that the registration at entry no. 25 which was disputed became final on 20<sup>th</sup> March 1992.
- 4.8 This shows that the Entry subject to this Application was objected to at the relevant statutory periods in the late 1960s and early 1970s and the objection was heard at a Commons Commissioner Hearing. However, having considered the evidence presented at the hearing, the Commissioner dismissed the challenge and confirmed the entry which was made final. There is little information given in the records of the hearing. The fact the entry was confirmed may mean the Commons Commissioner determined that the Rights correctly belong on CL45. However, it is also a possibility that the Applicant failed to present enough evidence or the correct documentation at the time and the Applicant has previously advised the latter represents the true position.
- 4.9 The Objector also raises issues surrounding the conduct of the Applicant but these have not been considered as a determining factor in relation to the Application. Therefore, this objection has had no bearing on the success or otherwise of the Application and will not be considered further.
- 4.10 The objection submitted by the Society raises a point of law which could be decisive in the approval or rejection of the Application. The Society states that the change to the Rights in the Register intended by the Application cannot be implemented via an application made under Section 19(2)(b) of the Act.
- 4.11 Section 19(2)(b) only allows amendments to the Register where the change would have no effect on:
- (i) The extent of any land registered as common land or as a town or village green; or
  - (ii) What can be done by virtue of a right of common.
- 4.12 It is clear that the Application to amend the Rights would have no effect on the extent of any land registered as common land. However, it is the second point that requires careful consideration. If the Application does affect “what

can be done by virtue of a right of common” the Application will fail. However, the precise meaning of this phrase requires consideration.

- 4.13 The actual wording is fairly ambiguous and so consideration has been given to the meaning of this phrase by consulting the Explanatory Notes to the Commons Act 2006 which explain the purpose of each of the provisions of the Act (“the Explanatory Notes”) and the DEFRA Guidance on Part 1 of the Commons act 2006 (December 2014) (“the Guidance”).
- 4.14 The Explanatory Notes state that Section 19(2)(b) may be used to correct any mistake made by the Commons Registration Authority or another person provided that the amendment would not affect the extent of land registered as common land nor the “quantification” of any right of common. This suggests that “what can be done by virtue of a right of common” relates to the quantification of rights of common.
- 4.15 The Guidance supports this concept of quantification of rights stating that Section 19 does not confer a power to correct all errors in the register; for example there is no power to correct an error in the quantification of rights shown in the Register.
- 4.16 The Application is not seeking to correct the quantification of rights in the Register. It seeks only to amend the area of common land over which the Rights are exercisable.
- 4.17 Further, the Guidance clearly states that Section 19(2)(b)(ii) would not prevent the correction of an error in the identification of the land over which the rights are exercisable.
- 4.18 Therefore, it is considered that the opinion of the Society that the application must be rejected as it amends “what can be done by a right of common” is incorrect as there is to be no change to the quantification of the rights.
- 4.19 Further, if the Society’s interpretation of the legislation was correct it would effectively mean that section 19(2) of the Act would be redundant as in effect, every proposed change would be a change in what ca be done by virtue of a right of common and would therefore be prevented by section 19(2)(b)(ii). This supports the argument that section 19(2) can be used to correct the Register where the change would not affect the extent of land registered as common land nor the “quantification” of any right of common and is in line with the Guidance and Explanatory Notes.

## **5 Conclusion**

- 5.1 The Application has been made under Section 19(2)(b) of the Commons Act 2006 and seeks to amend the Register to show the Rights as being exercisable over CL74 rather than CL45.
- 5.2 The Applicant has provided a statutory declaration to support the Application setting out details of the error made in the original application to record the Rights in 1968.



- 5.3 There is little reason to dispute the Applicant's claim that an error was made at the time the Rights were originally recorded.
- 5.4 The Application does not seek to change the extent of any land registered as common land or what can be done by virtue of a right of common. Therefore, the provisions under Section 19(2)(b) of the Act are satisfied.
- 5.5 The Application has been made in the correct form and the objections received are not considered relevant to the determination of the Application.
- 5.6 It is therefore considered that the Application should be accepted and the necessary changes be made to the Register.

## **6 Integrated Assessment Implications**

- 6.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
  - Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 6.1.1 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. 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'.
- 6.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 6.2 The Integrated Impact Assessment (IIA) process has been applied to the subject of this report. No implications have been identified. An IIA Screening Form has been completed with the agreed outcome that a full IIA report was not required for the reasons given in paragraph 6.3 below.

6.3 The Application has no impact on any protected persons or groups. The application, made under Section 19(2)(b) of the Act seeks to correct an error whereby the commoners' rights associated with Tyle Coch Farm have been recorded as being exercisable over register unit CL45 (Cefn Drum and Graig Fawr) but should have been recorded as exercisable over register unit CL74 (Pentwyn Mawr and Craig y Bedw). The mistake was made by the applicant when the original application to record the rights was made in 1968. Therefore, the Application merely seeks to regularise our registers to ensure they correctly depict the common land over which the rights are exercisable and over which the rights have always been exercised.

6.4 The IIA Screening Form is appended to this report for reference.

## **7 Financial Implications**

7.1 There are no financial implications associated with this report.

## **8 Legal Implications:**

8.1 There are no legal implications other than those set out in this report.

### **Background Papers: None**

#### **Appendices:**

Appendix 1	Entry No. 25 in the register of unit CL45
Appendix 2	Entry No. 141 in the register of unit CL45
Appendix 3	IIA

NOTE: This section contains the registration of every right of common registered under the Act as exercisable over the whole or any part of the land described in the land section of this register unit.

See Overleaf  
for Notes

# Register of Common Land

## RIGHTS SECTION-Sheet No. 13

1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
25 18 Sept. 1968	1266 24 June 1968	Teifon Vernon Malcolm Davies Tylecoch Farm Felindre Swansea  TENANT  See Note No. 1 overleaf.	Pasture and estovers at all times. To graze:  30 head of cattle; 150 sheep; Right to carry bracken;  over the whole of the land comprised in this register unit.  (Registration Provisional)  <b>SEE ENTRY NO. 141 BELOW</b>	Tylecoch Mawr Farm, Felindre comprising O.S. Nos. 401, 402, 403, 404, 418, 419, 420, 421, 422, 423, 425, 511, 512, 513, 514, 514a, 515, 517, 518, 519, 520, 521 and 395 on the O.S. Map (1916 Edition) Glam Sheet Nos. VII.4, and VII.8 (1918 Edition).
26 20 Sept. 1968	1383 26 June 1968	David Lemuel Davies Talycynllwyn Farm Pontarddulais Swansea  FREEHOLDER	Rights of herbage, estovers and pasture. To graze:  20 head of cattle; 200 ponies or horses; 200 sheep;  over the whole of the land comprised in this register unit.  (Registration Provisional)  <b>SEE ENTRY NO. 159 BELOW</b>	Talycynllwyn Farm, Glyn Hir, Pontarddulais as shown edged red on the supplemental map-bearing the number of this registration.

# Register of Common Land

## RIGHTS SECTION-Sheet No. 54

1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
140 6 April 1995		The registrations at Entry No. 5 as modified by Entry Nos. 134, 42, 62, 63, 69, 70, 72, 73, 74, 75, 76, 77, 79, 82, 85, 86, 87, 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 111, 112, 113, 116, 117, 118, 119, 120, above which were disputed became VOID on 20 March, 1992.		
141 6 April 1995		The registrations at Entry Nos. 3, 6, 7, 9, 15 and 25 above which were disputed became FINAL on 20 March, 1992.		
142 6 April 1995	626	<p>Thomas Ronald Walters David Eaton Walters Blodwen Violet Walters Brynheulog Graig Fawr Pontarddulais Swansea</p> <p style="text-align: right;">OWNERS</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">                     Registration as Modified on Finality. For original registration see Entry No. 1 above.                 </div>	<p>At all times pasture. To graze: 54 head of cattle; 1 horse; over the whole of the land comprised in this register unit. (Registration became Final on 20 March, 1992)</p>	<p>Brynheulog, Graig Fawr and land as shown edged red on the supplemental map bearing the number of this registration.</p>

Please ensure that you refer to the Screening Form Guidance while completing this form.

**Which service area and directorate are you from?**

Service Area: Legal Services

Directorate: Resources

**Q1 (a) What are you screening for relevance?**

- New and revised policies, practices or procedures
- Service review, re-organisation or service changes/reductions, which affect the wider community, service users and/or staff
- Efficiency or saving proposals
- Setting budget allocations for new financial year and strategic financial planning
- New project proposals affecting staff, communities or accessibility to the built environment, e.g., new construction work or adaptations to existing buildings, moving to on-line services, changing location
- Large Scale Public Events
- Local implementation of National Strategy/Plans/Legislation
- Strategic directive and intent, including those developed at Regional Partnership Boards and Public Services Board, which impact on a public bodies functions
- Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans)
- Setting objectives (for example, well-being objectives, equality objectives, Welsh language strategy)
- Major procurement and commissioning decisions
- Decisions that affect the ability (including external partners) to offer Welsh language opportunities and services

**(b) Please name and fully describe initiative here:**

**Legal duty under Commons Act 2006 to determine applications to correct the City and County of Swansea Register of Common Land and Town or Village Greens. This application, made under Section 19(2)(b) of the Act seeks to correct an error whereby the commoners' rights associated with a particular farm have been recorded as being exercisable over register unit CL45 (Cefn Drum and Graig Fawr) but the applicant states they should be recorded as exercisable over register unit CL74 (Pentwyn Mawr and Craig y Bedw). The applicant admits the mistake was a mistake by him when originally applying to record the rights in 1968 and not one of the Commons Registration Authority's making.**

**Q2 What is the potential impact on the following: the impacts below could be positive (+) or negative (-)**

	High Impact		Medium Impact		Low Impact		Needs further investigation
	+	-	+	-	+	-	
Children/young people (0-18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Older people (50+)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other age group	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Future Generations (yet to be born)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race (including refugees)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Asylum seekers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gypsies & travellers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Religion or (non-)belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Poverty/social exclusion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carers (inc. young carers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community cohesion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q3 What involvement has taken place/will you undertake e.g. engagement/consultation/co-productive approaches? Please provide details below – either of your activities or your reasons for not undertaking involvement**

Full consultation procedure carried out as required by the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017. Consulted with all those from the register of common land with rights over the common that would be affected by the application. Consulted with local members, West Glamorgan Commoners Association, landowners, community council, Natural Resources Wales and the Open Spaces Society.

**Q4 Have you considered the Well-being of Future Generations Act (Wales) 2015 in the development of this initiative:**

- a) Overall does the initiative support our Corporate Plan’s Well-being Objectives when considered together?  
 Yes  No
- b) Does the initiative consider maximising contribution to each of the seven national well-being goals?  
 Yes  No
- c) Does the initiative apply each of the five ways of working?  
 Yes  No
- d) Does the initiative meet the needs of the present without compromising the ability of future generations to meet their own needs?  
 Yes  No

**Q5 What is the potential risk of the initiative? (Consider the following impacts – equality, socio-economic, environmental, cultural, legal, financial, political, media, public perception etc...)**

High risk

Medium risk

Low risk

**Q6 Will this initiative have an impact (however minor) on any other Council service?**

Yes  No If yes, please provide details below

**Q7 What is the cumulative impact of this proposal on people and/or communities when considering all the impacts identified within the screening and any other key decisions affecting similar groups/ service users made by the organisation?**

*(You may need to discuss this with your Service Head or Cabinet Member to consider more widely if this proposal will affect certain groups/ communities more adversely because of other decisions the organisation is making. For example, financial impact/poverty, withdrawal of multiple services and whether this is disadvantaging the same groups, e.g., disabled people, older people, single parents (who are mainly women), etc.)*

The applicant has provided evidence to support the fact he has always exercised his rights of common including grazing, on CL74 and never on CL45. Therefore, there will be no change to the status quo should the application be successful. The application is merely seeking to regularise the position by amending the register of common land to 1) reflect the position in reality, and 2) to correct the mistake made by the applicant in 1968 whereby the rights were recorded as exercisable over CL45 rather than CL74. It is therefore considered that there can be no detrimental effect on interested or protected groups.

**Outcome of Screening**

**Q8 Please describe the outcome of your screening below:**

- **Summary of impacts identified and mitigation needed (Q2)**
- **Summary of involvement (Q3)**
- **WFG considerations (Q4)**
- **Any risks identified (Q5)**
- **Cumulative impact (Q7)**

**No impacts on any persons or community groups as a result of the determination of this application under the Commons Act 2006, Section 19. Therefore, no mitigating factors required. The City and County of Swansea Commons Registration Authority has a duty under the said Act to process applications to correct the Register of Common Land and Town or Village Greens. This application, made under Section 19(2)(b) of the Act seeks to correct an error whereby the commoners’ rights associated with a particular farm have been recorded as being exercisable over register unit CL45 (Cefn Drum and Graig Fawr) but the applicant states they should be recorded as exercisable over register unit CL74 (Pentwyn Mawr and Craig y Bedw). The applicant admits the mistake was a mistake by him when originally applying to record the rights in 1968 and not one of the Commons Registration Authority’s making. Therefore, this application is merely a proposal to regularise our registers to ensure they correctly depict the common land over which the rights are exercisable. No risks have been identified as part of the Integrated Impact Assessment Screening and a full Integrated Impact Report is not required.**

(NB: This summary paragraph should be used in the relevant section of corporate report)

Full IIA to be completed

Do not complete IIA – please ensure you have provided the relevant information above to support this outcome

NB: Please email this completed form to the Access to Services Team for agreement before obtaining approval from your Head of Service. Head of Service approval is only required via email.

<b>Screening completed by:</b>
<b>Name:</b> Kieran O’Carroll
<b>Job title:</b> Lawyer
<b>Date:</b> 8 <sup>th</sup> October 2021
<b>Approval by Head of Service:</b>
<b>Name:</b> Debbie Smith
<b>Position:</b> Deputy Chief Legal Officer
<b>Date:</b> 25 <sup>th</sup> October 2021

# Agenda Item 7

City and County of Swansea  
Dinas a Sir Abertawe

Report of the Head of Planning & City Regeneration  
to Chair and Members of Planning Committee

DATE: 7<sup>th</sup> December 2021

<b>Bay Area</b> Team Leader: Liam Jones - 635735	<b>Area 1</b> Team Leader Andrew Ferguson - 633947	<b>Area 2</b> Team Leader: Chris Healey - 637424
Castle Mayals Oystermouth St Thomas Sketty Uplands West Cross	Bonymaen Clydach Cockett Cwmbwrla Landore Llangyfelach Llansamlet Mawr Morrison Mynyddbach Penderry Penllergaer Pontarddulais Townhill	Bishopston Dunvant Fairwood Gorseinon Gower Gowerton Killay North Killay South Kingsbridge Lower Loughor Newton Penclawdd Pennard Penyrheol Upper Loughor

**Members are asked to contact the relevant team leader for the ward in which the application site is located, should they wish to have submitted plans and other images of any of the applications on this agenda displayed at the Committee meeting.**

Phil Holmes  
BS(Hons), MSc, Dip Econ  
Head of Planning & City Regeneration





## TWO STAGE VOTING

Where Members vote against officer recommendation, a two stage vote will apply. This is to ensure clarity and probity in decision making and to make decisions less vulnerable to legal challenge or awards of costs against the Council.

The first vote is taken on the officer recommendation.

Where the officer recommendation is for “approval” and Members resolve not to accept this recommendation, reasons for refusal should then be formulated and confirmed by means of a second vote.

**The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Members.** The reason(s) have to be lawful in planning terms. Officers will advise specifically on the lawfulness or otherwise of reasons and also the implications for the Council for possible costs against the Council in the event of an appeal and will recommend deferral in the event that there is a danger that the Council would be acting unreasonably in refusing the application.

Where the officer recommendation is for “refusal” and Members resolve not to accept this recommendation, appropriate conditions should then be debated and confirmed by means of a second vote. For reasons of probity, Members should also confirm reasons for approval which should also be lawful in planning terms. Officers will advise accordingly but will recommend deferral if more time is required to consider what conditions/obligations are required or if he/she considers a site visit should be held. If the application departs from the adopted development plan it (other than a number of policies listed on page 83 of Part 3 of the Constitution) will need to be reported to Council and this report will include any appropriate conditions/obligations.

**The application will not be deemed to be approved unless and until suitable conditions have been recorded and confirmed by means of a second vote.**

Where Members are unable to reach agreement on reasons for refusal or appropriate conditions as detailed above, Members should resolve to defer the application for further consultation and receipt of appropriate planning and legal advice.

