



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Planning Committee

**At:** Multi-Location Meeting - Gloucester Room, Guildhall / MS Teams

**On:** Tuesday, 6 February 2024

**Time:** 2.00 pm

**Chair:** Councillor Paul Lloyd

**Membership:**

Councillors: P M Black, P Downing, A J Jeffery, M H Jones, S E Keeton, M B Lewis, R D Lewis, N L Matthews, M S Tribe, T M White and R A Williams

**Watch Online:** <https://rb.gy/m2ssr5>

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### Agenda

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<b>2 Disclosures of Personal and Prejudicial Interests.</b> <a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a>	
<b>3 Minutes.</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 2
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**Next Meeting:** Tuesday, 5 March 2024 at 2.00 pm

A handwritten signature in black ink that reads 'Huw Evans'.

**Huw Evans**  
Head of Democratic Services  
Tuesday, 30 January 2024

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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

Tuesday, 9 January 2024 at 2.00 pm

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

**Councillor(s)**

P M Black  
M H Jones  
N L Matthews  
R A Williams

**Councillor(s)**

P Downing  
S E Keeton  
M S Tribe

**Councillor(s)**

A J Jeffery  
M B Lewis  
T M White

**Officer(s)**

Gareth Borsden  
Ian Davies  
Sally-Ann Evans  
Dave Owen  
Jonathan Wills

Democratic Services Officer  
Development Manager  
Lead Lawyer  
Principal Planning Officer  
Lead Lawyer

**Apologies for Absence**

Councillor(s): R D Lewis

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

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

**38 Minutes.**

**Resolved** that the minutes of the meeting held on 5 December 2023 be approved and signed as a correct record.

**39 Items for deferral/withdrawal.**

None.

**40 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.

**Resolved** that the undermentioned planning application be approved.

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.)

**#(Item 1) - Planning Application 2022/1134/RES - Construction of up to 108 residential units and associated works (details of access, appearance, landscaping, layout, scale pursuant to conditions 6, 8 and 9 of outline planning permission 2015/1584 granted on 13th May 2016) (which varied 2008/0996 and which varied 2002/1000) for SA1 Swansea Waterfront mixed use development at Plot E7 And E8 , Swansea Waterfront, Swansea**

A detailed visual presentation was given.

Emily Avery (agent from RPS Group on behalf of Associated British Ports)  
addressed the committee.

Phil Baxter (agent for applicants Pobl) addressed the committee.

Report updated as follows:  
1 late letter of objection reported.

Application approved subject to a Section 106 agreement.

The meeting ended at 2.45 pm

**Chair**

# Agenda Item 5

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: 6<sup>th</sup> February 2024

<b>Bay Area</b> Team Leader: Hayley Kemp <b>Tel: 07970 680580</b>	<b>Area 1</b> Team Leader Eilian Jones <b>Tel: 07929 822781</b>	<b>Area 2</b> Team Leader: Chris Healey <b>Tel: 07970 680562</b>
Castle Cockett Mayals Sketty St Thomas Uplands Waterfront Waunarlwydd West Cross	Bonymaen Clydach Cwmbwrla Gorseinon and Penyrheol Landore Llangyfelach Llansamlet Llwchwr Morrison Mynyddbach Penderry Penllergaer Pontarddulais Pontlliw and Tircoed Townhill	Bishopston Dunvant and Killay Fairwood Gower Gowerton Mumbles Penclawdd Pennard

**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



## Contents

Item	App. No.	Site Location	Officer Rec.
1	2021/3027/S73	Land Off Brithwen Road, Waunarlwydd, Swansea, SA5 4QX <b>Variation of condition 1 of planning permission 2018/1001/RES granted 11th March 2019 to amend the layout of the approved development for 36 new dwellings. (comprising 17 linked terraced dwellings, 5 pairs of semi-detached dwellings, 1 detached dwelling and 8 flats in 2, two storey blocks, along with associated access, parking, landscaping and open space.).</b>	Approve
2	2020/2588/RES	Cwmrhydyceirw Quarry Co Ltd, Great Western Terrace, Cwmrhydyceirw, Swansea, SA6 6LL <b>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 (19 dwellings), open space and ancillary infrastructure</b>	Approve
3	2023/1991/FUL	32 St Teilo Street, Pontarddulais, Swansea, SA4 8SZ <b>Change of use of deli to hot food takeaway (A3)</b>	Approve
4	2023/2627/S73	Pencefnarda Farm, Pencefnarda Road, Gorseinon, Swansea, SA4 4FY <b>Construction of 44 no. dwellings (100% affordable housing) with landscaping, access and associated works (Variation of condition 2 (Approved Plans) of planning permission 2020/2357/FUL granted 29th September 2021) to add Photo Voltaic Cells and Air Source Heat Pumps to the proposed dwellings and flat block</b>	Approve

## 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.

## Planning Committee – 6<sup>th</sup> February 2024

Item 1

Application Number:

2021/3027/S73

Ward:

Wauarlwydd - Bay Area

Location:

Land Off Brithwen Road, Wauarlwydd, Swansea, SA5 4QX

Proposal:

Variation of condition 1 of planning permission 2018/1001/RES granted 11th March 2019 to amend the layout of the approved development for 36 new dwellings. (comprising 17 linked terraced dwellings, 5 pairs of semi-detached dwellings, 1 detached dwelling and 8 flats in 2, two storey blocks, along with associated access, parking, landscaping and open space.).

Applicant:

Pobl Group



Item 1 (Cont'd)

Application Number:

2021/3027/S73

## Background

This application is being reported to Planning Committee for decision because the parent planning permission (2008/0512) and the subsequent reserved matters permission (2018/1001/RES) to which this S73 application relates, was for a development of 36 dwellings and hence was previously considered by the Committee.

The permission included the following S106 provisions:

- i) The provision of 15% Affordable Housing (to DQR standards), with an ACG of 42% which shall be "pepper potted" throughout the site and will include a range of house types and mix of affordable housing to include social rent and intermediate rent and sale such as low cost home ownership (to be determined/negotiated) and shall not be used other than for affordable housing in accordance with a phasing scheme to be agreed with the Local Planning Authority.
- ii) Prior to the occupation of the first dwelling, the provision of road safety enhancements shall be undertaken on Swansea Road - a contribution of £10,000 towards new signage and road markings.

The development commenced in 2020 by the laying of the foundations of a number of the dwellings. However, the construction company went in to administration and is no longer operating. Therefore construction work stopped on the site. The permission is therefore extant.

## Site Location

The site measures 1.06 hectare and comprises an irregular shaped parcel of land located on the western side of Brithwen Road, near to established housing areas to the north and east, and the site abuts two dwellings to the south of the application site. The western boundary of the site is defined by the river, Gors Fawr, with countryside designated as Green Wedge on the opposite side of the river.

The site is accessed from Brithwen Road at its junction with Greenways.

Wanarlwydd Primary School is also accessed from Brithwen Road, approximately 250m to the north of the application site.

## Description of Development

This application is for the Variation of condition 1 of reserved matters permission 2018/1001/RES granted 11th March 2019 to amend the layout of the approved development for 36 new dwellings. (comprising 17 linked terraced dwellings, 5 pairs of semi-detached dwellings, 1 detached dwelling and 8 flats in 2, two storey blocks, along with associated access, parking, landscaping and open space.)

The changes proposed under this application are:

- Changes to the highway layout so that the entire road surface is now a shared surface with a continuous segregated footway on the north side of road (the approved scheme had an adoptable section for the first 15m or so with footways on each side for the adoptable section and no segregated footways further along the shared surface).



## Planning Committee – 6<sup>th</sup> February 2024

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Application Number:

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- Additional trees and 'street greening'
- New Solar Photo voltaic panels to the front and rear roof slopes of the dwellings and air source heat pumps to each dwelling, located to the rear of each dwelling.
- Increased landscaping to the southern boundary of the site (adjacent to 94 Brithwen Road), including retaining existing trees fronting onto Brithwen Road
- Reduction in the amount of hard surfacing to the rear of plots 1-4
- Minor alterations to the position and footprint locations of the proposed dwellings and boundaries and parking spaces.

### Relevant Planning History

2008/0512 - Residential development (outline) - Approved (s106) 08/11/17.

2018/1001/RES - Construction of 36 residential units - comprising 17 linked terraced dwellings, 5 pairs of semi-detached dwellings, 1 detached dwelling and 8 flats in 2, two storey blocks and associated works (details of the appearance, landscaping, layout and scale), and details of conditions 9 (drainage), 11 (Landscaping, trees and Japanese Knotweed), 15 (boundary treatment), and 18 (tree retention and protection), pursuant to outline planning permission 2008/0512 granted 8th November 2017) - Approved 11/03/19

2018/2105/NMA - Non-Material Amendment to Planning Permission 2008/0512 granted 8<sup>th</sup> November 2017 to allow alterations to the wording of condition 8 (travel plan) from the 'submission within 12 months of the permission' to 'prior to occupation of the 1st dwelling'; condition 13 (pollution method statement) to include 'excluding tree clearance works'; and condition 20 (CPMP) to include 'excluding tree clearance works'. - Approved 25/10/18

2020/1173/DOC - Discharge of conditions 13 (Method Statement), 16 (Materials), 19 (Tree Protection Measures) and 20 (Construction Pollution Management Plan) planning permission 2008/0512 granted 8th November 2017. - Approved 14/09/20

2021/0026/DOC - Discharge of condition 10 (foul and surface water) of planning permission 2008/0512 granted 1st August 2018. - Approved 26/03/21

2021/2524/DOC - Discharge of condition 9 (drainage) of planning permission 2008/0512 granted 8th November 2017. - Approved 22/11/21

### 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.

**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

The following policies are of particular relevance to the proposal:

Policy 1 - Where Wales will grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 7 - Delivering Affordable Home

Policy 9 - Resilient Ecological Networks and Green Infrastructure

### **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.

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

#### **PS1 - Sustainable Places**

Sustainable Places - the delivery of new homes, jobs, infrastructure and community facilities must comply with the plan's sustainable settlement strategy which; directs development to the most sustainable locations within defined settlement boundaries of the urban area and Key villages; requires compliance with Sustainable Housing Strategy (PS 3) and Sustainable Employment Strategy (PS 4); safeguards Green Wedges; and resists development in the open Countryside.

#### **PS2 - Placemaking and Place Management**

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

#### **PS3 -Sustainable Housing Strategy**

Sustainable Housing Strategy - the Plan provides for the development of up to 15,600 homes to promote the creation and enhancement of sustainable communities.

#### **RP4 - Water Pollution and the Protection of Water Resources**

Water Pollution and the 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.

**Item 1 (Cont'd)**

**Application Number:**

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Sustainable drainage systems (SuDS) must be implemented wherever they would be effective and practicable. Water courses will be safeguarded through green corridors/riparian buffers. 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.

**RP7 - Land Instability**

Land Instability - Development which would create, affect or might be affected by unstable or potentially unstable land will not be permitted where there would be a significant direct risk to life, human health, property, buildings and structures, or the natural heritage on the site or in its vicinity. Development will only be permitted on unstable or potentially unstable land where it is in line with policy principles. Development is not permitted within Graig Trewyddfa Slip area.

**H2 - Affordable Housing Strategy**

Affordable Housing Strategy - provision will be made to deliver a minimum 3,310 affordable homes over the Plan period.

**H3 - Affordable Housing**

On-Site Affordable Housing - sets the percentage of affordable housing provision required in the Strategic Housing Policy Zones, subject to consideration of financial viability.

**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.

**ER2 - Strategic Green Infrastructure Network**

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 multifunctional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

**ER6 - Designated Sites of Ecological Importance**

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.

**ER8 - Habitats and Species**

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.

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**Application Number:**

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**ER9 - Ecological Networks and Features of Importance for Biodiversity**

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.

**ER11 - Trees, Hedgerows and Development**

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.

**T1 - Transport Measures and Infrastructure**

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.

**T2 - Active Travel**

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.

**T5 - Design Principles for Transport Measures and Infrastructure**

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.

**T6 - Parking**

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.

**EU4 - Public Utilities and New Development**

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.

**Item 1 (Cont'd)**

**Application Number:**

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**SI5 - Protection of Open Space**

Protection of Open Space - development will not be permitted on areas of open space unless it complies with specific criteria.

**SI6 - Provision of New Open Space**

Provision of New Open Space - Open space provision will be sought for all residential development proposals in accordance with the policy principles, and in accordance with relevant criteria relating to design and landscaping principles. The quantity, quality and location of the open space contribution required will be determined against the most recent Open Space Assessment and Open Space Strategy.

**Supplementary Planning Guidance**

The following supplementary planning guidance documents are also relevant to the determination of this application:

- Placemaking Guidance for Residential Development (adopted 22 October 2021)
- Biodiversity and Development (adopted 22 February 2021)
- Parking Standards (adopted March 2012)
- Trees, Woodlands and Hedgerows (adopted October 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:**

**Placemaking Officer**

Initial comments:

This S73 application proposes amendments to the approved layout for 36 new homes. There is no objection to amendment of the rear parking for plots 1-4. The amendment has less hard surfacing and retains more landscape which is welcomed.