## Contents

Item	App. No.	Site Location	Officer Rec.
1	2021/0787/FUL	Poundstretcher, Gorseinon Road, Penllergaer, Swansea, SA4 9GE <b>Demolition of existing retail unit and construction of supermarket, car parking, landscaping and associated works</b>	Approve
2	2021/2490/RES	Parc Ceirw, Great Western Terrace, Cwmrhydyceirw, Swansea, SA6 6EA <b>Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary work (Details of landscaping pursuant to outline planning permission 2014/0977 granted on appeal 11th January 2018) for phases 3 (73 dwellings) and 4 (36 dwellings)</b>	Approve

Planning Committee – 7<sup>th</sup> December 2021

Item 1

Application Number:

2021/0787/FUL

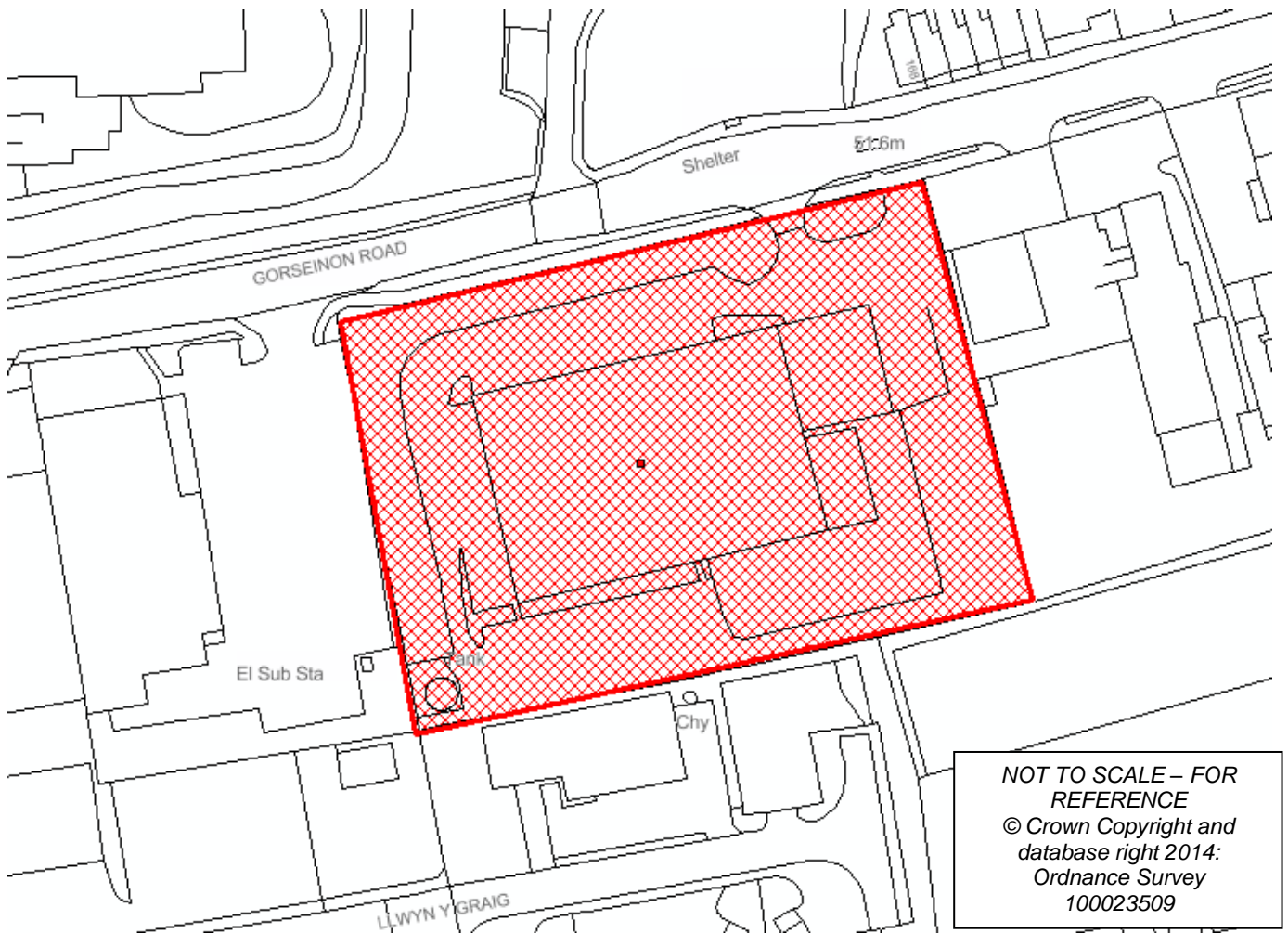
Ward:

Penllergaer - Area 1

Location: Poundstretcher , Gorseinon Road, Penllergaer, Swansea, SA4 9GE

Proposal: Demolition of existing retail unit and construction of supermarket, car parking, landscaping and associated works

Applicant: Lidl Great Britain Ltd



Item 1 (Cont'd)

Application Number:

2021/0787/FUL

**Site History  
App Number**

**Proposal**

**Status**

**Decision Date**

2016/3169/S73

Variation of condition 1 of  
planning permission  
2/2/79/0826/02 granted  
11th March 1980 to  
broaden the range of goods  
to be sold

APP

09.12.2016

**Procedural Matters & Background**

This application is reported to Planning Committee for determination due to the scale of the development (floor area over 2000m<sup>2</sup>) meeting the threshold set out in the Council Constitution.

The application site extends to 0.99HA. This is below the 1ha threshold for Schedule 2 (10 (b) Infrastructure projects to screen the proposal in accordance with The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.

The application has been the subject of amendments to address consultee comments as part of the planning application process.

**Site Location**

The application site comprises the former Poundstretcher store (previously B&Q), Gorseinon Road, Penllergaer. It lies in an elevated position adjacent to the Gorseinon Road/A4240 which links to the residential areas of Penllergaer to the east and Gorseinon to the west. The site extends to approx. 0.99Ha and the site comprises the vacated Poundstretcher retail store, car park and areas of soft landscaping. Access is achieved from the site's existing northern boundary from Gorseinon Road.

In terms of the site surroundings, the site is located within the Garngoch Industrial Estate which comprises a mix of mainly industrial and commercial uses. The site is bound by commercial/industrial warehousing to the east and south, whilst the existing Lidl supermarket adjoins the site immediately to the west (but at lower level due to the topography). An area of open space, residential dwellings and the 3M factory site lie to the north across the A4240/Gorseinon Road which runs parallel to the sites northern boundary.

In terms of flood risk, the Development Advice Map (accompanying TAN 15) indicates the site is located within Zone A - considered to be at little risk of fluvial or coastal/tidal flooding. In terms of mining risk the site falls within a development low risk area. In terms of heritage, there are no heritage assets, including listed buildings within or in the vicinity of the site. The site does lie within 500m of a scheduled ancient monument (Garn Goch Round Barrow). However, in view of topography and existing intervening buildings, it is not considered that the proposal would be visible from or have any undue impact on the setting of this scheduled ancient monument. On this basis CADW have therefore not been consulted.

## Description of Development

The proposed development will see the demolition of the existing Poundstretcher retail unit and the erection of a new food store, associated car parking, landscaping and all associated works at the site to facilitate the relocation of the (adjoining) Lidl Supermarket..

The scheme will comprise a new foodstore with 1,414m<sup>2</sup> net sales area (2,194m<sup>2</sup> gross internal floor area) alongside a dedicated customer car park and servicing area to accommodate the delivery of goods to the store via HGV. The proposed foodstore will be situated in the western section of the site, with the customer entrance located at the north and west corner of the site, utilising glazing which wraps around the corner of the store to provide an entrance lobby and an open atrium.

Customer parking will be accessed from the existing vehicular entrance from Gorseinon Road. Pedestrian access will also be retained as existing with a redesigned zebra crossing. The perimeter of the site will be landscaped to assist in framing the proposed development and ensure assimilation with its surroundings.

The existing Poundstretcher site is subject to planning permission ref 2016/3169/S73 which sought to vary condition 1 of planning permission 79/0826/02 to broaden the range of goods that can be sold at the B&Q (at the time) unit. The revised condition 1 reads:

*The use shall be strictly confined to the sale of the following good, provided that no more than 20% of the gross floor area shall be used for the sale of goods from any one category:*

- *Building Materials and Gardening materials;*
- *Home Furnishings and Furniture;*
- *Toiletries and Household goods;*
- *Car and electronic accessories;*
- *Kitchenware;*
- *Luggage and storage;*
- *Toys, clothing, stationary and partyware, and*
- *Food and drink.*

*No more than 30% of the gross floor area shall be used for the sale of Pet Care Products. For the purposes of this consent, building materials shall be interpreted as materials normally used in the carrying out of building operations and gardening materials shall be interpreted as materials normally used in the carrying out of gardening operations.*

As noted above, the application seeks the relocation of the existing Lidl store located adjacent to the site to the current application site. This would result in the current store being left vacant and the current store is predominantly open A1 floorspace. Members will note that the application site red line area extends only to the existing Poundstretcher site. It does not include the existing Lidl store. However, it is proposed to restrict the sale of goods in the existing Lidl building via a S106 agreement without the land being in the red line boundary. This will however be registered as a Land Charge and it will also be registered with the Land Registry.

For ease of reference, the following table has been included to indicate the situation with the existing Lidl store, the existing Poundstretcher store and the new store subject of this application.

**Item 1 (Cont'd)**

**Application Number:**

2021/0787/FUL

STORE	GROSS FLOOR AREA (m <sup>2</sup> )	NET FLOOR AREA (m <sup>2</sup> )	CONVENIENCE GOODS (m <sup>2</sup> )	COMMENTS
Existing Lidl	1384	934	794	
Poundstretcher	2454	2209	490*	*20% of floor area restricted by 2016/3169/S73
Proposed Lidl	2144	1414	1131	283m <sup>2</sup> comparison goods

**Convenience Goods:**

Convenience goods are items consumers buy often and easily without putting much thought into them. These include newspapers, magazines, most grocery items, and petrol.

**Comparison Goods:**

Comparison goods are products which are usually higher value and purchased infrequently, such as vehicles, household goods or clothing. Consumers tend to compare products before purchasing them to maximise value and quality.

**Planning Policy Context**

**National Development Framework: Future Wales - the National Plan 2040**

The National Development Framework: Future Wales - the National Plan 2040 published by WG on 24th February 2021, contributes the national tier of the Development Plan - it sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs.

Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

The following national policy contained in Future Wales is of relevance to this application :

- Policy 1 – Where Wales will grow
- Policy 2 - Shaping urban growth and regeneration - Strategic Placemaking
- Policy 6 - Town Centre First
- Policy 9 - Resilient Ecological Networks and Green Infrastructure
- Policy 12 - Regional Connectivity

**Planning Policy Wales (11th Edition) 2021**

PPW is the complete land use planning policy document for Wales and provides the foundation for all national, regional and local planning policies. It is not part of the Development Plan, however it has substantial weight in the planning process. The following key extracts from PPW are of particular relevance:

**Item 1 (Cont'd)**

**Application Number:**

2021/0787/FUL

Placemaking - The concept of placemaking is central to PPW and delivering on the aspirations of the Well-being of Future Generations Act and achieving well-being through plan making and development management decisions.

PPW defines placemaking as (p14): a holistic approach to the planning and design of development and spaces, focused on positive outcomes. It draws upon an area's potential to create high quality development and public spaces that promote people's prosperity, health, happiness, and well being in the widest sense.

PPW (pg 16) provides the 6 placemaking principles of the Placemaking Charter (to which the Council is a signatory). These include - people and community - location - movement - mix of uses - public realm – identity.

Placemaking considers the context, function and relationships between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place.

Placemaking should not add additional cost to a development, but will require smart, multi-dimensional and innovative thinking to implement and should be considered at the earliest possible stage. Placemaking adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into planning decisions.

In responding to the key principles for the planning system, the creation of sustainable places and in recognition of the need to contribute to the well-being of future generations in Wales through placemaking, development plans and development proposals must seek to deliver developments that address the national sustainable placemaking outcomes (para 2.17).

The Covid-19 Pandemic and Building Better Places: In July 2020 the Welsh Government published Building Better Places which pinpoints the most relevant policy priorities and actions to aid in the recovery. Building Better Places recognises the pivotal role that planners play in shaping our society for the future. They must plan for our priorities around placemaking, decarbonisation and well-being. Building Better Places starts to identify action to achieve this and upon which we must build; future reviews of Planning Policy Wales will enable us to further integrate this work. Everyone has a part to play to ensure that the communities of tomorrow benefit from the foresight of today (para 2.18).

Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surrounding area (para 3.3).

Sustainable location (para 3.43 and 4.2.16) - PPW states that in terms of the search sequence for identifying sites for development LPAs should consider allocating previously developed land and/or underutilised sites located within existing settlements in the first instance with sites on the edge of settlements considered at the next stage.

Sustainable travel (para 4.1.19-30 and 4.1.40-41) - The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which: are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car; are designed in a way which integrates them with existing land uses and neighbourhoods; and make it possible for all short journeys within and beyond the development to be easily made by walking and cycling. Well-designed, people orientated streets are fundamental to creating sustainable places and increasing walking, cycling and use of public transport. New development should improve the quality of place and create safe, social, attractive streets where people want to walk, cycle and enjoy, and children can play. The Welsh Government policy, Manual for Streets (MfS) and its companion guide MfS 2, requires that street design should not follow the conventional engineering-led approach. The design of new or enhanced streets should respond to urban design principles, including those in MfS and the Active Travel Design Guidance. Planning authorities must ensure the design of streets contributes to the creation of high-quality places, which will require a multi-disciplinary approach, and should challenge development proposals with standardised, prescriptive, engineering-focussed, riskadverse street designs. Design and Access Statements should demonstrate how the design of new or enhanced streets has responded to urban design principles.

The design and layout of streets must give a high priority to their role as public spaces and meeting the needs of pedestrians, cyclists and public transport users, reflecting the principles of the sustainable transport hierarchy. To create streets that are social places, the public realm needs to be safe and attractive and the street designed for low speeds of 20 mph or less. To make streets safer and more attractive places for people, the Welsh Government is making 20 mph the new default speed limit for most streets and taking measures to prevent pavement parking. Active travel infrastructure should be put in place early on in a development, and before the people living there move in, to support active and healthy travel patterns from the outset.

To encourage the use of Ultra Low Emission Vehicles (ULEVs), the planning system should encourage and support the provision of ULEV charging points as part of new development. Future Wales sets out the Welsh Government's requirements for the provision of electric vehicle charging points for non-residential development. The provision of electric vehicle charging points should be planned as part of the overall design of a development. Charging points must not cause an obstruction to walking or cycling, should be resistant to vandalism, and located where there is good lighting and natural surveillance.

Biodiversity and Resilience of Ecosystems (S6 Duty) (paras 6.4.1 to 6.4.9) - In accordance with s6 of the Environment Act 2016, the Council has a duty to maintain and enhance biodiversity. [NB: In Swansea, the section 6 duty is embedded as one of the 4 Well Being Objectives in the Public Service Board's Well Being Plan - "Working With Nature". It is also included as Objective 6 of the Council's Corporate Plan "maintaining and enhancing Swansea's Natural Resources".

The s6 duty means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so, the LPA must take account of and promote the resilience of ecosystems, in particular the following aspects: diversity, connectivity, scale, condition and adaptability. In fulfilling this duty the LPA must have regard to S.7 list of habitats and species important for Wales and the SoNaRR and any up to date ecological survey information provided.



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Protection and Management of Designated Sites: (paras 6.4.15- 21) - Protection for Non-statutory biodiversity designations can make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given adequate protection in the development management process. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the County Ecologist and third sector environmental organisations. Assessments should consider the presence of protected and priority species including those on the Section 7 list and appropriate weight attached to their protection. Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated.

Planning authorities must follow a step-wise approach to maintain and enhance biodiversity and build resilient ecological networks by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for; enhancement must be secured wherever possible.

Green infrastructure (para 6.2.1 - 6.2.5) - is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. The delivery of multifunctional green infrastructure can make a significant contribution to the sustainable management of natural resources, in particular to maintaining and enhancing biodiversity and the resilience of ecosystems in terms of diversity, extent, condition, connectivity and adaptability. This means that development of Green Infrastructure is an important way for local authorities to deliver their Section 6 Duty. Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and is intrinsic to the quality of the spaces we live, work and play in. The planning system should protect and enhance green infrastructure assets and networks because of these multi-functional roles. The protection and enhancement of biodiversity must be carefully considered as part of green infrastructure provision alongside the need to meet society's wider social and economic objectives and the needs of local communities. The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design.

Retail and Commercial development (para 4.3.1 - 4.3.2) - Retail and commercial centres are hubs of social and economic activity and the focal point for a diverse range of services which support the needs of local communities. They are highly accessible to different modes of transport and are the most sustainable locations for new development. Retail and commercial centres should be identified in development plans and include established city, town, district, local, village and neighbourhood centres, which provide a range of shopping, commercial and leisure opportunities as well as places of employment, education, civic identity and social interaction. Opportunities to live in these centres, combined with their good public transport links, make them the most sustainable places.

Retail Strategies (4.3.4 - 4.3.9) - Retail and commercial centres are central to community activity and local prosperity and in order to plan for them effectively it is important to understand their function, roles and relationships. Planning authorities should establish through their development plan a clear strategy for retail development, supported by policies, to achieve vibrant, attractive and viable retail and commercial centres.

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The strategy and policies should set out a framework for the future of retail and commercial centres in their area, taking in to account strategies in adjoining authorities, to promote a successful retailing sector supporting existing and new communities. In order to be flexible in circumstances where no sites are allocated, planning authorities should include criteria based policies against which proposals can be assessed.

Retail and Commercial Centre Hierarchies (4.3.10 - 4.3.13) - Planning authorities should establish a hierarchy of retail and commercial centres in their development plan strategy, identifying boundaries on the proposals map. Using locally defined definitions, planning authorities should identify and categorise retail and commercial centres by the functions they fulfil, consider their future roles, and recognise opportunities to support Welsh Government retail and commercial centre objectives.