The reasons for changing the shared space area to 5.5m carriageway unclear. Highway colleagues have confirmed that non-standard place led residential streets will be adopted where these are safe, accessible and maintainable. Therefore it would help to know the reasons why the approved shared space arrangement cannot be adopted.

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**Application Number:**

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The amended layout results in more dominant parking and less trees in the streetscene which is contrary to the adopted Placemaking Guidance for Residential Developments. This occurs between plots 16/17 and 20/21. Therefore amendments are needed in these areas to break up the runs of parking spaces and to reinstate the GI tree planting. Therefore at present this amended layout cannot be supported in placemaking terms.

### Further Placemaking Comments

Whilst there may have been issues with the originally proposed shared space design, the proposed amended street design is not place led, not designed around people and dominated by vehicular requirements. This is out of step with other residential place led streets recently approved, contrary to the clear statement in PPW "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, risk-adverse street designs" (4.1.23) and contrary to the recently updated Placemaking Guidance for residential Developments SPG.

The placemaking agenda since 2018 has moved on from shared spaces to place led streets incorporating multi-functional green infrastructure. The Council has clearly stated that non-standard place-led streets will be adopted and to be acceptable the street in this scheme needs to either be redesigned as a 'green street' as per Garden Village or incorporate green infrastructure buildouts as per current proposals at Llewelyn Road, Penllergaer and the Pobl scheme at Beili Glas.

In addition the amended parking arrangement to plots 16-20 is unacceptable for the following reasons:

- The arrangement results in an unacceptably dominant group of frontage parking spaces in the streetscene
- The GI proposed to break up the spaces is insufficient low level plating
- The GI is proposed in place of the paths that should lead to the front doors. It is not acceptable to show pedestrian access via parking spaces
- The arrangement overlaps homes - for example plot 18 parks outside plot 17 which could lead to neighbour disturbance/ disputes.

Therefore at present the proposals are unacceptable in placemaking terms.

### Final Placemaking Comments

This S73 application is seeking to amend the approved layout to application ref 2018/1001/RES granted 11th March 2019.

The proposed amended house footprint locations are acceptable. This defines the street with active frontages, turns corners positively, has good relationships to retained trees and does not create any neighbour amenity issues.

The street design is also proposed to be amended to a more informal place-led low speed design integrating green infrastructure. This has meandering kerb lines, groups of street trees, enhanced tarmac with coloured chippings and a defined footway area for vulnerable pedestrians.



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**Application Number:**

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The amended street design is supported by a Quality Audit as advocated in Manual for Streets which demonstrates how the proposed low speed place led street with GI has been carefully designed to be safe and appropriate for the proposed development.

The amended street design is in accordance with the low speed people/ place focussed street designed required by Planning Policy Wales (ed11) and the Welsh Government public Building Better Places (2020) which supplements PPW, plus as translated the local context in the adopted Placemaking Guidance for Residential Developments (specifically the Streets as Places section) and the emerging informal Swansea Streets Design Guide.

Therefore approval is recommended with no additional conditions required.

**Local Highways Authority:**

Initial Comments

The application seeks to amend the consented internal layout and the covering details suggest that this is due to the aspiration for the layout to be adopted. This would be subject to adequate Section 38 application and appropriate design details.

We have reviewed the layout to consider the changes proposed and whether these are acceptable in principle. The changes appear to be to the surface treatment and central internal access, with the proposed removal of shared space area and associated treatment to a more conventional carriageway layout with footways on either side.

We can advise that in general this is considered a more acceptable change in terms of potential for adoption, subject to successful future application.

We note a number of areas that were considered in our review and these are shared below:

The access arrangement has changed from a block type raised junction to asphalt, this is understood to be part of a S278 and that process will determine the acceptability.

The internal initial bend, whilst not ideal, has not been made any worse by the proposals.

The access to parking for Plots 10 to 15 alters the access to the internal highway. On balance this proposed arrangement likely offers an improvement in visibility terms given the set back behind a footway.

The footways throughout the site should be 2.0 metres in width, it is noted that this is narrower at Plots 25 and 26. However, this will be discussed in terms with the interaction with the turning head below.

In the previous application the internal layout and turning area were assessed using swept path analysis for a number of vehicle types. In terms of the turning head these manoeuvres were borderline within the highway extents of a shared surface arrangement and using the full available area. Therefore, the introduction of footways, whilst welcomed, is likely to reduce the available area for turning larger vehicles.

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**Application Number:**

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This will need to be assessed, given that it is a mandatory requirement of any S38, it is worth reviewing at this stage. The vehicle used in the past assessments was the DB32 at 9.59 metres in length. Since the application we now request refuse assessments to be carried out in all applications using the Phoenix 2 Duo, which is a longer vehicle. In the case of this application, we would allow the assessment to be made as before to ensure consistency and waive the more robust assessment.

The turning head sits between parking areas, Plots 25 and 26 and designated Open Space. We would advise that a 2.0 metre footway should be provided adjacent Plots 25 and 26 and their parking spaces. The swept path should then be carried out. In the event that this cannot be accommodated we would consider the purpose of the open space and whether this is a play destination, as in the past layout an estate railing bordered this areas from the turning head, but this is now absent. If the open space is not to be access from the turning area and active measures are in place to prevent pedestrian activity. the turning area could be widened into this or perhaps any footway narrowing or potential removal taking place on this side.

**Initial Highway Summary:**

The principle of the application is understood and how this may benefit any proposals for future adoption. The layout has been reviewed and found broadly acceptable although some further information is required for the turning head area and advice has been given to benefit the applicant's work. Should this issue be resolved, the Highway Authority would not object to the application.

**Final Highway Comments**

We have internally reviewed the updates in submission in line with the past discussions which set out that the layout was intended to be offered for adoption. The principle of development and general form of the layout has already been consented, with this application seeking some amendments.

The site layout has been informed by the undertaking of Quality Audit and this has been the subject of recent discussions between the applicant and the Highway Authority. The exchanges which have taken place have been around the subjects of shared space and how some user groups will navigate, visibility splays at parking courts and driveway access placement behind dwelling units. The turning head area has also undergone changes over the evolution of the masterplan.

The layout variation which is immediately obvious is the change in footway provision. In the consented scheme this was set out as a traditional carriageway with footways provided on both sides of the carriageway over a limited initial extent, with the remaining internal road network comprising a shared surface with varying width. The changes in layout suggest the removal of the footway on the southern side of the carriageway, the northern footway is to be extended throughout the full length of the layout into the turning head area.

In the discussion around the Quality Audit, the Highway Authority queried the absence of full consideration on the movement of all groups through the proposed street scene and visibility splays and placement of parking access.



**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

There followed discussion and iteration for further inclusion and audit update, the present summary position of each main topic is summarised below:

*Shared surface used for all abilities:*

At the current time the movement of people with mobility or visual impairments has been set out to be addressed via the choice of using the continuous 2.0 metre footway or the shared surface carriageway. The shared surface carriageway has discussed to include an appropriately selected boundary kerb height to allow reliant users to navigate the road. This has been compared to the situation of all shared surfaces and deemed by the audit to be acceptable. There are some design concern reservations held by the Highway Authority on this and how it interacts with visibility splays for parking courts, which are located on the shared surface side of the development.

*Visibility splays:*

In early discussions and subsequent exchanges, there has been requests to consider the extent of visibility splays. Whilst this has been set out sufficiently for the site access junction, the internal parking courts have not yet been fully assessed. The concern is that vehicular visibility and pedestrian intervisibility may not be sufficient. This was a concern in early layouts with a footway provision this may now be more of a challenge to provide with the absence of footway and vehicular set back. It is noted that the footway provision has increased in terms of provision and that the balance sought is to remove it from one side. The comment or query remains, whilst there have been efforts to now include a commentary on this subject (e.g. paragraph 2.17) there has been no demonstration that the splays are achievable or what envelope would be required.

*Parking Access behind dwelling units:*

There has been discussion on the design of the parking allocation for Plots 16 and 17 and how these were located behind the dwelling proposed at Plot 16. The concern was that there would be insufficient visibility between drivers of vehicles travelling on the street and those accessing or egressing spaces and also between pedestrians and drivers accessing parking. This area has been noted to change over masterplan iterations, generally becoming more obvious and positive. As above, no assessment has been made or splay envelope shared.

*Turning head area:*

The turning head area, whilst noted to be of smaller scale than that which it typically required, is noted to have been consented. Any past swept path analysis considerations were undertaken using a DB32 refuse vehicle at around 9.6 metres in length. Whilst by recent standards this would not be sufficient and a longer Phoenix 2 Duo vehicle would be required, in this case it has been confirmed that it would be consistent to allow analysis to be undertaken for all proposals in this scheme in the same way (DB32 vehicle specification).

The turning head area previously included a shared surface extent which does allow for more areas for vehicular turning. The proposed layout shows a continued northern footway around the top of the turning head. The swept path analysis which seems to be the most recent on planning record shows footways around the full turning head layout and a constrained vehicle swept path which may be unacceptably close to or passing over or on kerbed areas.

**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

We are unsure if the proposed layout has been assessed to compare situations, it may be that the proposed layout is more constrained than the consented, but now easier to navigate than the full footway option previously assessed

*Drive access:*

There is noted to be some varying angles of driveway approach to the carriageway in the areas between parking for Plots 16 to 20. Some varying arrangements can be positive in terms of place making or setting out features. There is a concern that access for parking to Plot 20 would be challenging and difficult to access. Should this be overly difficult, there is a possibility that residents could instead choose to park on street and / or on verge adjacent to this, which would detriment the efficiency of the shared space at the bend and turning head area.

*Final Highways Summary:*

It is acknowledged that a scheme and the general layout does benefit from planning permission.

It is noted that the intention of the applicant is to offer the scheme for adoption. The process of adoption is initiated voluntarily and the Highway Authority determines whether the design which has been put forward would be an acceptable candidate for adoption.

The issues set out above have been used in the ongoing discussions to try and steer design changes towards what could be found to be more acceptable in terms of any potential adoption. The conclusion of the current internal discussions are that the proposed layout, as shown, could instead be a candidate for a road that is privately maintained, in perpetuity.

**Tree Officer**

No Objection

**Landscape Officer**

The Landscape Team are happy with the soft landscape proposals and open space provision and have no objections.

**Neighbour comments:**

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by a neighbour notification letters sent to 42 nearby neighbours on 2nd December 2021.

The development was advertised on site with a site notice dated 02/12/21.

No Objections have been received, although one letter of 'comment' have been received which are summarised below:

We have had a meeting with Pobl and the planning Officer. We do not have any objections to the Planning as long as our boundary line/Hedge is kept intact and that everything is as we have been advised.

**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

There were concerns with the last Planning Application as we were not aware of the full impact of the plans. These have now been addressed by Pobl and the planning officer therefore we hope that there will be no further surprises. We would be grateful if in the future we are notified of any amendments or changes to the plans.

## **APPRAISAL**

Outline planning permission 2008/0512 (including access) was granted on 8th November 2017, followed by the approval of reserved matters application 2018/1001/RES (siting, layout, landscaping and appearance) on the 11th March 2019, for the construction of 36 residential units on this site, along with associated access, parking, landscaping, open space and engineering works. The Reserved Matters also included details of conditions 9 (drainage), 11 (Landscaping, trees and Japanese Knotweed), 15 (boundary treatment), and 18 (tree retention and protection).

As part of the above reserved matters application, the design of the layout of the site was approved. The approved plans were listed as part of Condition 1 of the reserved matters approval.

This S73 application seeks to vary condition 1 of the reserved matters approval, to allow revised plans to be considered showing changes to the layout of the development site as listed above within the description of development section.

The configuration and position of the houses is very similar to that previously approved however Pobl had an opportunity to improve the relationship between the site and the neighbouring property to the south (94 Brithwen Road) to allow a softer transition between the two sites as well as reducing the amount of hard surfacing to the rear of plots 1-4. This also enables the retention of existing landscaping along the road frontage in this vicinity. Minor alterations have thereby resulted to the positions and footprints of dwellings together with their garden boundaries and parking.

The approved highways layout has been adjusted so that the entire road surface is now a shared surface with a continuous segregated footway on the north side of road (the approved scheme had an adoptable section for the first 15m or so with footways on each side for the adoptable section and no segregated footways further along the shared surface). Opportunities for street greening have also been introduced.

In addition, new Solar PV as well as air source heat pumps are now proposed for each of the dwellings which were not included within the previous permission

## **Main Issues**

The main issue for consideration in this instance therefore is the impact of the proposed alterations on the visual amenity of the area, trees and highway safety having regard to Policy PS2, ER11 T1, T5 and T6 of the Swansea Local Development Plan (2010-2025), and the SPG's: Placemaking Guidance for Residential Development (2021), Parking Standards (2012) and Trees, Woodlands and Hedgerows (2021)

There are no overriding matters with regard to the provisions of the Human Rights Act.

**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

Section 73 Procedures

As a Section 73 application, the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and

- a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- b) If they decide that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Any new planning permission should include all the previous conditions (where necessary) to avoid the possibility of the new permission being interpreted as having no conditions other than those applied to vary.

An application under Section 73 may only be made where the original permission is still live. Where an application has expired, a fresh application for planning permission is required and the Authority would not be restricted to considering the conditions only. Case law has established however that determination of a S73 application beyond the expiry of the application can be made, provided the application was made prior to the expiry of the application. In this instance the application was received within the required time period.