Needs Test (4.3.13 - 4.3.17) - It is important that communities have access to adequate levels of retail provision. Evidence should demonstrate whether retail provision is adequate or not, by assessing if there is further expenditure capacity in a catchment area (quantitative need) or if there is a lack of retail quality, range of goods or accessibility (qualitative need). In deciding whether to identify sites for comparison, convenience or other forms of retail uses in development plans or when determining planning applications for such uses, planning authorities should first consider whether there is a need for additional retail provision. However, there is no requirement to demonstrate the need for developments within defined retail and commercial centre boundaries or sites allocated in a development plan for specific retail uses. This approach reinforces the role of centres, and other allocated sites, as the best location for most retail, leisure, and commercial activities. It is not the role of the planning system to restrict competition between retailers within centres.

Sequential Test (4.3.18 - 4.3.24) - The Welsh Government operates a 'town centres first' policy in relation to the location of new retail and commercial centre development. In implementing this policy, planning authorities should adopt a sequential approach to the selection of new sites in their development plan and when determining planning applications for retail and other complementary uses. By adopting a sequential approach first preference should be to locate new development within a retail and commercial centre defined in the development plan hierarchy of centres. If a suitable site or building to meet identified need is not available within a retail and commercial centre or centres, then consideration should be given to edge of centre sites and if no such sites are suitable or available, only then should out-of-centre sites in locations that are accessible by a choice of travel modes, including active travel and public transport, be considered. Developers should demonstrate that all potential retail and commercial centre options, and then edge-of-centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered. The onus of proof that central sites have been thoroughly assessed rests with the developer. Edge-of-centre or out-of-centre sites should be accessible by a choice of public and private modes of travel. New out-of-centre retail developments or extensions to existing out-of-centre developments should not be of a scale, type or location likely to undermine the vibrancy, attractiveness and viability of those retail and commercial centres that would otherwise serve the community, and should not be allowed if they would be likely to put development plan retail strategy at risk. The extent of a sequential test should be agreed by pre-application discussion between the planning authority and the developer.

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Retail Impact Assessments (4.3.25 - 4.3.29) - Retail developments outside designated retail and commercial centres, and which are not located on an allocated site, can impact on the viability and vibrancy of a centre. Impacts resulting from such development, whether individual or cumulative, may include changes in turnover and trading ability, consumer choice, traffic and travel patterns, footfall, as well as affect centre regeneration strategies and existing or proposed retail sites allocated in the development plan. The purpose of the retail impact assessment is to consider these issues and determine if these developments are likely to have detrimental consequences.

### **Well-being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act places a duty on Local Planning Authority's (including Welsh Minsters) that they must carry out sustainable development. The Planning (Wales) Act 2015 introduces a statutory requirement for the planning system in Wales for statutory bodies carrying out a planning function to exercise those functions in accordance with the principles of sustainable development as set out in the Well-being of Future Generations (Act) Wales 2015. Paragraph 4.2.2. states that the planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision-maker in taking decisions on individual planning applications.

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Paragraph 4.2.4 states that a plan-led approach is the most effective way to secure sustainable development through the planning system and states there is presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise.

### **Technical Advice Notes (TANs)**

TAN 4 – Retail and Commercial Development (2016)

TAN 18 – Transport (2007)

TAN 23 – Economic Development (2014)

### **Adopted Swansea Local Development Plan (2010-2025)**

PS 1 - Sustainable Places: In order to deliver sustainable places and strategically manage the spatial growth of the County, the delivery of new homes, jobs, infrastructure and community facilities must comply with the Plan's sustainable settlement strategy, which requires that development is directed to the most sustainable locations within the defined settlement boundaries of the urban area and Key Villages and inappropriate development in the countryside is resisted.

PS 2 - Placemaking and Place Management: Development should enhance the quality of places and spaces, and respond positively to aspects of local context and character that contribute towards a sense of place. The design, layout and orientation of proposed buildings, and the spaces between them, should provide for an attractive, legible, healthy, accessible and safe environment. All proposals should ensure that no significant adverse impacts would be caused to people's amenity.

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IO 1 Supporting Infrastructure - development must be supported by appropriate infrastructure, facilities and other requirements considered necessary as part of the proposal.

IO 2 Employment and Training Opportunities - developers are encouraged to maximise added benefits from the development in relation to the creation of training and job opportunities in line with the Council's Beyond Bricks and Mortar Policy.

HC 3 Development in the Welsh Language Sensitive Area - Proposals within the Language Sensitive Area (defined on the Proposals Map) will safeguard and promote the Welsh language throughout the County by complying with the policy principles.

RC 2 Retail and Leisure Development - Retail and leisure proposals must in the first instance assess the suitability of sites and premises within the following Centres of the retail hierarchy, (Swansea Central Retail Area; District Centres; and Local Centres) having regard to the nature, scale and location of the proposed development.

RC 3 Swansea Central Area Retail Centre - Swansea Central Area Retail Centre sits at the top of the retail hierarchy and is the sequentially preferred location for all significant retail and leisure development. Proposals within or outside the Swansea Central Area must not put at risk the regeneration of the St David's/Quadrant site priority proposal, and must deliver the development principles specified in the policy.

RC 4 Swansea Central Area - Complementary Areas - Within the Swansea Central Area Complementary Areas, development that delivers an appropriate mix of uses will be permitted in accordance with the particular functions and opportunities for regeneration and renewal at each location. Development must make positive use of the defining attributes of the respective Complementary Areas, enhance connections to the Retail Centre, and complement rather than compete with the role and function of the Retail Centre and other Complementary Areas.

RC 5 District Centres - There are 9 designated District Centres. Proposals will be required to maintain or improve the range and quality of shopping provision, or appropriate complementary commercial and community facilities and be of a scale, type and character that will enhance the future vitality, viability and attractiveness of the Centre.

RC 6 Local Centres - Small scale retail and leisure proposals less than 1000 sq m gross floor area, and other uses intended primarily to meet the day to day needs of the local neighbourhood, will be directed towards suitable premises within 25 Local Centres.

RC 7 Out of Centre Retail Parks -5 Out of Centre Retail parks are designated. Class A1 (retail) proposals within will be restricted to the sale of predominantly bulky goods and/or other goods that would not typically be sold from premises within a Centre. Proposals for Class A3 (food and drink) within Out of Centre Retail Parks will be restricted to small scale provision ancillary and incidental to the primary retail function of the Park. Class D2 (leisure) proposals will only be permitted if demonstrated no viable prospect of being located within or on the edge of the Swansea Central Area Retail Centre.

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RC 10 Employment and Enterprise Development - Land which is in active, viable employment use is considered part of the County's employment land bank and will be protected for B Class employment generating uses. Proposals outside of these areas will need to demonstrate why the proposal cannot reasonably be located within an existing employment area, or designated Strategic Development Areas having regard to the nature and scale of the scheme.

ER 1 Climate Change - To mitigate against the effects of climate change, adapt to its impacts, and to ensure resilience, development proposals should take into account the climate change principles specified in the policy.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

ER 8 Habitats and Species - Development proposals that would have a significant adverse effect on the resilience of protected habitats and species will only be permitted where they meet specific criteria.

ER 9 Ecological Networks and Features of Importance for Biodiversity - Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

ER 11 Trees, Hedgerows and Development - Development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted. Ancient Woodland, Ancient Woodland Sites, Ancient and Veteran trees merit specific protection and development that would result in specified outcomes will not normally be permitted. Where necessary a tree survey; arboricultural impact assessment; an arboricultural method statement; tree protection plan and/or scheme for tree replacement, including details of planting and aftercare will be required in support of a planning application.

T 1 Transport Measures and Infrastructure - Development must be supported by appropriate transport measures and infrastructure and dependant the nature, scale and siting of the proposal, meet specified requirements. Development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.

T 2 Active Travel - Development must take opportunities to enhance walking and cycling access either by incorporation within the site, and/or making financial contributions towards the delivery off site of specific measures, as specified in the policy. Developments must not have a significant adverse impact on existing active travel routes as specified in the policy.

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T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

T 6 Parking - proposals must be served by appropriate parking provision, in accordance with maximum parking standards, and consider the requirements for cycles, cars, motorcycles and service vehicles. In those instances where adequate parking cannot be provided on site, or is judged not to be appropriate, the developer will be required to provide a financial contribution towards alternative transport measures where appropriate.

The provision of secure cycle parking and associated facilities will be sought in all major development schemes.

Proposals on existing car parks that would reduce parking provision will not be permitted where the loss of the parking facility would result in outcomes specified in the policy.

EU 2 Renewable and Low Carbon Energy Technology in New Development - development will be required to maximise the contribution of renewable or low carbon energy technology to meet the energy demands of the proposal, particularly for Significant Energy Consuming Developments. Larger schemes, as specified in the policy, will be required to submit a comprehensive Energy Assessment to determine the feasibility of incorporating low carbon or renewable energy installations into the scheme and/or connect to renewable or low carbon energy technology and district heating networks.

EU4 Public Utilities and New Development - development will be permitted where the utility infrastructure is adequate to meet the needs of the development.

Development that requires new or improved utility infrastructure will be permitted where it can be satisfactorily demonstrated that the developer will make an appropriate contribution to secure the provision of the infrastructure.

RP 1 Safeguarding and Public Health and Natural Resources - development that would result in significant risk to life; human health and wellbeing; property; controlled waters; or the historic and natural environment, especially European designated sites, will not be permitted, particularly in respect of the specified potential risks.

RP 2 Noise Pollution - Where development could lead to exposure to a source of noise pollution it must be demonstrated that appropriate mitigation measures will be implemented, and incorporated into the design of the development to minimise the effects on existing and future occupants. Noise sensitive development will not be permitted unless effective mitigation will prevent exposure to existing noise generating uses. Development that would lead to an increase in environmental noise at a NAPPA or would have an unacceptable impact on a Quiet Area will not be permitted.

RP 3 Air and Light Pollution - Where development could lead to exposure to a source of air or light pollution it must be demonstrated that appropriate mitigation measures will be implemented, and incorporated into the design of the development to minimise the effects on existing and future occupants.

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RP 4 - Water pollution and protection of water resources: Development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted. Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality.

Sustainable drainage systems (SuDS) must be implemented wherever they would be effective and practicable. Watercourses will be safeguarded through green corridors/riparian buffers: to protect water habitats and species; water quality and to provide for floodplain capacity. Development proposals that would have a significant adverse impact on biodiversity, fisheries, public access or water related recreation use of water resources, will not be permitted.

RP 10 - Sustainable Waste Management for New Development: development will be required to incorporate, as appropriate, adequate and effective provision for the storage, recycling and other sustainable management of waste, and allow for appropriate access arrangements for recycling and refuse collection vehicles and personnel.

**Supplementary Planning Guidance (SPG)**

The following Supplementary Planning Guidance (SPG) are relevant to the proposed development:

- o Parking Standards (Adopted March 2012)
- o Planning Obligations (Adopted March 2010)
- o Planning for Community Safety (Adopted December 2012)
- o Trees, Hedgerows and Woodlands (Adopted October 2021)
- o Biodiversity and Development (Adopted February 2021)

The above SPG provide information and guidance to clarify the policy aims of the relevant LDP Policies as set out above. These SPG have been formally adopted by the Council following public consultation and stakeholder engagement that informed the content of the documents. Some of the SPG documents were adopted by the Council prior to the LDP being formally adopted, and in due course the SPG documents will be subject to an updated public consultation and a re-adoption process. Notwithstanding this, it is considered appropriate to have regard to the content of the SPG given: it is fundamentally aligned to (and referenced as a supporting document within) the relevant LDP Policies and are considered to be consistent with national guidance and the overarching principles of Placemaking set out within PPW and the relevant TANs. Ultimately the SPG documents provide useful guidance to confirm how the Council considers the relevant LDP Policy aims and objectives should be interpreted.

**Consultations:**

The application was advertised in the Local Press and SEVEN neighbouring properties were consulted.

ONE letter of COMMENT was received which is summarised as follows:

**Retail Need:**

- The quantitative need assessment should be amended to take into account the retail use of the existing Poundstretcher and the reoccupied Lidl Unit

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- The qualitative needs assessment requires more detail to address the factors set out at paragraph 4.3.16 of PPW and to provide evidence on the applicants arguments in respect of reducing the need to travel and expenditure leakage.

**Retail Impact:**

- The trade draw percentages are not realistic and should be amended
- Additionally the Aldi store at Miller's Drive is located within the Gorseinon District Centre and this should be taken into account.

**Ecology:**

- An ecological assessment has been undertaken by no detail has been provided to demonstrate that the new planting will lead to a net gain in biodiversity as required by PPW Edition 11 para 6.4.5. This should be provided to ensure compliance.

Further information needs to be provided to ensure the retail need and impact tests are being complied with, in addition to the biodiversity requirements.

**Dwr Cymru Welsh Water -**

We can confirm that Dwr Cymru Welsh Water have been previously informed of the proposed development and consulted, as a 'Specialist Consultee', in accordance with Schedule 1C Article 2D of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016. We note that our consultation response (Ref: PPA0005488) has been acknowledged and included at Appendix E of the accompanying Pre-Application Consultation (PAC) Report. Our response highlights that foul water flows can communicate to the public sewerage system, albeit that the site is located in the Gowerton WwTW catchment wherein the Memorandum of Understanding (MoU) requirements apply, whereas surface water flows are subject to Schedule 3 of the Flood and Water Management Act 2010 and therefore require SAB consent. Accordingly, notwithstanding the accompanying 'Drainage Strategy' which refers to proposed foul water drainage arrangements albeit fails to identify a compensatory surface water removal strategy in accordance with the MoU, we would request that the following Condition and Advisory Notes are included, to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

**Condition**

No development shall commence until a surface water removal strategy delivering sufficient compensation for the foul flows from the proposed development site, must be submitted to and approved in writing by the Local Planning Authority. Thereafter no dwelling hereby approved shall be occupied until the approved surface water removal strategy has been implemented in accordance with the approved details and written confirmation of this must be received by the Local Planning Authority.

**Reason:** To prevent hydraulic overloading of the public sewerage system and pollution of the water environment.

**Advisory Notes:**

As of 7th January 2019, this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010.



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The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with the 'Statutory standards for sustainable drainage systems - designing, constructing, operating and maintaining surface water drainage systems'. It is therefore recommended that the developer engage in consultation with the City & County of Swansea Council, as the determining SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation.

### Local Highway Authority:

Background:

This application was previously the subject of a Pre-Application Consultation (PAC) and Highways provided a detailed response on the package of information which was publicly available.

The comments were included within the PAC report and the applicant team has revised the previous content to take account of the representation made. The Transport Statement contains a Technical Note in response of the points raised, this is contained with the appendices.

This Consultation Response responds to a submission of additional information within this application and follows on from the previous exchanges and dialogues. The applicant has submitted a Technical Note 20-00693/TN/04 September 2021 in response to the Highway Authority concerns.

This consultation response will review and consider the amended or further detail against the remaining issues raised. The previously raised issues are set out below:

Access:

*The site access must be demonstrated to be safe and appropriate. The suggestion of out of hours servicing sought to help address any issues with HGV access. If this DMP measure is not something that the applicant wishes to see introduced, further demonstration will be required that HGVs can access safely.*

The applicant has submitted additional swept path assessments which demonstrate that the HGV movements would not cross into the bus stop area, as shown on earlier submissions. The swept paths do show that the large vehicles require to cross partly into the lane of opposing traffic in some manoeuvres. This has been considered on balance and in view of the current arrangement with the existing Lidl store and the existing Poundstretcher store. The amended submission also includes additional measures to ensure that operational movements within the car park are made safer. Therefore, in this case, and in consideration of the full details, the access could be considered appropriate.

Servicing:

*The extent of reversing along the car park continues to cause concern. We would wish to see measures in place which visibly excludes members of the public and segregates this area for service use. This could be a solid white lane creating a service lane or a hatched out commercial area either of which could be supplemented with the addition of 'Servicing' added to the surface of the lane required.*

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The applicant has provided additional details of measures that will now be implemented to ameliorate the Highway Authority concerns. The additions include thermo plastic screed treatment of the entire route required for service reverse manoeuvres. The area will be hatched ensuring that members of the public are clearly shown that this does not form part of the parking area or circulation. With the addition of bilingual markings setting it out as a service area, the Highway Authority could accept that servicing could take place within trading hours.

Car parking provision:

*There is an ongoing discussion on the level of parking provision and how this compares to the parking SPG. We would request that the next stage of justification from the applicant includes a completed sustainability assessment from the SPG which will allow us to consider the appropriateness of the level proposed. We have also invited the sharing of the extensive knowledge that the operator holds on the operation of similar sites for consideration.*

The applicant has submitted further justification, which includes commentary on parking assumptions on accumulation and the requested SPG sustainability assessment. The sharing of the noted extensive knowledge that the operator has referenced has not been forthcoming.

The TRICs based parking accumulation is useful as a reference although in matters of parking in Swansea the adopted SPG on parking will provide the key requirements and guidance. The case made for comparing parking at the existing store versus the new store suggests that the new provision is disproportionately higher than the additional GFA proposed, suggesting this makes the case for the parking level proposed as adequate, at a significant reduction to forecast SPG maximum standard. The Highway Authority would advise that the observed disproportion is due to the clear fact that the applicant has proposed a much larger trading premises which crosses into the upper thresholds of larger superstore in terms of parking standards.

The proposed level of parking at the application site, was in the Highway Authority view lower than would be acceptable when considering the SPG on parking. Therefore, further evidence was requested in order to understand if this reduction could be considered as acceptable based on location and future sustainable travel improvements which are to be provided along the site frontage.

The SPG is clear in that it will not allow a discount to be applied to retail uses from the parking standards. However, the sustainability assessment is a useful tool which could grade the site in terms of its ability to facilitate sustainable travel. Whilst the applicant questions the validity of the request and the assessment, the Highway Authority concern on the level of parking proposed as part of the larger store outweighs this view, given that it originally made up part of the reasons that recommended a refusal.