**Visual Amenity**

The changes proposed under this application are:

- Changes to the highway layout so that the entire road surface is now a shared surface with a continuous segregated footway on the north side of road (the approved scheme had an adoptable section for the first 15m or so with footways on each side for the adoptable section and no segregated footways further along the shared surface).
- Additional trees and 'street greening'
- New Solar Photo voltaic panels to the front and rear roof slopes of the dwellings and air source heat pumps to each dwelling, located to the rear of each dwelling.
- Increased landscaping to the southern boundary of the site (adjacent to 94 Brithwen Road), including retaining existing trees fronting onto Brithwen Road
- Reduction in the amount of hard surfacing to the rear of plots 1-4
- Minor alterations to the position and foot print locations of the proposed dwellings and boundaries and parking spaces.

As per the Placemaking Officers comments earlier in this report, it is considered that the proposed amended house footprint locations are acceptable, as they define the street with active frontages, turn corners positively, and has a good relationship to retained trees.

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It is considered that the street design would result in a more informal place-led low speed design integrating green infrastructure with meandering kerb lines, groups of street trees, enhanced tarmac with coloured chippings and a defined footway area for vulnerable pedestrians. The design is supported by a Quality Audit which demonstrates how the proposed low speed place led street with additional Green Infrastructure has been carefully designed to be safe and appropriate for the proposed development.

The proposed photo voltaic (PV) panels will be added to the front and rear elevations of the dwellings. The agent has provided an example of a manufacturer's specifications of the proposed PV panels, and has shown the indicative location on the front and rear roof slopes of each dwelling. However, the precise dimensions and specifications of the PV panels have not been provided. As such, it is considered necessary to add a condition requiring full details of the PV panels and their precise dimensions prior to the construction of the above grounds superstructures of the dwellings.

Although the PV would be visible from the public domain, they are not considered to be obtrusive features within the streetscene. As such the PV panels are considered to be acceptable additions to the development.

The Air Source Heat Pumps (ASHP) would be located 0.2m from the rear of each dwelling and as such would not be visible from the public domain. They are modest in scale, measuring 1m in width, 0.6m in height and 0.5m in depth. As such, given the scale and location of the heat pumps, they are not considered to detract from the visual appearance of the proposed dwellings and therefore are considered to be acceptable additions to the development.

As such, it is considered that the changes listed above are acceptable in terms of their impact upon the appearance of the proposed housing development and will not have a detrimental impact upon the visual amenity of the area.

Therefore, the application is considered to be acceptable and complies with the provisions of Policy PS2 of the Swansea Local Development Plan (2010-2025) and the SPG - Placemaking Guidance for Residential Development (2021).

### **Residential Amenity**

The proposed changes are considered to have an improved and positive impact on the residential amenities of the adjacent neighbour at 94 Brithwen Road as additional landscaping is proposed adjacent to the southern boundary, and the existing trees fronting Brithwen Road close the front drive of 94 Brithwen Road are to be retained.

In terms of residential amenity impacts on other nearby residential properties, the majority of the existing residential houses are located to the north and east of the application site, which are sufficiently separated from the application site to prevent material residential amenity impacts in terms of overlooking, overbearing or overshadowing impacts on the existing dwellings.

The layout of the proposed development ensures that all separation distances for back to back relationships accord with (and exceed) the minimum separation distances set out in the SPG - Places to Live: Residential Design Guide, and all of the plots would have a standard 10m separation distance where first floor windows overlook neighbouring private amenity space.

**Item 1 (Cont'd)**

**Application Number:**

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All of the plots would have an acceptably sized private rear garden. In terms of the residential amenity of the existing and future occupiers, the application is considered to be acceptable.

The additional of the air source heat pumps and photo voltaic panels are not considered to detrimentally impact upon the residential amenity of the future occupiers of the proposed dwellings. The air source heat pumps are designed for residential dwellings and will not cause any undue noise pollution.

As such the proposed changes are considered to have an acceptable impact on residential amenity and therefore complies with Policy PS2 of the Swansea Local Development Plan (2010-2025) and the SPG - Placemaking Guidance for Residential Development (2021).

### **Highways**

The Highways officer has acknowledged that a scheme and the general layout does benefit from planning permission (2018/1001/RES).

The conclusion of the Highway officer notes that proposed layout, as shown, is not of an adoptable standard and therefore will need to be privately maintained, in perpetuity. A condition will be added to this effect.

The original outline consent included the following conditions, which will still need to be formally discharged in accordance with the trigger points:

*5 Prior to the beneficial use of the site commencing, the developer shall complete the installation of a raised table junction and associated works at the site access in accordance with details to be submitted to and approved in writing with the Local Planning Authority.*

*Reason: In the interests of highway safety.*

*6 Prior to the beneficial use of the residential properties, all internal roads shall be constructed in accordance with details to be submitted and approved by the Local Planning Authority.*

*Reason: In the interests of highway safety.*

*7 Each dwelling shall be provided with on-site parking in accordance with adopted parking guidelines.*

*Reason: To ensure that the proposed development does not prejudice the free flow of traffic or conditions of general safety along the neighbouring highway.*

As such, although the Highway officer has raised some concerns regarding the visibility splays to the parking courts, and comments on the turning head and some of the parking spaces, however, it is considered that, as the scheme will be managed and maintained privately and not offered for adoption by the Local Highway Authority, the current scheme is considered to be acceptable, and does not conflict with the provisions of Policies T1, T2, T5 and T6 of the Swansea Local Development Plan (2010-2025) and the SPG - Parking standards.



**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

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

The relatively minor proposed changes to the development as listed above are not considered to negatively impact upon ecology of the site as previously approved. Additional trees are to be planted which will result in an enhancement to the green infrastructure within the site and will enable additional connectivity to the woodland within the SINC to the west of the site. The additional trees will also enhance the immediate landscape, and improve the visual appearance of the of the new development. A landscape maintenance condition was previously conditioned on the outline consent, Planning Ref:2008/0512 to protect the removal of any trees or hedges on the site.

As such, the development is considered to be acceptable in this regard, and is considered to comply with the provisions of Policies ER6, ER8, ER9 and ER11 of the Local Development Plan (2010-2025).

### **Other Issues**

The site lies within 3km of the following Scheduled Ancient Monuments (SAM) - Mynydd Carn Goch Roman earthworks; Cockett Standing Stone; Roman Practice Camp on Stafford Common; and Garn Goch Round Barrow Given the 2 storey nature of the development, the surrounding trees, the existing built form, and significant distances between the SAM and the application property, it is not considered that the development is likely to be visible from, or have any impact upon, the SAM.

### **Conclusions**

Having regard to all material planning considerations, including the provision of the Human Rights Act, the proposed amendments detailed within this report are considered to be acceptable and would not have a harmful impact upon the visual amenity of the area, the residential amenity of existing and proposed occupiers, ecological impact or upon parking and highway safety. The proposed scheme is considered to provide a much more place led approach with active frontages, low speed designed place led streets and integrated green infrastructure and therefore, the application is considered to comply with the provisions of Policy PS2, ER11, T1, T5 and T6 of the LDP and the Council's Placemaking Guidance for Residential Development (2021)

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 WCFG 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 WCFG 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 WCFG Act.

### **RECOMMENDATION**

**APPROVE, subject to the following conditions;**

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

## Planning Committee – 6<sup>th</sup> February 2024

Item 1 (Cont'd)

Application Number:

2021/3027/S73

2457 - STORM SEWERS  
2457-520 REV C - ENGINEERING LAYOUT  
Received 10 January 2024.

2251 - 200 -15B REV B - BLOCK 2 ELEVATIONS - PLOTS 5-7  
2251 - 200 -16C REV C - BLOCK 2 ELEVATIONS 2 - PLOTS 5-7  
2251 - 200 -18B REV B - BLOCK 3 ELEVATIONS - PLOTS 14-16  
2251 - 200 -19B REV B - BLOCK 3 ELEVATIONS 2 - PLOTS 14-16  
2251 - 200 -21A REV B - BLOCK 4 ELEVATIONS - PLOTS 31-33  
2251 - 200 -22B REV B - BLOCK 4 ELEVATIONS 2 - PLOTS 31-33  
2251 - 200 -24C REV C - BLOCK 5 ELEVATIONS - PLOTS 17-20  
2251 - 200 -25C REV C - BLOCK 5 ELEVATIONS 2 - PLOTS 17-20  
2251 - 200 -27B REV B - BLOCK 6 ELEVATIONS - PLOTS 21-24  
2251 - 200 -28B REV B - BLOCK 6 ELEVATIONS 2 - PLOTS 21-24  
2251 - 200 -34 REV A - FLOOR PLANS HOUSE TYPE 851 PLOT 36 -3 BED  
2251 - 200 -35 REV A - ELEVATIONS HOUSE TYPE 851 PLOT 36 -3 BED  
2251 - 200 -37 REV A - ELEVATIONS HOUSE TYPE 764 & 851 PLOTS 34 & 35 -3 BED  
Received 8th January 2024

2251-102 REV K - EXTERNAL WORKS LAYOUT  
2251-103 rev J - MATERIALS LAYOUT  
TDA 2284.01 REV F - DETAILED SOFT LANDSCAPE PROPOSALS  
Received 23 November 2023

2251-101 REV V - SITE LAYOUT  
Received 15th November 2023

2251-200-04 Rev C - FLOOR PLANS HOUSETYPE 851 - 3 BED  
2251-200-05 Rev C - ELEVATIONS HOUSETYPE 851 - 3 BED  
Received 4th October 2023

2251-200-01 Rev B - FLOOR PLANS HOUSETYPE 764 - 2 BED  
2251-200-02A Rev B - ELEVATIONS HOUSETYPE 764 - 2 BED  
2251-200-03 Rev B - ELEVATIONS HOUSETYPE 764 - 2 BED  
2251-200-06 Rev B - ELEVATION PLAN TYPE 851 -3 BED  
2251-200-07 Rev B - FLOOR PLAN TYPE 211- 1 BED FLAT  
2251-200-08 Rev B - ELEVATION PLAN TYPE 211- 1 BED FLAT  
Received 28 September 2023

2251-100 REV A SITE LOCATION PLAN  
ELCOT JAPANESE KNOTWEED SURVEY, received 1st May 2018. (2018/1001/RES)

LANDSCAPE SPECIFICATION MANAGEMENT PLAN (CONDITION 11), received 4th July 2018. (2018/1001/RES)

WAUN-501A - Proposed ROAD SECTION, received 20 July 2018. (2018/1001/RES)



## Planning Committee – 6<sup>th</sup> February 2024

Item 1 (Cont'd)

Application Number:

2021/3027/S73

TDA.2284.02 - TREE PIT CONSTRUCTION DETAIL (CONDITION 11), received on 28 August 2018. (2018/1001/RES)

DRAINAGE SIMULATION RESULTS (CONDITION 9), received 3 September 2018 (2018/1001/RES)

2251 - 200 - 14B REV B BLOCK 2 FLOOR PLANS - PLOTS 5-7  
2251 - 200 - 17A REV B BLOCK 3 FLOOR PLANS - PLOTS 14-16  
2251 - 200 - 20A REV A BLOCK 4 FLOOR PLANS - PLOTS 31-33  
2251 - 200 - 23A REV A BLOCK 5 FLOOR PLANS - PLOTS 17 - 20  
2251 - 200 - 26A REV A BLOCK 6 FLOOR PLANS - PLOTS 21 - 24  
2251 - 200 - 32 PLANS HOUSE TYPE 211 - 1 BED  
2251-650-1 REV B SWEPT PATH ASSESSMENT - 1 OF 2  
2251-650-2 REV B SWEPT PATH ASSESSMENT - 2 OF 2  
2251-650-3 REV B SWEPT PATH ASSESSMENT - PLOT 33  
2251-650-4 REV A SWEPT PATH ASSESSMENT - PLOT 33  
2251 - 200 - 30 BIN STORE DETAILS  
2251 - 200 - 31 CYCLE STORE DETAILS  
ARBORICULTURAL REPORT (CONDITION 18)  
Received 14th February 2019 (2018/1001/RES)

2251 - 200 - 36 PLANS HOUSE TYPE 764 & 851 PLOTS 34 &35 - 3 BED  
received 15 February 2019. (2018/1001/RES)

Block Plan / Site Plan received on 6th August 2009. (2008/0512)

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

- 2 Notwithstanding the details shown on the approved plans, full details of the photovoltaic panels shall be submitted to and approved in writing by the Local Planning Authority, prior to the construction of the above ground superstructure of any of dwellings hereby approved. The development shall then be implemented in accordance with the details thereby approved.

Reason : In the interests of visual amenity and to accord with Policy PS2 of the Swansea Local Development Plan (2010-2025).

- 3 Prior to beneficial occupation of the first dwelling, full details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: To ensure that the development is provided with satisfactory vehicular access in the interests of public safety and to accord with Policies PS2, T1 and T5 of the Swansea Local Development Plan (2010-2025).