Therefore, in considering the use of an approved sustainability assessment tool, the Highway Authority could consider the merits of the site and whether there could be a case where a reduced level of parking may be found acceptable. The applicant has completed the assessment and considers that the site could potentially see some 30% discount applied, the maximum achievable. A comparative assessment undertaken by the Highway Authority would suggest around 20% discount could be achieved. This indicates that the site is sustainably well located and within an area where local highway improvements have created an active travel network and will continue to do so.

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The active travel enhancements that are to be provided by the application site further support the case for real alternatives to travel to the location to work or to shop without the use of the private car. Therefore, on balance, the Highway Authority is willing to accept the level of parking proposed within this specific application and site location.

**Active Travel and Local Improvements:**

*There are some more minor additional points listed within the consultation response, although the above reflects the serious concerns for application progression. In addition to the above points for consideration there are two areas of requested enhancements to sustainable travel. These are the increased footway width along the site frontage for active travel and the direct path through the green area from controlled crossing to the store entrance. The active travel link has been agreed, although there is an applicant concern on the provision of the footpath link due to potential engineering constraints. We would wish to request consideration of the engineering requirements to provide such a link, this will allow the further discussion that is needed in this subject area.*

The applicant has provided an indicative layout of the ramp to link the store access area with the crossing facility on Gorseinon Road. The supporting information submitted includes a discussion on the walking distance savings and that to comply with standards for wheelchair users the ramp would include two long rising ramped paths with joining resting areas. The applicant concerns are that the ramp will not result in significant savings in terms of walking or wheelchair distance with some 45 metres being quoted for consideration. The view that the more popular pedestrian route would come from the east and Penllergaer, due to the existing foodstore provision to the west, is noted.

The Highway Authority does consider the link will enhance the active travel proposals and would be an attractive route for future store access. It would result in some direct walking or wheelchair access efficiencies and does align itself on a pedestrian desire line that is clearly being worn into the existing landscaped bund.

**Conclusion**

It has been confirmed throughout the application stage that there were a number of issues that would need to be addressed in order to provide the confidence that the proposals are safe and appropriate in highway terms. There has been positive movement in terms of working towards resolutions, through a number of submission stages.

The current position is considered to be within the realms of acceptable level of changes to the main areas of concern. The applicant has worked to improve access and circulation for servicing this is now considered to provide appropriate means of separation to safeguard future car park users. The discussions on the proposed level of car parking have progressed with detailed exchange of views, and the provision could now be found acceptable in the case of this application site.

The applicant has agreed to provide the active travel link and we would want to see this provided across the site frontage. There is still some disagreement on the provision of the footway link through the landscaped bund.

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On the basis of the above, the review of the latest submission and also the necessary sustainable travel enhancements for active travel and the footpath link being secured by way of condition or other appropriate mechanism, the Highway Authority would not object to this application.

The recommended conditions which should form part of any permission are set out below.

- i. Prior to commencement of development details of the proposed access works to the highway shall be submitted and approved in writing by the Local Planning Authority the City and County of Swansea Development Management Team under a Section 278 Agreement.

All access works, relating to the highway Gorseinon Road, and the active travel improvements along site frontage to the store access, shall be substantially completed prior to any of the works commencing on site to the satisfaction of the Local Highway Authority and as approved in writing by the Local Planning Authority.

Note: All off-site highway works are subject to an agreement under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement will be prepared by the City and County of Swansea. In certain circumstances there may be an option for the developer to prepare the scheme design and detail, for approval by the City and County of Swansea. However, this will be the exception rather than the rule. All design and implementation will be at the expense of the developer.

- ii. The building shall not be brought into beneficial use until the access and servicing works have been completed and made ready for use, in accordance with plans to be submitted and approved by the Local Planning Authority.

In the interests of highway safety and general amenity

- iii. The proposed development shall not be brought into beneficial use until the parking works have been completed and made ready for use, in accordance with plans to be submitted and approved by the Local Planning Authority. All blue badge parking bays to be designed to the current British Standards. The parking areas for car parking and cycle parking shall be made available to the public at all times thereafter.

In the interests of highway safety and general amenity

- iv. The buildings shall not be brought into beneficial use until a Delivery Management Plan is submitted to and approved in writing by the Local Planning Authority. The approved Delivery Management Plan shall always be implemented and adhered to unless otherwise agreed by the Local Planning Authority.

In the interests of highway safety and general amenity

- v. No development shall commence, including any works of demolition, 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:

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1. The parking of vehicles of site operatives and visitors.
2. Loading and unloading of plant and materials.
3. Storage of plant and materials used in constructing the development.
4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate.
5. Wheel washing facilities.
6. Measures to control the emission of dust and dirt during demolition and construction and
7. A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

Note 1: The Developer must contact the Highway Management Group , The City and County of Swansea , Guildhall Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact e-mail [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk)

#### **Placemaking and Strategic Planning:**

In the initial Strategic Planning and Placemaking consultation response (11/05/2021) concerns were raised that the applicant had failed to demonstrate a quantitative need for the additional store and had not complied with the sequential test policy requirement to demonstrate that there are no suitable sites for the additional store at edge of centre locations or within an out of centre retail park. The applicant has submitted additional information in an effort to address concerns raised. I have reviewed the additional information and wish to make the following comments to supplement the initial consultation response:

#### **Sequential Test - Edge of centre locations**

In the initial placemaking and strategic planning consultation response (11/05/2021) it was identified that, in-line with Policy RC2 of the Local Development Plan (LDP), the developer had failed to consider edge of centre sites and potentially locating the proposal within a Retail Park. The additional evidence submitted by the developer now follows the correct sequential approach as stipulated in the policy. The developer has provided evidence that consideration has been given to edge of centre sites and retail parks. Therefore, it is considered that the applicant has demonstrated that there are no alternative locations for the proposals either within retail parks or at an edge of centre location. It is considered that the developer has given due consideration to the sequential test and that no alternative sites are available.

In the applicant's original application, the supporting information did not seek to demonstrate a quantitative need for the new convenience goods unit which is 2,144 sqm. Instead they sought to demonstrate the capacity for the additional provision which equates to 480 net sqm of floorspace more than the existing neighbouring store. However, the applicant is not seeking to extend the existing store and under the original proposals concerns have been raised that there would be nothing to prevent the existing store from continuing to be used for convenience goods sales. It is accepted that there is a reasonable argument for some increase to the trading area of Lidl at this location, in order to provide an improved experience for the shopper. However the significant size of the proposed increase in sales area did give rise for concern.

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Given the above, the LPA has advised the applicant that a suitable planning mechanism will be needed to restrict the sale of food and drink/convenience goods permissible to be sold from the unit that Lidl propose to vacate. This approach will ensure that any net overall increase in lawful convenience goods sales area at this location as a result of the development (i.e. taking both the proposed store and the unit to be vacated into consideration) will be kept to a minimum. In response to the suggested planning mechanism the applicant has submitted further information which seeks to restrict the existing neighbouring store to a maximum convenience sales floorspace of 426sqm net. The existing store offers 934sqm net sales area with 705sqm laid out for convenience sales. Whilst the applicant's attempts to seek a suitable balance of new retail provision in the area is welcomed, the proposal to allow 426sqm for convenience goods is considered unacceptable. The new store proposes a net convenience sales area of 1131sqm which equates to an increase of 426sqm. In order for the proposal to be considered an acceptable extension to the existing neighbouring store it is considered appropriate to advise the applicant that the existing store should be restricted to bulky goods only. By restricting the existing store from selling convenience goods it would mean that there would be no increase in convenience goods and therefore negating the requirement to justify the need. Furthermore, it would remove the building from being marketed as a potential food/convenience sales outlet.

Final Comments:

We note that the applicant does not consider there to be justification for a full non-bulky comparison goods limitation but is agreeable to a legal agreement which would prevent the sale of convenience goods in the existing Lidl unit upon the opening of the proposed store i.e. - a legal agreement which reflects the type of goods which can currently be sold in the former Poundstretcher store, save for the convenience goods element. Such suggested provisions in the legal agreement may be acceptable apart from the toiletries and household goods element, which we would suggest restricting to 12% (153sqm). By allowing this small element for toiletries and household goods it would still mean that, when considering the new store, there would be no net gain in convenience good sales, which is a key requirement for this proposal to be acceptable in policy terms.

**Drainage Officer:-**

We have reviewed the application and submitted information and based on the details submitted must OBJECT in principle to this application at the present time.

The applicant did submit a SAB pre-app last year, reference 2020/0061/SPA, however there was insufficient information to be able to offer any meaningful comments on it. The discharge rates were not agreed, the very basic design proposals did not comply with the SuDS Standards, there were also further issues regarding the calculations.

Moving to the DS submitted here we note the conceptual drainage sketch which is not acceptable in principle as it is in effect a conventional system and will not be consented if submitted via the SAB route.

We note that there are highways constraints due to parking levels required for the size of the store, there are also indications in the report that there may be infiltration and contamination issues which preclude using infiltration however the ground investigations do not exclude infiltration as an option, therefore this requires further investigation and clarification.

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The DS also indicates that due to topography that only very limited biodiversity and amenity can be incorporated into the site, we do not agree with this statement. There are other options that can be incorporated onto or into the building itself such as green roofs, engineered rain water planters and green walls to build in source control and offers water quality benefits.

As it currently stands the development is not viable/achievable due to the radical redesign of the drainage that is required to accommodate SuDS feature and comply with the SuDS Standards, this also includes discharge rates. We agree that a 30% betterment is a good place to start however DCWW may require further reductions over that and will require infiltration to be completely discounted to even consider a connection.

Given the significant SuDS issues we strongly recommend that the SAB application is submitted urgently to work through these issues in more detail to inform the appearance, function and size of any proposed development.

**Tree Officer:**

Previous concerns have been addressed. No objection. Please condition adherence to the Tree Protection Plan and Arboricultural Method Statement provided.

**Planning Ecologist:** - Relevant documents reviewed:

- Ecological Appraisal, Tetra Tech January 2021;
- Planting Methodology and Aftercare Landscape Management Plan, Corscadden June 2021;
- Green Infrastructure Statement, Corscadden June 2021;
- Arboricultural Method Statement, David Rice June 2021.

Bats: Please note the following informative:

All UK bat species are protected under Schedule 5 of The Wildlife & Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to:

- o Deliberately take, injure or kill a bat;
- o Intentionally or recklessly disturb a bat in its roost;
- o Damage or destroy the breeding site or resting place of a bat (even if it is not occupied at the time);
- o Intentionally or recklessly obstruct access to a bat roost.

If evidence of bats is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or Natural Resources Wales (NRW) sought before continuing with any work (01792 634960 / 0300 065 3000).

Breeding/nesting birds: Please include the following informative:

It is an offence under The Wildlife & Countryside Act 1981 (as amended) to intentionally:

- o Kill, injure or take any wild bird;
- o Take, damage or destroy the nest of any wild bird while that nest is in use or being built; and
- o Take or destroy an egg of any wild bird.

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Additionally, bird species listed on Schedule 1 of the Act are also protected from intentional or reckless:

- o Disturbance while it is building a nest or is in, on or near a nest containing eggs or young; and
- o Disturbance to dependent young of such a bird.

Condition:

No clearance of trees, shrubs, scrub or buildings shall be undertaken during the bird nesting season (late February-early September). Where this is not possible, a check for active nests by a suitably qualified ecologist will be required prior to clearance. Any active nests will be left in situ until chicks have fledged or the nest is no longer active. If any nests of Schedule 1 species are found, additional measures to avoid disturbance will be required.

Hedgehog: There is the potential for hedgehogs to be present in the area. Hedgehogs are protected under Schedule 6 of The Wildlife and Countryside Act 1981 (as amended), which prohibits killing and trapping by certain methods. They are also listed on Section 7 of The Environment (Wales) Act 2016. This is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

Condition: In order to retain habitat connectivity for Species of Principal importance, such as hedgehogs, boundary treatments should not be flush to the ground, or suitably sized gaps 13 x 13 cm should be left at strategic points. See <https://www.hedgehogstreet.org/hedgehog-friendly-fencing/>

Condition: All trenches and excavations must be fenced off or covered-over at night to prevent any animals (hedgehogs, and other species) from falling in and becoming trapped. If this is not possible an adequate means of escape must be provided (i.e. a gently graded side wall or provision of gently sloped wooden plank or equivalent). Any exposed pipes and trenches must be checked for trapped wildlife each morning before starting construction activities.

Invasive Non-native species (INNS): It is an offence to plant or otherwise cause to grow in the wild any plant species listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended) or Schedule 2 of The Invasive Alien Species (Enforcement and Permitting) Order 2019. Japanese knotweed & cotoneaster were recorded on site.

Condition: An INNS Strategy for the site is required to be submitted. A method statement for removal of the INNS pre-construction is also required to be submitted, together with an updated pre-construction INNS survey.

Sustainable Drainage (SuDS) From 7 January 2019, all new developments of more than 1 house or where the construction area is of 100m<sup>2</sup> or more require sustainable drainage to manage on-site surface water. It is advised that reference is made to the Swansea Council LDP. In particular: RP 3: WATER POLLUTION AND THE PROTECTION OF WATER RESOURCES

- o Development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted.
- o Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality. Sustainable drainage systems (SuDS) must be implemented wherever they would be effective and practicable.
- o Watercourses will be safeguarded through green corridors/riparian buffers: to protect water habitats and species; water quality and provide for flood plain capacity.



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- o Development proposals that would have a significant adverse impact on biodiversity, fisheries, public access or water related recreation use of water resources, will not be permitted.

SuDS work by making use of landscape and natural vegetation to control the flow of surface water and reduce the risk of flooding. Designs can include ponds, permeable paving and swales, which slow down the discharge of surface water more than conventional piped drainage.

Standard S5 addresses the design of SuDS to ensure, where possible, they create ecologically rich green and blue corridors in developments and enrich biodiversity value by linking networks of habitats and ecosystems together. Biodiversity should be considered at the early design stage of a development to ensure the potential benefits are maximised.

Lighting Strategy

Condition: A sensitive lighting strategy for the site is required to be submitted to the LPA for approval. It should aim to protect bats and other nocturnal species, and nearby habitats. A plan showing location, light spill and specification for any proposed lights on the site must be submitted for approval. The lighting plan should reflect the Bat Conservation Trust's Bats and Artificial Lighting in the U.K. (2018) guidance: <https://www.bats.org.uk/our-work/buildings-planning-and-development/lighting>

Construction Environmental Management Plan (CEMP) A detailed CEMP is required to be submitted to the LPA for approval and must outline all necessary pollution prevention measures (especially regarding the nearby water courses), for the construction and operational phase of the development.

Condition: No development approved by this permission shall be commenced until a CEMP detailing all necessary pollution prevention measures for the construction and operational phase of the development is submitted to and approved in writing by the Local Planning Authority. The details of the CEMP shall be implemented as approved.

Ecological Enhancements: The Biodiversity Supplementary Planning Guidance (SPG) should be referred to for further information: <https://www.swansea.gov.uk/biodiversityspg>

Condition: A scheme to demonstrate that the development will conserve and enhance biodiversity and resilient ecosystems will need to be approved by the LPA. This is in line with the Section 6 Duty of the Environment (Wales) Act 2016, the Resilient Wales Goal of the Well-being of Future Generations Act 2015, Planning Policy Wales Edition 11 and Technical Advice Note 5.

The native woodland planting is very welcomed. As it will be a number of years before the woodland is mature enough to provide nesting opportunities for birds, the recommendations in Section 5.3.1 of the PEA for the installation of bird boxes on retained trees, buildings or suitable fences should be incorporated into the design:

- 2 x 26mm hole Schwegler 1B;
- 2 x 32mm hole Schwegler 1B;
- 1 x Schwegler 1 SP Sparrow Terrace; and
- 1 x Schwegler No. 16 Swift Box.

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The proposed locations of the bird boxes should be shown on an architectural drawing for approval by the LPA.

Final Comments (following receipt of Green Infrastructure Statement and ecological enhancements:

I am satisfied with the Green Infrastructure statement and the ecological enhancements shown on the Landscape Proposals drawing. Other previous comments still apply.

**Pollution Control Dept.** - I can confirm that the applicant has satisfied the requirements of Phase 1 and Phase 2.

Site Characterisation

The applicant shall submit a phased scheme, comprising three progressively more detailed reports, detailing measures to be undertaken in order to investigate the presence of land contamination, including relevant gas, vapour and, where appropriate, radiation related risks, at the proposed site.

Where the initial investigations indicate the presence of such contamination, including the presence of relevant gas/vapour and/or radioactivity, subsequent reports shall include:

- a list of potential receptors
- an assessment of the extent of the contamination
- an assessment of the potential risks
- an appraisal of remedial options, and proposal for the preferred remedial option(s).

The reports shall be submitted individually.

The provision of Phase 2 and Phase 3 reports will be required only where the contents of the previous report indicate to the Local Planning Authority that the next phase of investigation/remediation is required.

Phase 1 report: Desk Top Study

this shall:

- Provide information as to site history, setting, current and proposed use.
- Include a conceptual site model to establish any potentially significant pollutant linkages in the source-pathway-receptor human health and environmental risk assessment.
- Identify if further investigation or remediation is required.

In the event that the Local Planning Authority is then of the opinion that further investigation/information is required the applicant shall submit a detailed site investigation [Phase 2] report to the Local Planning Authority, viz:

Phase 2: Detailed Investigation

this shall:

- Provide detailed site-specific information on substances in or on the ground, geology, and surface/groundwater.

Provide for a more detailed investigation [Human Health Risk Assessment] of the site in order to confirm presence or absence of, and to quantify, those potentially significant source-pathway-receptor pollutant linkages identified in Phase 1.

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Note; where any substance should be encountered that may affect any controlled waters the applicant, or representative, must contact the Natural Resources Wales in order to agree any further investigations required.

In the event that the need for remediation is identified the applicant shall submit a subsequent detailed [Phase 3] report to the Local Planning Authority, viz:

Please add the following conditions on the application:

- Phase 3: Remediation Strategy Options Appraisal this shall:
- Indicate all measures to be taken to reduce the environmental and human health risks identified in Phase 1 and Phase 2 to an acceptable level, in a managed and documented manner, to best practice and current technical guidance.

Phase 3: Validation/verification Report

- On completion of remediation works a validation/verification report will be submitted to the Local Planning Authority that will demonstrate that the remediation works have been carried out satisfactorily and remediation targets have been achieved.

Reason: To ensure that the safety of future occupiers is not prejudiced.

- Unforeseen Contamination

If, during the course of development, contamination not previously identified is found to be present at the site no further development [unless previously 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 detailed strategy for dealing with said contamination.

Reason: To ensure that the safety of future occupiers is not prejudiced.

## **APPRAISAL**

### **Main Issues**

The main issues for consideration with this application are the principle of the proposed retail store in this location, over and above that already approved/ existing, having regard to National Planning Policy and the Development Plan; the retail need and impact of the proposal on established stores and nearby shopping centres, including sequential considerations; the transport impact of the proposal including accessibility for pedestrians and cyclists and car parking; the impact of the proposal on the residential amenities of neighbouring occupiers; the impact of the development on the character and appearance of the area; and any environmental implications arising from the development of the site.

### **Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan is the Swansea Local Development Plan (2010-2025) and Future Wales.

The application is for the demolition of the existing retail unit (Poundstretcher) and construction of a new supermarket for Lidl, with car parking, landscaping and associated works.

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The applicant notes that the proposal is intended to replace their existing Lidl store located on the neighbouring site, due to the need for additional floorspace and that the extension of their existing store is "not feasible" due to site constraints. It should be noted at the outset that the proposed Lidl store is actually smaller in footprint than the existing Poundstretcher store, and similarly, the net sales floor area is also less than existing.

Future Wales Policy 6 and Planning Policy Wales (PPW) set out the 'town centres first' national planning policy requirement which the Welsh Government operates in relation to retail developments. When considering the principle of development at this location, the Swansea LDP Policy RC2 Retail and Leisure Development is most pertinent. The policy promotes the Plan's defined Centres as the most appropriate and sustainable locations for locating new retail, leisure and supporting commercial development in-line with National Guidance. The term 'Centre', as used in this policy and throughout the Plan, refers specifically to only the Swansea Central Area Retail Centre and the network of District and Local Centres that are identified on the LDP Proposals Map.

The application site is considered an 'out of centre' location, located over 1km away from the nearest Centre which is Gorseinon District Centre (Policy RC 5). In accordance with Policy RC 2, if a suitable site cannot be identified in a 'Centre' then the developer should seek a suitable location on the edge of centres, in preference to out of centre locations. Where evidence clearly demonstrates that no sites within centres or at edge of centre locations can be made available for the proposed development, out of centre sites will be considered. In such circumstances, developers should consider available sites and premises within defined Retail Park boundaries, which are the preferred location for out of centre retail developments. Retail and leisure proposals will only be permitted at out of centre locations outside Retail Parks in exceptional circumstances. The onus is on the developer to provide evidence that all appropriate options to locate within a defined 'Centre' and sequentially preferable locations have been exhausted before an out of centre site can be considered.

The applicant has submitted a sequential assessment which concludes there are no suitable, available or viable alternatives that could be considered sequentially preferable to the current proposal. The developer has provided a comprehensive assessment of available sites within Gorseinon District Centre, concluding that none are capable of housing the development. However, following concerns that the developer had failed to consider edge of centre sites and potentially locating the proposal within a Retail Park, in line with Policy RC2, additional evidence has been submitted which indicates that consideration has been given to edge of centre sites and retail parks.

In respect to edge of centre sites, the sequential investigation has not identified any potentially suitable, available or viable sites within 300metres from the centre of Gorseinon. In respect of retail parks, namely Fforestfach Retail Park and Pontardulais Road Retail Park, a number of vacant units were identified at both sites, however these were not considered large enough and in the case of Pontardulais Road Retail Park specifically, also not considered suitable for the applicant due to a lack of parking. It is noted that the potential to amalgamate units at Pontarddulais Road Retail Park has also been investigated. However, Fforestfach is, in operational terms for the applicant, different from the Gorseinon operational catchment. Fforestfach is to a significant degree already served by Lidl's existing Penlan store, and the applicant notes that a second store at Fforestfach would give rise to a marked trading 'overlap' with the Lidl Penlan store.

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Furthermore it is noted, that such an overlap would not adequately serve the Gorseinon settlement which is physically separate from Fforestfach. The applicant further notes, that the proposal seeks to redevelop an existing retail site (albeit vacant) which is in far greater proximity and accessibility to Gorseinon Centre.

It is accepted, following consultation with the Strategic Planning and Placemaking team, that the applicant has demonstrated, in this instance, that there are no alternative locations for the proposals either within retail parks or at an edge of centre location. It is considered that the developer has given due consideration to the sequential test and that there are no alternative sites that would provide any satisfactory sequentially preferable locations for the development.

In respect of retail need, the applicant has confirmed that the existing Lidl store has 934m<sup>2</sup> net tradable area, with 794m<sup>2</sup> laid out for convenience sales (rather than 705m<sup>2</sup> utilised by the Strategic Planning and Placemaking team when calculating the difference as 426m<sup>2</sup>). It is understood the permitted planning position was previously 705m<sup>2</sup>, however in extending this early generation store in 2008 an old warehouse area became sales area, delivering a total 934m<sup>2</sup> sales area (of which circa 140m<sup>2</sup> was for comparison goods). The proposed store will have a net convenience sales area of 1,131m<sup>2</sup> - a difference of +337m<sup>2</sup> (rather than 426m<sup>2</sup>) net when compared to the existing convenience offering of the existing store (1,131 – 794 = 337m<sup>2</sup>).

In the applicants original application, the supporting information did not seek to demonstrate a quantitative need for the new store. Instead they sought to demonstrate the capacity for the additional convenience provision which equates to +337m<sup>2</sup> net floorspace more than the existing neighbouring store. However, the applicant is not seeking to extend the existing store and under the original proposals concerns had been raised that there would be nothing to prevent the existing (Lidl) store from continuing to be used for unrestricted convenience goods sales.

It is accepted that there is a reasonable argument for some increase to the trading area of Lidl at this location, in order to provide an improved experience for the shopper. The proposal is for the development of a relocated existing local operator in Gorseinon, one which is long standing and already well established within the locality. The store is one of Lidl's "first generation" stores. The operational and customer requirements were very different then than they are today, and the store as currently sized and arranged, is considered (by the applicant) as no longer fit for purpose, and is no longer able to accommodate Lidl's operational format. The proposed store will provide ancillary staff/welfare facilities, baker area, managers office and customer toilets etc. The store layout is more spacious than the existing store to be replaced and is better equipped to cater for its shoppers. Whilst out of centre, this location is well established and popular as a retail destination.

However the significant size of the proposed increase in sales area in this instance did give rise for concern. Given the above the LPA has advised the applicant that a suitable control mechanism would be required to limit sales to that assessed as part of this application for both the new Lidl store and the existing Lidl store which would become available for other tenants upon opening of the new store. Given that the proposed store has a large gross floor area compared to net sales area, and mindful of changes in the operation of stores such as this as evidenced in the existing store, it is considered necessary to attach a condition to limit the net sales area for convenience goods associated with the new Lidl store to 1,131m<sup>2</sup>.

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In addition, a legal agreement will be needed to prevent the sale of convenience goods in the existing Lidl unit upon the opening of the proposed store i.e. - a legal agreement which reflects the type of goods which can currently be sold in the former Poundstretcher store, save for the convenience goods element as noted below.

In this respect, as noted above, the new store would result in an increase of 337m<sup>2</sup> of additional convenience goods for the Lidl store. However, the existing Poundstretcher store could sell 490m<sup>2</sup> of convenience goods as part of its current permission. Therefore, there would be 153m<sup>2</sup> of convenience goods available (490 - 337 = 153m<sup>2</sup>) that could be transferred to the existing Lidl store for toiletries and household goods.

For reference, the existing Lidl Store has 794m<sup>2</sup> of convenience goods and the Poundstretcher store has up to 490m<sup>2</sup> of convenience goods, totalling 1,284m<sup>2</sup> of convenience goods sales currently between the two stores. Of this, the proposed control would see the Lidl store have 1,131m<sup>2</sup>, leaving 153m<sup>2</sup> for the existing Lidl store. It also needs to be remembered that the overall net tradeable floor area would decrease between the two stores. By allowing this small element for toiletries and household goods it would still mean that, when considering the new store, there would be no net gain in convenience good sales, which is a key requirement for this proposal to be acceptable in policy terms.

The applicant has confirmed they are agreeable to such a legal agreement to be worded as follows:

- “(i) The Site (i.e. original Lidl Store) shall be used only for (except for criterion (ii) and (iii)): the sale of pet care products or Bulky Goods (as defined as being goods of a large physical nature such as DIY, building materials and gardening materials, car, bike and associated electronic displays, electrical goods, furniture, or carpets, that require large areas for storage or display;
- (ii) not to use more than 20% of the Gross Internal Area within the Site for the sale of Non-Bulky Goods (toys, clothing, stationary & partyware);
- (iii) not to use more than 153sq.m of the Gross Internal Area within the Site for the sale of Ancillary Goods (toiletries & household goods)”

In reference to retail impact, and in response to the letter of comment received, revised information has been submitted which indicates the Aldi (Miller's Drive) store has now been correctly identified as lying in Gorseinon Centre, and has reassessed the centre 'impact' accordingly. In short, the information submitted indicates that, even with a highly robust analysis which assumes over half of the proposed Lidl's store turnover may be drawn from Gorseinon centre, this does not cause rise to undue concern with respect to the centre's trading position; this would lead to an anticipated convenience impact of -5.76% in 2026. Impact however, should be considered on the whole of a centre, not just the convenience offer, and the information submitted indicated that overall centre impact (accounting for convenience and comparison turnover) in such a scenario is anticipated to be lower, at -4.37% in 2026.

It is acknowledged there will be some trade diversion from Gorseinon centre to the proposed store although, in the context of existing retail provision in the surrounding area, it is not considered that there would be an unacceptable impact upon the health of the centre.

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Therefore, whilst there would be a minor adverse impact upon the nearby district centre, it is considered the scale of impact would not lead to an unacceptable impact upon the health of this centre that would warrant a specific reason for refusal in relation to impact. As noted above, the Strategic Planning and Placemaking Officer has no objections to the proposal subject to the restrictions outlined above.

On this basis, it is considered that, subject to the imposition of suitably worded legal agreement on the existing Lidl store (which broadly reflects the type of goods which can currently be sold in the former Poundstretcher store, minus the convenience goods element), together with a condition to restrict the net sales area of the proposed store, the proposed development would not have a significant impact on the existing shopping centre.

**Placemaking, Design, Visual Amenity**

The surrounding area is predominately characterised by industrial and commercial units which comprise the 'Garngoch Industrial Estate'. To the north of the site, on the opposite site of Gorseinon Road, lies an area of open space and residential dwellings.

The proposal seeks the demolition of the existing vacant retail unit and the erection of a Lidl supermarket, car parking and associated works. The demolition of the existing building raises no concerns as it is of extremely limited architectural merit with a large, predominantly blank frontage facing the road. The existing vehicular access is achieved from the site's northern boundary from Gorseinon Road which would be widened to accommodate the development, together with improved pedestrian access into the site via footways at the site entrance. Notwithstanding this, it is proposed to include a condition to ensure that footways are further extended (and widened to 3m to allow active travel within the site) from the site entrance and up to the front of the store and cycle parking facilities. The applicant has confirmed they are agreeable to the inclusion of such a condition to promote active travel.

The new supermarket will be sited to the western section of the site with the servicing area located to the southern side of the building and car parking to the east. The proposed development will be built in accordance with Lidl's contemporary specification, creating a bright, spacious sales area with full height glazing to the front elevation. This will ensure good active frontage onto the Gorseinon Road street fronting, northern elevation. The glazing wraps around the northeast corner of the unit to provide a legible main entrance lobby to the store from the car parking area. The remainder of the store elevations will comprise white cladding panels and grey rendered plinth, an approach which will provide an appropriate and robust finish. Silver eaves guttering and rainwater pipes are utilised to complement the restrained palette. The perimeter landscaping and landscaped areas frame the proposed foodstore, adding visual interest and helping soften the schemes overall appearance.

In summary, it is considered the proposed development will provide a contemporary shopping environment that compliments and enhances the sites immediate surroundings. In view of the commercial context of the site, the proposal is considered to be in accordance with LDP Policy PS2.

## **Residential Amenity**

The location of the application site within the long-established commercial area, siting of the proposed store on the western portion of the site and separation distances from nearest residential properties across the A4240 Gorseinon Road would ensure that no residential amenity interests would be affected by the proposal.

On this basis, it is not considered that the proposed development would result in any significant impacts upon the living conditions of the nearest residential properties. In this respect, the proposed development would not conflict with LDP Policies PS2, RP1, RP2 and RP3.

## **Access, Transportation and Highway Safety**

A Transport Statement has been submitted in support of the application, together with a Technical Statement. The application has been the subject of considerable negotiation with the Local Highway Authority to address their concerns.

Vehicular access to the site will be provided via the existing access point along the A4240 Gorseinon Road. The applicant has submitted additional swept path assessments to address Local Highway Authority concerns. The swept paths do show that large vehicles require to cross partly into the lane of opposing traffic in some manoeuvres. This has been considered on balance and in view of the current arrangement with the existing Lidl store and the existing Poundstretcher store. The amended submission also includes additional measures to ensure that operational movements within the car park are made safer. Therefore, in this case, and in consideration of the full details, the view of the Local Highway Authority view is that the access is considered appropriate.

In terms of servicing the applicant has provided additional details of measures to be implemented to ameliorate the Highway Authority concerns. The additions include thermo plastic screed treatment of the entire route required for service reverse manoeuvres. The area will be hatched ensuring that members of the public are clearly shown that this does not form part of the parking area or circulation. In view of the above it is considered these revised measures will provide appropriate means of separation to safeguard future car park users.

Turning to car parking, there has been ongoing discussions regarding the level of parking provision at the site. The existing Lidl store (gross floor area of 1384m<sup>2</sup>) has 69 no. parking spaces. The proposed store (gross floor area of 2144 m<sup>2</sup>) will have circa 115 parking spaces (inclusive of 7no. disabled parking spaces & 9 no. parent & child spaces) although 2 spaces may be lost to facilitate the provision of EV charging. 6 no. cycle stands are also indicated which can provide up to 12 no. cycle spaces.

Future Wales requires new car parks to provide a minimum of 10% provision for the charging of ULEV vehicles. The applicant has indicated 2 spaces but this wouldn't comply with the requirement of 10% given that 115 spaces are proposed. The applicant has provided a draft plan identifying parking spaces which could be made available for electric vehicle charging, however the precise detail of this arrangement will be conditioned for subsequent approval. The central location of charging points may result in the reduction of car parking but this reduction is not considered significant and is required to comply with Future Wales.



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The proposed level of parking at the site was, in the Local Highway Authority view, lower than would be acceptable where considering the SPG on parking provision (158 spaces). Further evidence was therefore requested to understand if a reduction in parking provision could be considered acceptable based on location and future sustainable travel improvements (which are to be provided along the site frontage). The applicant has completed the sustainability assessment which indicates that a 30% discount should be applied in this instance. The Local Highway Authority view was that a 20% discount could be achieved (126 spaces) – this would indicate that the site is sustainably well located and within an area where local highway improvements will create an active travel network. It is understood the applicant has agreed to the increased footway width along the site frontage – (3.0m wide active travel link) which will be provided as part of a Section 278 Agreement, together with increased width of the pedestrian path within the site from the site entrance on up to the front of the store and cycle parking facilities (to be conditioned). This active travel enhancement further supports the case for real alternatives to travel to the location to work or to shop without the use of the private car. On balance, therefore the Local Highway Authority has confirmed that the level of parking proposed within this specific application and site location is considered acceptable.

One other area of enhancement to sustainable travel was a request to provide a direct path/ramp through the landscaped bund area at the front of the site to the store entrance to connect to a crossing facility on Gorseinon Road. This has been investigated further by the applicant and an indicative layout provided. Given engineering constraints at the site (level difference of approx. 2.3m – requires two scissor ramps of approx. 32m and 20m); the relatively low comparative reduction in walking distance this would achieve (approx. 45m); together with the reasonable assumption that the majority of customers arriving on foot will do so from the east (Penllergaer) as opposed to the west (Gorseinon which already benefits from existing foodstore provision), it is not considered the ramped access would be reasonable or necessary in this instance.