**Item 1 (Cont'd)**

**Application Number:**

2021/3027/S73

**Informatives**

- 1 The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application: Policies: 1,2,7 and 9

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, RP4, RP7, H2, H3, HC3, ER2, ER6, ER8, ER9, ER11, T1, T2, T5 T6, EU4, SI5, and SI6,

- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

## Planning Committee – 6<sup>th</sup> February 2024

Item 2

Application Number:

2020/2588/RES

Ward:

Morrison - Area 1

**Location:** Cwmrhydyceirw Quarry Co Ltd, Great Western Terrace, Cwmrhydyceirw, Swansea, SA6 6LL

**Proposal:** 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 (19 dwellings), open space and ancillary infrastructure

**Applicant:** Katie Peters Edenstone Group



### 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. Moreover, the number of units proposed meets the Committee threshold as set out within the Council's Constitution.

**Item 2 (Cont'd)**

**Application Number:**

2020/2588/RES

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)"

Two Section 73 planning permissions have been granted to extend the time period in which to submit the reserved matters, with the most recent being reported to committee in March last year (2022/2862/S73). That application is currently held in abeyance pending the signing of a modification to the legal agreement.

Housing on Phases 1 and 2 have already been approved (2018/1873/RES and 2019/0502/RES respectively). A reserved matters application for the development of the quarry basin as an area of open space (Phase 6) was also approved in 2020 (2019/2236/RES). Phases 3 & 4 on the east and west side of the quarry basin were approved in 2021 (2020/2559/RES). It is understood that Phases 1 and 2 are completed. Phases 3 and 4 are currently under construction. In addition, a reserved matters application for the development of the quarry basin as an area of open space (Phase 6) has also been approved (2019/2236/RES) but has not yet commenced.

This application relates to the final residential phase of the development and is located on the southern side of the quarry basin. To date, reserved matters applications have been approved for 259 dwellings on the site and this application, if approved, would take the total number of approved residential units on the site up to 278.

This application was submitted in 2020 and clearly a significant time period has passed since the original submission. This is as a result of the applicant's desire to reconsider and re-design the scheme. There has been a mutual agreement with the applicant to extend the period of time to determine application.

### **Site Location**

The application site comprises a single parcel of land on the southern side of the quarry basin that would overlook the public open space area and community building approved under Phase 6. To the east is Phase 3, to the west Phase 4 and to the north are Phases 1 & 2. Immediately to the south of the site is a bank of trees that separates the site from the railway line tunnel and Morriston golf club beyond. The land within Phase 5 has been cleared for the most part and currently forms part of the wider construction site.

### **Description of Development**

The proposal is for the development of Phase 5 for 19 residential units together with associated open space and ancillary infrastructure.

The following housing mix is proposed: 4 x 3 bed houses; 5 x 2 bed houses; 6 x 2 bed flats; 4 x 1 bed flats. The applicant has indicated that this phase would be 100% affordable with Coastal Housing Group. It should be noted, however, that the provision of further affordable housing on the site is not a formal requirement of the outline planning permission.

**Item 2 (Cont'd)**

**Application Number:**

2020/2588/RES

At the outline stage the access to the site was approved and this application provides details of appearance, landscaping, layout and scale.

It should be noted that the original proposals submitted in 2020 included the provision of 29 units. There have been several revisions to the design and layout of the scheme following dialogue with officers to address matters relating to the layout and design of the scheme and to address potential highway safety, ecology and residential amenity impacts. Moreover, the design has been amended to have regard to advice from NRW in relation to the proximity of the development to the permit boundary for the landfill.

The application has been considered on the basis of information presented within the revised drawings.

## **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 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.

### Access and Inclusivity

3.5 Good design is inclusive design. Development proposals should place people at the heart of the design process, acknowledge diversity and difference, offer choice where a single design solution cannot accommodate all users, provide for flexibility in use and provide buildings and environments that are convenient and enjoyable to use for everyone.

3.6 Development proposals must address the issues of inclusivity and accessibility for all. This includes making provision to meet the needs of people with sensory, memory, learning and mobility impairments, older people and people with young children. There will often be wider benefits to be gained through the sensitive consideration of such provision, for example, whilst the presence of visual cues will be invaluable in assisting those with hearing loss to engage in a noisy environment, a navigable environment will benefit all. Good design can also encourage people to meet and interact with each other, helping to address issues surrounding loneliness. Good design must also involve the provision of measures that help to reduce the inequality of access to essential services, education and employment experienced by people without access to a car. Design measures and features should enable easy access to services by walking, cycling and public transport.

### 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.

### Character

3.9 The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.



### Community Safety

3.11 Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Crime prevention and fear of crime are social considerations to which regard should be given in the preparation of development plans and taking planning decisions. The aim should be to produce safe environments that do not compromise on design quality in accordance with the cohesive communities well-being goal.

### Movement

3.12 Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate.

### Car Parking

4.1.49 Car parking provision is a major influence on how people choose to travel and the pattern of development. Where and how cars are parked can in turn be a major factor in the quality of a place.

4.1.50 A design-led approach to the provision of car parking should be taken, which ensures an appropriate level of car parking is integrated in a way which does not dominate the development. Parking provision should be informed by the local context, including public transport accessibility, urban design principles and the objective of reducing reliance on the private car and supporting a modal shift to walking, cycling and public transport. Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed. The needs of disabled people must be recognised and adequate parking provided for them.

4.1.51 Planning authorities must require good standards of car parking design, which do not allow vehicles to dominate the street or inconvenience people walking and cycling. Car parking should be overlooked by surrounding properties, to provide natural surveillance.

### Integrating Green Infrastructure and Development

### 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

#### Sustainable Drainage Systems (SuDS) and Development

6.6.17 New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres also require approval from the SuDS Approval Body (SAB) before construction can commence. Adoption and management arrangements, including a funding mechanism for maintenance of SuDS infrastructure and all drainage elements are to be agreed by the SAB as part of this approval. This will ensure that SuDS infrastructure is properly maintained and functions effectively for its design life.



6.6.18 The provision of SuDS must be considered as an integral part of the design of new development and considered at the earliest possible stage when formulating proposals for new development.<sup>140</sup> In guiding new development the planning system should at the very least ensure the incorporation of measures at an individual site scale, particularly in urban areas, in order to secure cumulative benefits over a wider area. A concerted effort of this nature will bring benefits over a whole catchment. At a development plan level, however, there will be considerable advantages associated with developing collaborative approaches which, drawing on evidence obtained through green infrastructure assessments, integrate SuDS as part of growth strategies for particular areas.

6.6.19 Development proposals should incorporate design for surface water management, based on principles which work with nature to facilitate the natural functioning of the water cycle, providing issues such as land contamination would not result in the mobilisation of contaminants which may have an impact over a wider area. Design for multiple benefits and green infrastructure should be secured wherever possible and as part of Green Infrastructure Assessments suitable approaches towards the provision of SuDS should be identified. It may, in some circumstances, be necessary for 'hard' infrastructure solutions to be preferred because of practical or archaeological considerations, but taking into account the role of water services in contributing to the quality of place, nature based solutions should be the preference.