The Local Highways Authority has offered no objections to the proposal on balance subject to various conditions. It is not considered necessary to attach a condition regarding the requirement for a S278 agreement as the applicant would have to obtain this consent in any event and similarly, a Construction Method Statement would also be required as part of this process and provide for greater detail than could be secured via the planning process. The active travel route along the site frontage would not be required prior to the commencement of development but would be required prior to first beneficial occupation, along with parking provision (cars and cycles) and EV charging provision. In addition, it is also considered necessary to require a Delivery Management Plan given the proposed servicing arrangements indicated via swept paths.

On balance therefore, and subject to the inclusion of conditions, it is considered that the development would not give rise to any highway safety issues and would be in broad compliance with LDP Policies T2, T5, T6 and the 'City and County of Swansea Parking Standards' SPG.

### **Ecology, Trees & Landscape**

The application has been accompanied by an Ecological Appraisal; Green Infrastructure Statement; Arboricultural Method Statement, Tree Protection Plan, Landscaping plan, Planting Schedule; and Landscaping Planting Methodology and Aftercare Management Plan.

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The existing site comprises a single large unit with western and northern steep grassed banks and a ramped access from Gorseinon Road. The remainder of the site is outside storage and car parking with a sprinkler tank located in the south west corner. The existing soft landscaping comprises of the following:

- western grassed bank has blocks of dogwood at the base of the bank and buddleia, bramble, Lonicera Maigreen and cotoneaster around the tank in the south west corner. Japanese

Knotweed may be present around the tank from the adjacent Lidl store area.

- The northern bank section has a tree group and shrub planting on the north west corner at the upper slopes and one Sorbus will be retained in this location. Along the upper slope section towards the site entrance are mainly birch trees in variable condition in fragments of ornamental planting. All trees in this location are to be removed.
- The vegetation on the southern boundary is tree branches and plant material growing through the fence and this includes Japanese Knotweed growing through.
- Internally are small fragments areas of grass
- There is extensive weed growth in the hard landscape areas not in regular use.
- There is no continuous ecological corridor on the site the only consistent soft landscape area is the grass banks of the west and northern sides.

The Green Infrastructure Strategy & associated landscaping plan, submitted as part of this current proposal seeks to provide additional tree planting to mitigate for the loss of existing trees and increase the site canopy cover with the planting of 22 individual trees planted as extra heavy standards across the site and 100 trees (field maple, alder, downy birch, small leafed lime, hawthorn and whitebeam) planted as whips in the native block at the rear of the store. This native woodland block over time will become a woodland. This will provide a habitat for birds nesting and foraging and potentially for bat flight lines over time as the woodland matures. The native block covers the most of the west bank with holly and ground cover round the proposed plant machinery area in old tank position. This will form a small woodland copse and help to break up views of the rear of the store as it matures and will provide flowers for pollinators and berries for bird foraging with the tree and shrub mix provided. The grass understorey will be retained and managed until the plants form a canopy cover. The landscaping plan also shows additional ecological enhancements with the provision of 6 no. bird boxes to be affixed to fencing and the rear of building.

The north bank grass area on the middle and lower slopes will either be retained or reseeded and will be a close mown strip by the public footpath and allowed to grow longer and managed to encourage wildflowers to establish in the rest of the slope. The top of the western bank is ornamental planting with plant material mainly selected for pollinators and berry production and includes tree planting both in beds and on the lower grass slope. Some of the planting beds are rain gardens for the SUDS scheme. The whole of the east boundary planting bed is a rain garden with both trees and ornamental planting again mainly selected for pollinators and berry production whilst the whole of the south boundary planting bed is mix of trees and both native and ornamental planting again mainly selected for pollinators and berry production.

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Within the above context, the boundary planting will give a connected band of vegetation with only two gaps - the site access and gap in the south east corner for vehicle movement. Allied to this, there are internal planting beds in the carpark area which include tree and ornamental shrub planting. The site has continuous planting along all boundaries with the only gaps an access with Gorseinon Road and an access by the timber yard. This provides an ecological corridor ring around the site which connects to the limited off site trees and soft landscape areas. Seats are to be provided by the building entrance for elderly people to rest or for friends to chat and socialise.

The landscaping proposals have afforded an opportunity to increase the biodiversity of the site and will, it is considered, provide a significant positive improvement to the site green infrastructure over and above the existing condition, with particular regard to tree canopy cover, native and ornamental planting and improved grassland and a 5 year aftercare plan for establishment of the proposals. It is considered that the biodiversity and ecological stepwise process has been followed, and the proposed enhancements are considered to be appropriate and will deliver biodiversity net benefit, ecosystem resilience and an integrated network of GI.

The Planning Ecologist has reviewed the submitted Green Infrastructure and landscaping plan and has confirmed they are satisfied with the proposals submitted. A number of conditions have been recommended to be included in the event of planning permission being forthcoming. It isn't considered necessary or reasonable to require hedgehog gaps in the fencing or for trenches to be covered at night. It is however considered reasonable to condition a lighting strategy and a Construction Environmental Management Plan (CEMP). The purpose of the CEMP is to detail how demolition and construction will be managed to ensure the site is development in a sensitive manner in the interests of pollution prevention and ecology as well as to address highway safety and public health interests.

The submitted ecological appraisal identified the presence of Japanese Knotweed and Wall Cotton Easter, both schedule 9 invasive plants which will require a control strategy. The submission of an Invasive non-native method statement is therefore recommended to be conditioned.

Whilst the ecologist has stated that clearance works should only be undertaken at a certain time of year to avoid bird nesting season, this is controlled via other legislation and the applicant would be advised of this should permission be granted.

Overall, it is considered the site has been sensitively designed and the landscaping details and GI features are considered to be acceptable and accord with the provisions of Policies PS2 and ER9 of the Swansea Local Development Plan (2010-2025) and the SPG - Biodiversity and Development (2021).

Regarding tree protection, the tree protection fencing has been revised in line with the Tree Officer's recommendations; a condition is proposed to ensure the development is undertaken in accordance with the Tree Protection Plan and Arboricultural Method statement. This has been attached as a condition. The application is considered to be acceptable in this regard, and accords with the provision of Policy ER11 of the LDP and the SPG - The Protection of Trees on Development Sites.

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### **Drainage/ Flooding**

As noted earlier in the report, the site is not indicated to be within an area liable to flooding. The Drainage Officer has advised that development is required to be SUDS compliant through a separate SAB consent. Consequently, as this matter is dealt with by different legislative requirements, this matter does not need to be controlled by means of a planning condition. Notwithstanding this it is noted that the drainage strategy proposes storm waters storage within the sub-grade of permeable paved parking spaces, together with the introduction of tree pits and rain gardens. It is also noted, in correspondence submitted by the applicant, that the surface water drain to which the connection is proposed is not a DCWW asset but is Council owned.

DCWW has highlighted that foul water flows can communicate to the public sewerage system, albeit that the site is located in the Gowerton WwTW catchment wherein the Memorandum of Understanding (MoU) requirements apply, whereas surface water flows are subject to Schedule 3 of the Flood and Water Management Act 2010 and therefore require SAB consent. Notwithstanding the accompanying 'Drainage Strategy' DCWW have requested a condition be appended to secure a surface water removal strategy delivering sufficient compensation for the foul flows from the proposed development site. Whilst the request is noted, the proposed Lidl store is actually smaller in footprint than the existing Poundstretcher store, which it is to replace. On this basis, it is not considered reasonable or necessary to include a condition requiring compensatory water provision in this instance.

On balance therefore the application is considered to be acceptable in this regard and accords with policies EU4, RP4 and RP5 of the LDP.

### **Land Contamination/ Stability**

The application is accompanied by a Phase 1 and 2 Ground Investigation Report. The Pollution Control dept. have requested conditions be appended to any grant of planning permission to ensure that a validation/verification report demonstrating that any required remediation works have been carried out satisfactorily is submitted to and approved in writing by the local planning authority, together with a condition regarding unforeseen contamination.

With regard to land stability, the site is located in a Coal Mining Low Risk Area, and as such the Coal Authority were not required to be consulted on this application.

As such the application is considered to be acceptable in this regard and complies with Policy SI3 and RP7 of the of the Swansea Local Development Plan (2010-2025).

### **Renewable/ Low Carbon Technology**

Policy EU2 of the LDP requires that development maximises the contribution of renewable or low carbon energy technology to meet the energy demands of the proposal.

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The applicant has submitted an Energy & Sustainability Statement which states that the proposed store's incorporation of passive design strategies take advantage of: natural daylighting through careful building and glazing orientation to offer reduced dependency on electric lighting together with enhanced fabric efficiency and thermal mass to stabilise any temperature fluctuations within the building reducing heat gains and/or losses. The incorporation of active design strategies to reduce energy consumption will take advantage of:

- Heat recovery ventilation to pre-heat incoming fresh air;
- Separate sub-metering to allow for all energy consumed to be monitored and any discrepancies to be easily identified and fixed thus minimising wasted energy;
- Low energy lighting with suitable controls provided to ensure lights are not left on unnecessarily;
- Building energy management system (BEMS) to manage all systems effectively, ensuring their efficiencies are achieved and maintained.

The Strategy also advises that alternative low or zero carbon technologies have also been reviewed with air source heat pumps and PV arrays deemed to be both viable and advisable.

It is considered that the use of these high efficiency systems will reduce the energy usage of the site and subsequent energy demand. It is therefore considered that these proposals will utilise low carbon technology and will meet the aims of Policy EU2 of the LDP.

**Welsh Language**

The application site is located within the Welsh Language Sensitive Area. Policy HC 3 states:

*Within the Welsh Language Sensitive Area the Council may subject the following developments on windfall sites to a Welsh Language Impact Assessment:*

*ii) Retail, commercial or industrial development with a total floorspace of 1000 sq. or more.*

However, as this is for a replacement store, with an overall reduction in floor area, it is not considered to fall to be considered reasonable or necessary to consider this issue further. A WLIA is therefore not considered to be required in this instance.

**Planning Obligations**

During the course of the application and consideration in relation to the above mentioned policy framework and key planning considerations regard has been given to the consultation responses received and the likely impacts that would arise as a result of the development. The Community Infrastructure Levy Regulations (2010) came into effect in 2010 and Regulation 122 of these regulations sets out limitations on the use of planning obligations. It sets out three tests that planning obligations need to meet. It states that planning obligations may only constitute a reason for granting planning permission if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

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Regard has been given to the CIL Regulations in making a recommendation and the following matters are considered to represent obligations that are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development:

o *S106 to restrict the sale of goods in relation to the existing Lidl store, to come into force upon first beneficial occupation of the new store, to be worded as follows:*

- “(i) The Site (i.e original Lidl Store) shall be used only for (except for criterion (ii) and (iii)): the sale of pet care products or Bulky Goods (as defined as being goods of a large physical nature such as DIY, building materials and gardening materials, car, bike and associated electronic displays, electrical goods, furniture, or carpets, that require large areas for storage or display;
- (ii) not to use more than 20% of the Gross Internal Area within the Site for the sale of Non-Bulky Goods (toys, clothing, stationary & partyware);
- (iii) not to use more than 153sq.m of the Gross Internal Area within the Site for the sale of Ancillary Goods (toiletries & household goods)”

**Response to Consultation**

Turning to the letter of representation received it is considered the matters raised, have now been given further consideration through the submission of additional information and addressed within the body of the report above.

**Conclusion**

Having regard to all material considerations it is considered that the proposal represents an acceptable form of development. For the reasons discussed in the main body of the report it is not considered that the likely level of adverse impact to existing shopping centres to be of such material significance to withhold planning permission for this reason. The proposed development would not result in any significant harmful visual impacts upon the character and appearance of the area. The proposal would not result in any significant impacts to the residential amenities of neighbouring occupiers and the development is considered to be acceptable in terms of its impacts on parking and highway safety. Subject to conditions there would be no significant ecological impacts. In view of the above, therefore, the proposal is recommended for conditional approval.

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Part 2, Section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WBFG Act and consider that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the public bodies' well-being objectives set out as required by Part 2, Section 9 of the WBFG Act.

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**Recommendation**

**APPROVE** subject the applicant entering into a S106 Planning Obligation to restrict the sale of goods in relation to the existing Lidl store as set out above (or in similar terms serving the same purpose), upon the first beneficial occupation of the new store; and the following conditions:

1. The development hereby permitted shall begin not later than five years from the date of this decision.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

AD 100 LOCATION PLAN  
AD 101 EXISTING SITE PLAN  
AD 102 DEMOLITION PLAN  
AD 111 PROPOSED BUILDING PLAN  
AD 112 PROPOSED ROOF PLAN  
AD 113 PROPOSED ELEVATIONS  
Received 23<sup>rd</sup> March 2021;

2020-G-04 REV A RAIN GARDEN SECTION  
2021-G-05 REV A TREE PIT SECTION  
Received 12<sup>th</sup> August 2021;

2020-G-02 REV E OVERLAY AND TREE PROTECTION PLAN  
2020-G-03 REV G LANDSCAPE PROPOSALS PLAN  
PLANTING METHODOLOGY AND AFTERCARE Landscape Management Plan (Rev 12 September 2021)  
Received 29<sup>th</sup> September 2021;

20-00693 SP04 SERVICE AREA MARKINGS  
20-00693 SP05 SERVICE AREA MARKINGS  
Received 27<sup>th</sup> October 2021;

AD 110 Rev D PROPOSED SITE PLAN  
AD 114 Rev C PROPOSED BOUNDARY TREATMENTS  
AD 115 Rev C PROPOSED SITE FINISHES  
AD 118 Rev B PROPOSED SITE TOPO OVERLAY PLAN  
AD 126 Rev B PROPOSED STREET SCENE  
Received 25<sup>th</sup> November 2021.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

3. The net retail floorspace hereby permitted shall not exceed 1,414m<sup>2</sup> of which not more than 1,131m<sup>2</sup> shall be used for the sale of convenience goods.

Reason: To ensure the development does not have an adverse impact on the vitality and viability of existing shopping centres given the justification for the development.

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4. Prior to the commencement of development, a method statement shall be submitted to and approved in writing by the Local Planning Authority, detailing how Invasive Non Native Species, including Japanese knotweed and Cotoneaster, will be treated and removed. The development shall thereafter be undertaken in accordance with the approved method statement.

Reason: In the interests of the ecology and amenity of the area.

5. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) (incorporating a Construction Method Statement) detailing all necessary pollution prevention measures for the demolition, construction and operational phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in strict accordance with the approved CEMP. The CEMP shall include:

- Construction methods: details of materials, how waste generated will be managed
- General Site Management: details of the construction programme including timetable, details of demolition & site clearance, details of site construction drainage, containment areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Biodiversity Management: details of tree and hedgerow protection, species and habitats protection, and mitigation measures.
- Soil management: details of topsoil strip, storage and amelioration for re-use.
- Control of Nuisances: details of restrictions to be applied during demolition & construction including timing, duration & frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers, details of dust control measures, measures to control light spill and the conservation of dark skies).
- Resource Management: details of fuel and chemical storage and containment, details of waste generation & its management, details of water consumption, wastewater and energy use.
- Traffic Management: parking of vehicles of site operatives and visitors, details of site deliveries, loading and unloading of plant and materials site, storage of plant & materials, the erection and maintenance of security hoardings, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Waste management: Details of on-site waste management.
- Landscape/ecological clerk of works: to ensure construction compliance with approved plans and environmental regulations.
- Details of the persons/bodies responsible for particular activities associated with the CEMP and emergency contact details.

Reason: To ensure the site is developed in a sensitive manner that respects the surrounding environment in the interest of highway safety, public health, pollution prevention and ecology.



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6. Prior to the commencement of any above ground superstructure works, a sensitive external lighting design strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a detailed plan and specify lighting type, specification, direction, height and lighting levels in lux/UV.

The lighting plan should reflect the Bat Conservation Trust's Bats and Artificial Lighting in the U.K. (2018) guidance: <https://www.bats.org.uk/our-work/buildings-planning-and-development/lighting> and lighting should be below 3000K.

The development shall be carried out in accordance with the approved lighting strategy and retained as such thereafter.

Reason: In the interest of ecology and biodiversity to protect bats and other nocturnal species.

7. Prior to the commencement of development, details of a Remediation Strategy Options Appraisal (Phase 3) shall be submitted to and approved in writing by the Local Planning Authority.

This shall:

- Indicate all measures to be taken to reduce the environmental and human health risks identified in Phase 1 and Phase 2 to an acceptable level, in a managed and documented manner, to best practice and current technical guidance.

On completion of remediation works, and prior to the first beneficial occupation of the development hereby permitted, a validation/verification report shall be submitted to the Local Planning Authority that will demonstrate that the remediation works have been carried out satisfactorily and remediation targets have been achieved.

Reason: To ensure that the safety of future occupiers is not prejudiced.

8. If, during the course of development, contamination not previously identified is found to be present at the site no further development [unless previously 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 detailed strategy for dealing with said contamination.

Reason: To ensure that the safety of future occupiers is not prejudiced.

9. The development hereby approved shall be undertaken in strict accordance with the Arboricultural Method Statement (Rev 12) and Tree Protection Plan (2020G 02 REV E) received 29th September 2021.

Reason: To ensure the safeguarding of trees within the development site.

10. The development hereby approved shall be undertaken in accordance with the Landscape Proposals Plan (2020G 03 Rev G) and the Planting Methodology and Aftercare Landscape Management Plan received 29th September 2021.

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All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first beneficial occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value.

11. The ecological enhancement measures (6 x bird boxes) as illustrated on Drawing No. 2020G 03 REV G (landscape proposals plan) received 29th September 2021, shall be fully provided no later than 6 months following either the completion of the development or first beneficial occupation of the development, whichever is the sooner, and shall be retained as such thereafter for the lifetime of the development.  
Reason: In the interests of the biodiversity of the area.

12. Notwithstanding the details submitted to date, and prior to the commencement of development, full details of the location of 12 x Ultra Low Emission Vehicle (ULEV) charging spaces shall be submitted to and approved in writing by the Local Planning Authority. The approved ULEV charging points shall be installed in accordance with the approved details prior to the first beneficial occupation of the development hereby permitted and retained as such thereafter for the lifetime of the development.  
Reason: To ensure ULEV charging points are provided to comply with Policy 12 of Future Wales.

13. Notwithstanding the details submitted to date, and prior to the commencement of development, full details of a revised layout to incorporate a 3m wide active travel route into the site, from east and west, to the cycle parking area, shall be submitted to and approved in writing by the Local Planning Authority. The active travel route shall thereafter be provided in accordance with the approved details prior to the first beneficial occupation of the development.  
Reason: To ensure sustainable travel routes are provided within the site to the entrance of the store/ cycle parking area.

14. Notwithstanding the details submitted to date, the proposed development shall not be brought into first beneficial use until the parking area as indicated on Drawing No: AD 100 Rev D (Proposed Site Plan), subject to any modifications required by Conditions 12 and 13, has been clearly demarcated on the ground and made ready for use. The parking areas for car parking shall be made available to the public at all times thereafter and retained solely for the parking of vehicles.  
Reason: To ensure adequate car parking provision is provided and retained for users of the development.

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15. Prior to the first beneficial occupation of the development hereby approved a Delivery Management Plan detailing servicing and delivery arrangements shall be submitted to and approved in writing by the Local Planning Authority. Servicing and deliveries to the development shall thereafter be undertaken in accordance with the approved Delivery Management Plan.  
Reason: In the interests of highway safety and general amenity.
16. Prior to the commencement of development, full details of the improvements to provide a 3m wide active travel path along the site frontage with Gorseinon Road, shall be submitted to and approved in writing by the Local Planning Authority. The active travel route shall thereafter be provided in accordance with the approved details prior to the first beneficial occupation of the development and retained as such thereafter for the lifetime of the development.  
Reason: In the interests of highway safety to ensure appropriate access is provided.
17. The cycle parking spaces as indicated on Drawing Number: AD 100 Rev D (Proposed Site Plan), shall be provided prior to the first beneficial occupation of the development hereby permitted and retained as such thereafter for the lifetime of the development.  
Reason: To ensure cycle parking is provided to encourage sustainable modes of transport.
18. The access into the site hereby approved shall be provided prior to the first beneficial occupation of the development and retained as such thereafter.  
Reason: In the interests of highway safety to ensure appropriate access is provided.
19. The service area shall be hatched in white thermos screed as indicated on Drawing Nos. SP04 and SP05 prior to the first beneficial occupation of the development and retained as such thereafter for the lifetime of the development.  
Reason: In the interests of highway safety to ensure appropriate servicing is provided.

### Informatives

1. The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application: 1,2,6,9 and 12.  
  
The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: PS1, PS2, HC3, RC2, RC5, RC7, RC10, ER1, ER2, ER9, ER11, T1, T2, T5, T6, EU2, EU4, RP1, RP2, RP3, RP4, RP10.
2. This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
3. All UK bat species are protected under Schedule 5 of The Wildlife & Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to:
  - Deliberately take, injure or kill a bat;
  - Intentionally or recklessly disturb a bat in its roost;

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- Damage or destroy the breeding site or resting place of a bat (even if it is not occupied at the time);
- Intentionally or recklessly obstruct access to a bat roost.

If evidence of bats is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or Natural Resources Wales (NRW) sought before continuing with any work (01792 634960 / 0300 065 3000).

4. It is an offence under The Wildlife & Countryside Act 1981 (as amended) to intentionally:
- Kill, injure or take any wild bird;
  - Take, damage or destroy the nest of any wild bird while that nest is in use or being built; and
  - Take or destroy an egg of any wild bird.

Additionally, bird species listed on Schedule 1 of the Act are also protected from intentional or reckless:

- Disturbance while it is building a nest or is in, on or near a nest containing eggs or young; and
- Disturbance to dependent young of such a bird.

No works should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests either in vegetation or buildings immediately before the vegetation is cleared and/or work commences on the building to ensure that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

5. Hedgehog
- There is the potential for hedgehogs to be present in the area. Hedgehogs are protected under Schedule 6 of The Wildlife and Countryside Act 1981 (as amended), which prohibits killing and trapping by certain methods. They are also listed on Section 7 of The Environment (Wales) Act 2016.

6. All trenches and excavations must be fenced off or covered-over at night to prevent any animals (hedgehogs, and other species) from falling in and becoming trapped. If this is not possible an adequate means of escape must be provided (i.e. a gently graded side wall or provision of gently sloped wooden plank or equivalent). Any exposed pipes and trenches must be checked for trapped wildlife each morning before starting construction activities.

7. 1 Construction Noise
- The following restrictions should be applied to all works of demolition/ construction carried out on the development site:

All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays unless otherwise agreed through the Local Planning Authority.

The Local Authority has the power to impose the specified hours by service of an enforcement notice under Control of Pollution Act 1974, Section 60. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

If applying for Prior consent under the Control of Pollution Act 1974, section 61, please contact [pollution@swansea.gov.uk](mailto:pollution@swansea.gov.uk) and ensure any application is submitted a minimum of 28 days prior to commencement of any works.

2 Smoke/ Burning of materials

No burning of any materials to be undertaken on site.

The Local Authority has the power to enforce this requirement by service of an abatement notice.

Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

3 Dust Control

During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site.

The Local Authority has the power to enforce this requirement by service of an abatement notice.

Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

4 Lighting

During construction work the developer shall operate all best practice to minimise nuisance to local residences from on site lighting. Due consideration should be taken of the Institute of Lighting [[www.ile.org.uk](http://www.ile.org.uk)] recommendations.

Please see 'Development of Land Affected By Contamination Guide for Developers 2017 (English & Welsh) for guidance.

8. The Developer must contact the Highway Management Group , The City and County of Swansea , Guildhall Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact e-mail [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk)

9. All off-site highway works are subject to an agreement under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement will be prepared by the City and County of Swansea. In certain circumstances there may be an option for the developer to prepare the scheme design and detail, for approval by the City and County of Swansea. However, this will be the exception rather than the rule. All design and implementation will be at the expense of the developer.

Planning Committee – 7<sup>th</sup> December 2021

Item 2

Application Number:

2021/2490/RES

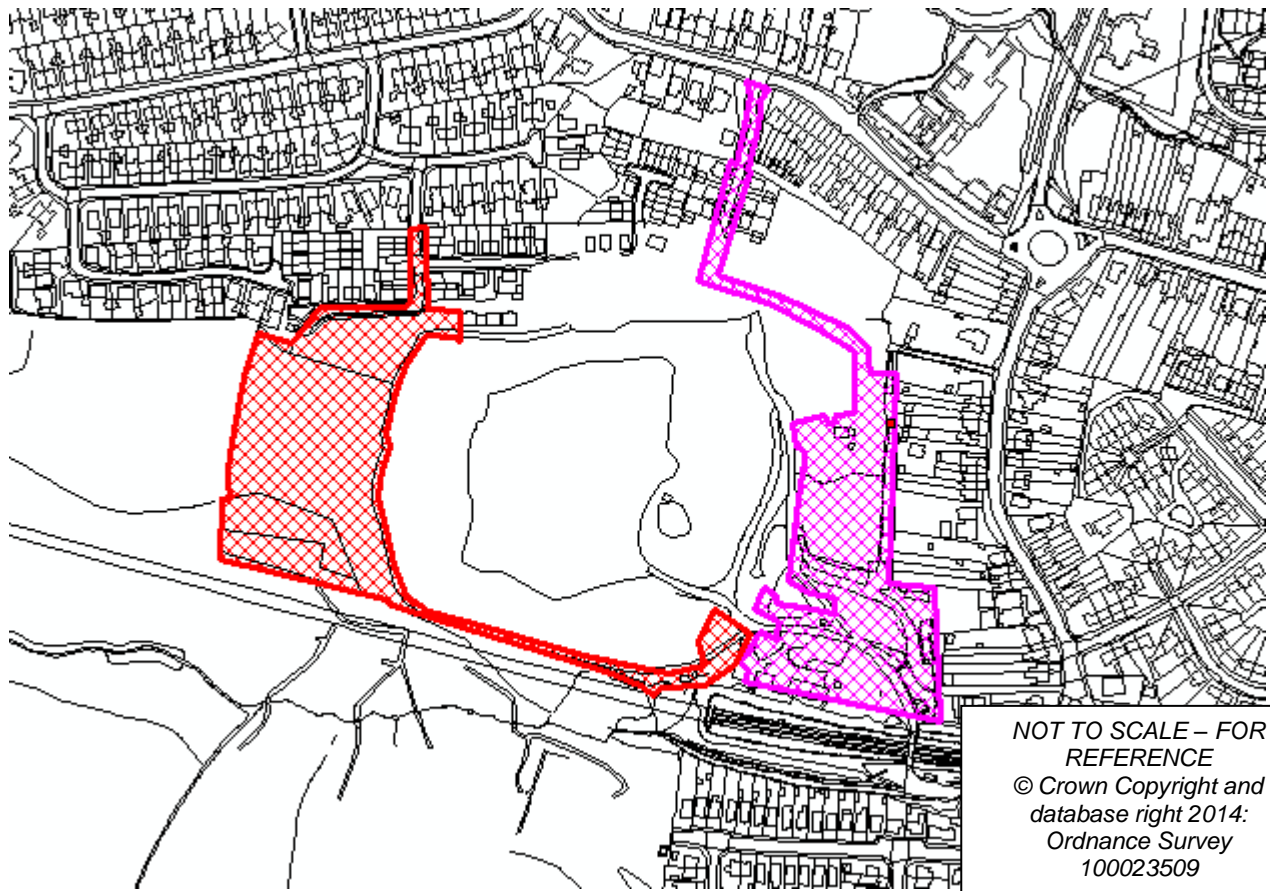
Ward:

Morrison - Area 1

Location: Parc Ceirw, Great Western Terrace, Cwmrhydyceirw, Swansea, SA6 6EA

Proposal: Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary work (Details of landscaping pursuant to outline planning permission 2014/0977 granted on appeal 11th January 2018) for phases 3 (73 dwellings) and 4 (36 dwellings)

Applicant: Mr Daniel Jessop Edenstone Homes



**Planning Committee – 7<sup>th</sup> December 2021**

**Item 2 (Cont'd)**

**Application Number:**

2021/2490/RES

**Background Information**

**Site History**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2018/1873/RES	Construction of 28 dwellings, public open space and ancillary infrastructure (first phase reserved matters application pursuant to outline application 2014/0977 relating to appearance, landscaping, layout and scale)	APP	06.12.2018
2019/0502/RES	Construction of 121 dwellings, open space and ancillary infrastructure, (details of appearance, landscaping, layout and scale of phase 2 development pursuant to outline application 2014/0977 granted 11th January 2018)	APP	12.12.2019
2019/1041/SCO	SCOPING OPINION for a new community hub and gym buildings	REC	
2019/1042/SCR	SCREENING OPINION for a new community hub and gym buildings	EIANRQ	05.07.2019
2019/2236/RES	Provision of open space and ancillary infrastructure within former quarry basin (details of access, appearance, landscaping, layout and scale pursuant to outline application 2014/0977 granted 11th January 2018)	APP	04.06.2020

**Planning Committee – 7<sup>th</sup> December 2021**

Item 2 (Cont'd)		Application Number:	2021/2490/RES
2019/2309/FUL	Construction of community hub in connection with the wider development approved under application ref. 2014/0977 for the cessation of landfill and other operations for development of circa 300 dwellings, public open space, associated highway and ancillary work	APP	04.02.2020
2020/2068/S73	Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highways and ancillary works (outline) (Variation of condition 2 of planning permission 2014/0977 granted 11th January 2018 to allow for the submission of reserved matters applications to be extended by a further 2 years to 11 Jan 2023)	S106	01.09.2021
2020/2419/RES	Construction of 13 dwellings and ancillary infrastructure (details of the appearance, landscaping, layout and scale pursuant to outline application 2014/0977 allowed on appeal on 11th January 2018)	APP	09.03.2021
2020/2430/FUL	Two tandem parking areas and additional landscaping	APP	23.03.2021



**Planning Committee – 7<sup>th</sup> December 2021**

<b>Item 2 (Cont'd)</b>		<b>Application Number:</b>	2021/2490/RES
2020/2559/RES	Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary work (Details of access within and around the development, appearance, layout and scale pursuant to outline planning permission 2014/0977 granted on appeal 11th January 2018) for phases 3 (73 dwellings) and 4 (36 dwellings), open space and ancillary infrastructure	APP	05.11.2021
2020/2588/RES	Proposed cessation of landfill and other operations enabled by residential development circa 300 dwelling, public open space, associated highway and ancillary works (Details of appearance, landscaping, layout and scale pursuant to outline planning permission 2014/0977 granted on appeal 11th January 2018) for phases 5 (29 dwellings), open space and ancillary infrastructure	PCO	
2021/2822/RES	Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary work (Reserved matters application for amendments to plots 139, 144-151, 154 and 156-158.	PCO	

## Planning Committee – 7<sup>th</sup> December 2021

Item 2 (Cont'd)	Application Number:	2021/2490/RES
2021/2822/RES	Provision of dwellings on plots 152 and 153 and amendment of turning head within phase 3 including details of access within and around the development, appearance, layout, scale and landscaping pursuant to outline planning permission 2014/0977 granted on appeal 11th January 2018 and varied by 2020/2068/S73 granted 1st September 2021).	
2014/0977	Proposed cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary work (outline)	APPEAL ALLOWED 15.06.2016

### Background

This application is being reported to Planning Committee as it is a reserved matters application and the outline application was accompanied by an Environmental Statement.

This is a reserved matters application in respect of the development of the former Cwmrhydyceirw quarry for housing. Outline planning permission was granted on appeal by the Welsh Ministers in January 2018 under planning ref: 2014/0977 for the following development:

"Proposed Cessation of Landfill and other Operations Enabled by Residential Development Circa 300 Dwellings, Public Open Space, Associated Highway and Ancillary Works (Outline)"

A Section 73 planning permission was granted earlier this year to extend the time period in which to submit the reserved matters by a further two years (2020/2068/S73).

Housing on phases 1 and 2 have already been approved (2018/1873/RES and 2019/0502/RES respectively). A re-plan relating to 13 dwellings within Phase 2 was approved in March of this year. A reserved matters application for the development of the quarry basin as an area of open space was also approved in 2020 (2019/2236/RES).

Phase 1 comprising of 28 dwellings is nearing completion and phase 2 comprising of 121 dwellings is well underway.

**Item 2 (Cont'd)**

**Application Number:**

2021/2490/RES

Members may recall a reserved matters application relating to the access (within the development), appearance, layout and scale for phases 3 and 4 was recently reported to the Planning Committee was approved in November this year under Ref: 2020/2559/RES.

There are two further reserved matters applications which are currently being considered on the site, one for Phase 5 (2020/2588/RES) and one for two housing plots that were specifically excluded from the recently approved reserved matters application within Phase 3 (Ref: 2021/2833/RES) that are also excluded from this application. The Phase 5 application comprising of 29 dwellings is currently on hold while the applicant has been focussing on discussions relating to phases 3 & 4.

### **Site Location**

The application site comprises of two connected parcels of land with phase 3 on the eastern of the quarry basin and phase 4 on the western side. To the east of phase 3 are existing properties on Cwmrhydyceirw Road and to the south is Morryston golf club and the railway line. Phase 4 is bordered to the south and east by Morryston golf club.

Phase 5, which is the subject of a separate application, is located between phases 3 & 4 within the quarry basis on its southern side.

The land within phases 3 & 4 has been cleared for the most part and currently form part of the wider construction site. There are some small buildings on the site associated with the former uses at the site and these are proposed to be demolished.

### **Description of Development**

The proposal is for landscaping details in relation to phases 3 (73 dwellings) and 4 (36 dwellings) of the Parc Ceirw development.

### **Planning Policy**

#### **The National Development Framework: Future Wales - the National Plan 2040**

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping urban growth and regeneration - Strategic placemaking

Policy 3 - Supporting Urban Growth and Regeneration - Public Sector Leadership

Policy 7 - Delivering affordable homes

Policy 9 - Resilient ecological networks and Green infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

## Planning Policy Wales (11th Edition) 2021

### Good Design Making Better Places

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area.

3.4 Design is an inclusive process, which can raise public aspirations, reinforce civic pride and create a sense of place and help shape its future. For those proposing new development, early engagement can help to secure public acceptance of new development. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

### Environmental Sustainability

3.7 Good design promotes environmental sustainability and contributes to the achievement of the well-being goals. Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution. An integrated and flexible approach to design, including early decisions regarding location, layout, built form, the choice of materials, the adaptability of buildings and site treatment will be an appropriate way of contributing to resilient development.

3.8 Good design can help to ensure high environmental quality. Landscape and green infrastructure considerations are an integral part of the design process. Integrating green infrastructure is not limited to focusing on landscape and ecology, rather, consideration should be given to all features of the natural environment and how these function together to contribute toward the quality of places. This embraces the principles of 'ecosystems services' and sustainable management of natural resources where multiple benefits solution become an integral part of good design. In a similar manner, addressing environmental risks can make a positive contribution to environmental protection and improvement, addressing land contamination, instability and flood risk and providing for biodiversity, climate protection, improved air quality, soundscape and water resources benefits.

### Integrating Green Infrastructure and Development

6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and are intrinsic to the quality of the spaces we live, work and play in. The planning system should protect and enhance green infrastructure assets and networks because of these multi-functional roles. The protection and enhancement of biodiversity must be carefully considered as part of green infrastructure provision alongside the need to meet society's wider social and economic objectives and the needs of local communities. The multiple benefits that resilient ecosystems and green infrastructure offer to society, including the economic and social contribution they make to local areas, should be taken into account when balancing and improving these needs.

6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, helping to overcome the potential for conflicting objectives, and contributing towards health and well-being outcomes. There are multiple ways of incorporating green infrastructure, dependent on the needs and opportunities a site presents. Landscaping, green roofs, grass verges, sustainable urban drainage and gardens are examples of individual measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places.

#### Trees, Woodlands and Hedgerows

6.4.24 Trees, woodlands, copses and hedgerows are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make a valuable wider contribution to landscape character, sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade and shelter, a sustainable energy source and building materials. The particular role, siting and design requirements of urban trees in providing health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking.

6.4.25 Planning authorities should protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial and identified green infrastructure function. Planning authorities should consider the importance of native woodland and valued trees, and should have regard, where appropriate, to local authority tree strategies or SPG. Permanent removal of woodland should only be permitted where it would achieve significant and clearly defined public benefits. Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting

6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs). They should also be incorporated into Green Infrastructure Assessments and plans.

#### **Adopted Swansea Local Development Plan (2010-2025)**

PS 2 Placemaking and Place Management - development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

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ER 6 Designated Sites of Ecological Importance - Development will not be permitted that would result in a likely significant adverse effect on the integrity of international and national designated sites, except in the circumstances specified in relevant legislation.

Development that would adversely affect locally designated sites should maintain and enhance the nature conservation interest of the site. Where this cannot be achieved development will only be permitted where it can be demonstrated that specified policy criteria are met.

ER 8 Habitats and Species - Development proposals that would have a significant adverse effect on the resilience of protected habitats and species will only be permitted where they meet specific criteria.

ER 9 Ecological Networks and Features of Importance for Biodiversity - Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

ER 11 Trees, Hedgerows and Development - Development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted. Ancient Woodland, Ancient Woodland Sites, Ancient and Veteran trees merit specific protection and development that would result in specified outcomes will not normally be permitted.

Where necessary a tree survey; arboricultural impact assessment; an arboricultural method statement; tree protection plan and/or scheme for tree replacement, including details of planting and aftercare will be required in support of a planning application.

T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

**Supplementary Planning Guidance (SPG):**

The following supplementary planning guidance (SPG) documents are considered to be relevant to the determination of this application:

- Placemaking Guidance for Residential Development (adopted 2021)
- Trees, Hedgerows and Woodlands (adopted 2021)
- Biodiversity and Development (adopted 2021)

The above SPG provide information and guidance to clarify the policy aims of the relevant LDP Policies as set out above. These documents are referenced in the amplification text of these Policies. These SPG have been formally adopted by the Council following public consultation and stakeholder engagement that informed the content of the documents.

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**Consultations:**

**Ecology:**

No objection. Native and more diverse species list not required for formal hedges and grass due to their function as ornamental/boundaries rather than ecological mitigation/enhancement.

**Local Highway Authority:**

At the time of this application, the applicant has largely addressed the Highway Authority concerns with regards to the application 2020/2559/RES and the internal layout. This has been achieved either through minor adjustments to the layout or through the provision of additional justification and supporting assessments.

In the progression of the site layouts the remaining issue is one of visibility splays and ensuring that these are maintained for use within areas dedicated as highways and not reliant on adjacent plots. There is also a specific issue which relates to Phase 3 and the private drive junctions with the development access road, these are located in the areas of proposed Plots 212 to 215. The road feature introduced to accommodate tree planting contributes to the difficulty to achieve visibility. There is also likely to be future issues in terms of a lighting strategy with placement of lighting columns unlikely to sufficiently illuminate the accesses.

To ensure that issue this is dealt with appropriately it has been agreed that any consent would need to include an appropriately worded condition, which requires the Planning Authority approval of a plan prior to commencement.

On the basis that there will be adequate maintenance of forward visibility through dedication of splay areas, and that junction visibility splays will be approved via a planning condition and submission of further detail, the Highway Authority confirms that it would not raise an objection to this application.

**Landscaping (Tree Officer):**

The tree planting proposed is suitable in arboricultural terms and appears to use most available places in the front facing areas.

**Neighbour comments:**

The application was advertised in the press, by site notice and one property was consulted by letter.

One letter of objection has been received to the public consultation which notes that the development should be constructed in accordance with the approved levels.

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## **APPRAISAL**

### **Main Issues**

The main issues to consider in the determination of this application relate to acceptability of the landscaping details having regard to the prevailing provisions of the relevant LDP Policies and National Policy guidance. There are considered to be no additional issues arising from the provisions of the Human Rights Act.

### **Principle of Development**

The principle of the development has been established by the appeal decision which granted outline planning permission. This application will therefore consider the acceptability or otherwise of the details submitted for the approval of reserved matters in respect of landscaping. Reserved matters in relation to access (within the development), appearance, layout and scale for phases 3 and 4 have previously been considered by the planning committee and approved under application Ref: 2020/2559/RES.

### **Landscaping**

The application has been accompanied by detailed landscaping plans. The proposed landscaping scheme is similar to those approved in previous phases with good levels of shrub planting and tree planting throughout the development. The majority of plots have side drive parking, as such front gardens are relatively small and should be easily maintained. Property frontages are generally open with a hedge within the front garden and grass areas with shrub planting behind and/or decorative chippings. Rear gardens will be grassed. Within the visually prominent areas around the quarry basin circular path a good level of tree planting is proposed either within open space areas or within plot frontages, particularly on the western part of the site within phase 4.

Build outs within the road are proposed which will include street trees. These features are welcomed and will have a multi-functional purpose providing a drainage function, traffic calming, and ecological function as well as improving the overall aesthetic of the street environment. Open space areas are generally laid to lawn with scattered trees and bulb planting. Important existing trees within the site are proposed to be retained including the category A oak tree within in the open space area in the south eastern part of phase 1 and the existing trees along the western boundary with the golf course.

No objections have been received from consultees as such it is considered that the proposed landscaping scheme is acceptable subject to a condition in relation to a timescale for its implementation.

### **Highway Safety**

When the associated reserved matters was recently approved in relation to access (within the site), appearance, scale and layout, at the request of the LHA a condition was imposed requiring amendments to the layout in front of plots 212-215 to improve visibility.



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As the development layout proposed under this application is the same as the previously approved reserved matters application, a further condition will need to be imposed under this application in order to ensure the landscaping scheme reflects the amended layout with improved visibility. This is considered to be necessary in the interests of highways safety. Subject to this condition the LHA have raised no objection to the landscaping proposals.

### Other Matters

Concerns have been raised in a letter of objection in relation to ensuring the land levels of the development are constructed as approved. While this concern is noted, this is not an important material consideration in relation to the decision on this reserved matters application.

### Conclusion

This is a reserved matters application in relation to landscaping for phases 3 and 4 of the approved outline development at the former Cwmrhydyceirw quarry. The proposal has been considered in light of the principles established for the development at the outline planning stage, having regard to the Environmental Statement submitted, and is considered to be acceptable in accordance with LDP Policies relating to matters regarding design/layout, ecology and landscaping.

Regard has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under Part 2, Section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this decision, the Local Planning Authority has taken account of the ways of working set out at Part 2, Section 5 of the WBFG Act and consider that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the public bodies' well-being objectives set out as required by Part 2, Section 9 of the WBFG Act. For the above reasons the development is accordingly recommended for approval.

### RECOMMENDATION

#### **APPROVE, subject to the following conditions:**

- 1 The development shall be carried out in accordance with the following approved plans and documents:

1461302-SBC-00-XX-DR-L-507 Rev PL06 (Soft Landscape Planting Plan 1 of 2)  
1461302-SBC-00-XX-DR-L-508 Rev PL06 (Soft Landscape Planting Plan 2 of 2)  
1461302-SBC-00-XX-DR-L-509 Rev PL07 (Soft Landscape Planting Plan 1 of 2)  
1461302-SBC-00-XX-DR-L-600 Rev PL07 (Soft Landscape Planting Plan 2 of 2),  
received 19<sup>th</sup> November 2021.

P3/P4 -101 (Site Location Plan Phases 3 & 4 Reserve Matters Application), received 25<sup>th</sup> November 2021.

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

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- 2 All planting, seeding or turfing comprised in the approved details of landscaping within phases 3 and 4 shall be carried out in the first planting and seeding seasons following the first beneficial occupation of the buildings or the completion of the development within each respective phase, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
Reason: To ensure satisfactory landscaping at the site in the interests of visual amenity and to provide ecological enhancements in accordance with LDP Policies ER2, ER6, ER9 and ER11.
- 3 Notwithstanding the details indicated on the approved drawings, prior to the commencement of development details of an amended landscaping design in the area of the street fronting plots 212-215 which takes into consideration the amended street design to be approved under condition 14 of reserved matters application Ref: 2020/2559/RES, shall be submitted to and approved in writing by the local planning authority. The approved design shall thereafter be implemented in accordance with the requirements specified within condition 2 of this permission.  
Reason: To ensure the street layout and landscaping within the site is safe for future users in accordance with LDP Policy T5.

**Informatives**

- 1 The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application:

The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application:

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping urban growth and regeneration - Strategic Placemaking

Policy 9 - Resilient ecological networks and Green infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: ER2, ER6, ER8, ER9, ER11, PS2 and T5.

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## Report of the Head of Planning & City Regeneration

Planning Committee – 7 December 2021

### Planning Application Ref: 2007/2829 - Land at New Cut Road / Morfa Road, Swansea

**Mixed use development comprising 967 student accommodation units within 1 no. part 6 storey, part 7 storey, part 8 storey part 10 storey block, incorporating ground floor retail unit (Class A1), and 1 no. part single storey part 6 storey block plus up to 349 residential units, freestanding café/restaurant (Class A3), bicycle storage, car parking, riverside walkway, reconfigured public open space, landscaping, highways and infrastructure works (outline).**

**Purpose:** To consider variation of the Section 106 Planning Obligation for the “Children’s Play Area Contribution” to be used towards the provision or improvement of existing off-site facilities elsewhere in the locality.

**Policy Framework:** Swansea Local Development Plan (2010 - 2025); Planning and Compulsory Purchase Act 2004; Well-being of Future Generations (Wales) Act 2015; Planning (Wales) Act 2015; Planning Policy Wales (2021) and related Guidance.

**Consultation:** Access to Services, Finance, Legal.

**Recommendation(s):** It is recommended that a Section 106 Deed of Variation be completed to allow the “Children’s Play Area Contribution” to be used towards the provision or improvement of existing off-site facilities elsewhere in the locality in accordance with Policy SI 6 of the Swansea Local Development Plan 2010- 2025.

**Report Authors:** David Owen / Liam Jones

**Finance Officer:** Aimee Dyer

**Legal Officer:** Jonathan Wills

**Access to Services Officer:** Rhian Millar

## 1.0 Background

1.1 Outline planning permission for a mixed use development comprising 967 student accommodation units and up to 349 residential units including a new section of riverside walkway and a reconfigured public open space at New Cut Road (site of the former Unit Superheaters) was granted on 19<sup>th</sup> December 2008 and was subject to the completion of a Section 106 Obligation. The Section 106 Obligation amongst

other things required the provision of a children's play area within the residential scheme.

1.2 The St Davids ('The Roost') Purpose Built Student Development (PBSA) has since been completed by Watkin Jones and the Llais Tawe residential development was completed by Bellway Homes Limited some time ago. The outline permission actually being a hybrid approval with the details approved for the PBSA whilst reserved matters was later approved for the Bellway scheme (Ref:2010/0844) – under which the Section 106 Agreement was varied – 14 Feb. 2011.

1.3 The Section 106 Obligation forming part of the planning permission requires the developer to pay the "**Children's Play Area Contribution**" to the Council before the Occupation of the 50<sup>th</sup> Qualifying Residential Unit. "**Children's Play Area Contribution**" is defined as a sum not exceeding seventy thousand pounds (£70,000) (but including indexation) as a contribution towards the costs to be incurred by the Council in providing a children's play area on **land adjacent to the site**. The Children's play area contribution was subsequently indexed to £84,000 and this was received on 26<sup>th</sup> May 2017 but has yet to be utilised, although under the terms of the S106 needs to be utilised or re-paid by May 2022.

## **2.0 Planning History**

2.1 Reserved matters approval was granted to Bellway Homes on 5<sup>th</sup> October 2010 for the construction of 106 residential units (Ref:2010/0844) following the completion of a further Section 106 Obligation regarding the construction of the highways and proposals for their future management.

2.2 The residential layout by Bellway Homes (referred to as 'Llais Tawe') has now been completed. Within the approved layout under the reserved matters approval the provision of the children's play area was indicated within the area of public open space immediately to the south of the development, adjacent to Plots 62 – 66 (Nos. 60 – 68 New Cut Road). This is on land within the ownership of the City and County of Swansea. This area was selected as it was perceived to enjoy good natural surveillance from residents to provide protection for young children using the facility and also reduce the potential for anti social behaviour.

## **3.0 The Proposal**

3.1 Following the construction and occupation of parts of the development, concerns were expressed by some of the new residents within the Llais Tawe development and others over the location of the proposed children's playground and requested that an alternative area is considered. There is no scope to relocate the children's playground elsewhere within the site.

3.3 In lieu of the provision of the Children's Play Area on site, Bellway have indicated a willingness to enter into a Deed of Variation to alter the terms of the Section 106 to allow the proposed "**Children's Play Area Contribution**" to be used to upgrade facilities elsewhere within the vicinity.

## 4.0 Response to Consultations

4.1 The new residents within the Llais Tawe development at New Cut Road, Pottery Street, Rothwell Street and Haynes Court were consulted on this issue in 2014. SIX LETTERS were received, all opposing the provision of the children's play area within the development and agreeing to have the playground located elsewhere or the contribution to be used to upgrade existing facilities elsewhere.

## 5.0 Planning Policy

### 5.1 Swansea Local Development Plan 2010-2025

Policy SI 6: Provision of New Open Space states:

*Open space provision will be sought for all residential development proposals with capacity for 10 or more units. This will include the creation of new on-site facilities, **or the improvement of existing local provision off-site**, along with appropriate maintenance contributions.*

*A contribution towards improving off-site open space provision in the area will be required for residential development proposals of fewer than 10 units where there is a quantitative or qualitative deficiency in open space provision.*

*All residential development must accord with the principles of providing good children's play and leisure opportunities by:*

- i. Ensuring that the design of residential areas prioritises the ability of residents, particularly children, to move freely, socialise and play;*
- ii. Incorporating 'Homezone' style street design and layouts where appropriate and the provision of opportunities for doorstep play;*
- iii. Designing natural landscaping to create opportunities for informal play to complement, and be additional to, any formal play; and*
- iv. Ensuring that play and leisure spaces, both formal and informal, are focal spaces, fit for purpose and well overlooked by development.*

*The quantity, quality and location of the open space contribution required will be determined against the standards set out in the most recent Open Space*

5.2 The amplification to the policy and the Council's adopted Supplementary Planning Guidance on Planning Obligations indicates that the provision of play areas / and areas of public open space to be well related to the housing that it is intended to serve with the exact form and type having regard to the nature and size of the development and the needs of the residents. All new housing developments should contribute towards open space provision if a need is identified. The extent of provision appropriate to an area depends on local factors such as existing provision, its type, location and quality, the profile of the catchment population and scale and nature of development proposed in the locality. Where a deficiency in open space is likely to occur or be worsened as a result of a new housing development, the Council will seek to enter into a planning obligation to secure either the provision of open space or a financial contribution towards providing or enhancing nearby facilities. Developers will be required to make appropriate arrangements for the future management of these areas. Section 106 Agreements may be sought to arrange commuted sums for such maintenance where this is to be carried out by the Council.

5.3 The outline permission was for a much larger residential development (up to 300 residential units) and envisaged a development comprising of residential apartments, whilst the subsequent reserved matters approval (Ref:2010/0844) granted to Bellway for a development of 106 residential units constitutes a significantly reduced number. The new residential development at Llais Tawe is relatively isolated from the established residential community of Hafod / Landore due to the alignment of the Swansea High Street railway line and St.Thomas on the opposite eastern side of the River Tawe. There is therefore no doubt that the level and nature of open space provision in the locality is inadequate to meet the needs of the future occupiers of the development and LDP Policy SI:6 requires that new housing developments make provision for areas of open space either within the site or at an appropriate location in relation to the development, or contribute towards the provision or improvement of existing off-site facilities in the locality. In respect of the latter, consultation has been undertaken with Council's Leisure Services and a potential alternative location has been suggested at Hafod Park.

## 6.0 Recommendation

6.1 As it stands the Section 106 requires the "***Children's Play Area Contribution***" to be used **on land adjacent to the site**. In order to use the contribution for the **improvement of existing local provision off-site**, the Section 106 Planning Obligation needs to be amended through a Deed of Variation to state that the **contribution be used towards the provision or improvement of existing off-site facilities elsewhere in the locality** in accordance with Policy SI 6 of the Swansea Local Development Plan 2010- 2025.