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

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

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.

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 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.

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.

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

H 3 Affordable Housing - sets the percentage of affordable housing provision required in the Strategic Housing Policy Zones, subject to consideration of financial viability.

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.

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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.

RP 4 Water Pollution and the 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. Water courses will be safeguarded through green corridors/riparian buffers. 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 5 Avoidance of Flood Risk - In order to avoid the risk of flooding, development will only be permitted in line with Policy principles.

RP6 Land Contamination - development proposals on land where there is a risk from actual or potential contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any significant risk to life, human health, property, controlled waters, or the natural and historic environment.

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.

SI 6 Provision of New Open Space - Open space provision will be sought for all residential development proposals in accordance with the policy principles, and in accordance with relevant criteria relating to design and landscaping principles. The quantity, quality and location of the open space contribution required will be determined against the most recent Open Space Assessment and Open Space Strategy.

**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)
- City and County of Swansea Parking Standards (adopted 2012)
- Trees, Hedgerows and Woodlands (adopted 2021)
- Biodiversity and Development (adopted 2021)
- Planning for Community Safety (2012)
- Planning Obligations (2010)

The above SPG provide information and guidance to clarify the policy aims of the relevant LDP Policies as set out above.

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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. 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: they are 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:**

**Placemaking and Heritage:**

"To conclude, the reserved matters detailed layout broadly accords with LDP policy and Residential DG placemaking principles. However, Juliette balconies should be incorporated to upper floor apartments in accordance with the Placemaking Guidance for Residential Development SPG. In addition, clarification should be sought on the active travel route around the top of the quarry".

**Local Highway Authority:**

"The proposed layout has been observed to include changes to the highway layout, this includes changes to the alignment from the connection into this phase and throughout to the two end sections. Parking provision has changed along the northern side of the carriageway from perpendicular to parallel, including some reallocation for units and visitors. There has also been a removal of a unit which was previously proposed at the southern extent of a parking court.

The changes which have been reviewed as material considerations are set out below:

**Turning Head Provision:**

**Western extent**

A review of the layout confirms that the shared drive at the western extent does not exceed the number of permitted dwellings for the proposed type of road. The turning head in that area has been altered in orientation and in size, being made more compact.

The turning area has been assessed using a robust representation of a box luton van, as before. Whilst the manoeuvres appear to be more challenging than in the previous layout, with the van passing near to parked cars and the manoeuvres passing on the area extents. Whilst this may not be acceptable in an adopted street layout, it has been considered that these have been assessed with a vehicle of 8 metres length where box lutons can range in size from 6.5 metres to 7.5 metres. There are also no footways located around the head and no desire lines or reasons for pedestrians to be in the areas that are at the extent of the manoeuvres. Some space also exists for splaying the head extents should it be required as part of a privately maintained enhancement.

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Southern extent

The turning area to the south of the main route has been redesigned. The dwelling within that area has been removed, which therefore reduces concerns on appropriate pedestrian connections. The unit has been replaced with parking spaces, although these have been brought forward into the parking court which has worked to remove the turning head area facility.

These changes have not been assessed with swept path analysis, as would be expected and as carried out before. The area is now proposed as a parking court and therefore it could be reasoned that there is no requirement for a box luton van to deliver to this area. The aisle width is widened beyond the carriageway width to allow for parking manoeuvres. The last rows of spaces 1 and 6 may find it challenging for access. There is no requirement for pedestrians to be around the areas close to spaces 1 and 6 and the court will be a privately maintained area.

The junction with the main street route has been assessed and is promoted as part of the large vehicle attendance turning area. The distance from that to the extent of the parking court is short and visible, thereby allowing for considered approach by drivers and turns using the junction for larger vehicles. It is considered that whilst the change proposed in this area is functionally less useful, on balance it is not an unacceptable proposal.

Refuse Strategy:

The analysis of a refuse vehicle has been carried out, as before, using a robust 11.2 metre version of the Phoenix Duo 2. As mentioned in the past, the considerations applied at the technical review of any proposals for adoption of internal layouts also include a margin of safety between the manoeuvres and the surrounding changes in environment, such as kerb lines. It has been noted that the analysis does appear to now include some margin between vehicle and kerb where previously there was not.

It does not appear that the refuse strategy plan have been updated and submitted. However, it has been confirmed that the strategy will adhere to maximum refuse handler and resident walking distances. In a comparison of the layouts, it is observed that the southern parking court bin store is likely to be within easy access, although the change in location to the west may make it more difficult, beyond extents previously shown.

Please note that the bin store in the southern parking court will need to be designed in the use of scale and material to not comprise visibility between the parking spaces and footway.

Car Parking Provision:

The position remains similar to the previous proposals in terms of provision by dwelling type.

The allocation of visitor spaces remains the same with location and orientation adjusted.

Access to Parking and Residential Driveways:

As an observation, parking for units 17, 18 and 19 may be challenging for ease of access with the visitor parking to the rear of the shared area.

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Other Issues Relating to the Amended Plan Layout:

The bike stores located at the rear of car parking spaces in the southern parking courtyard and adjacent the block of flats appear to be difficult to be appropriately accessed. However, it has been confirmed through discussions that whilst the representation of the bike store doors suggest that they will take up the footway and prevent use, they will be installed with 180 degree hinges.

**Conclusion:**

The proposed changes to the proposal have been considered against the previous history of the site. Some of the changes are positive and some may appear to be less beneficial, although not to the extent of being unacceptable.

The Highway Authority would not object to this application, which follows similar proposals which have already been consented. It is however recommended that there are appropriate planning conditions set in place to ensure that issues which have been identified and resolved through discussion are secured. This would include conditions for the approval of the bin store construction to ensure no issues with the parking and footway interaction, refuse strategy detail in locating bin stores appropriately and bike store construction to ensure door construction does not prohibit access and footway use."

**Pollution Control:**

"I refer the applicant to Condition 7 and 18 of application number 2014/0977, which are to be complied with, and if need be should also be added to this application"

"It is noted that Phase 5 is located in the central area, with gas characteristic CS3/Amber2".

**Landscaping (tree officer):**

"The submitted details are suitable for landscaping for this phase. This is in the base of the quarry and there are no significant trees, therefore there is no requirement for a tree protection plan".

**Ecology:**

No objection. Log piles should be changed to hibernaculum and the sparrow terraces should be changed to swift nest boxes.

**Drainage:**

We have no further concerns or comments with respect to this application.

**Waste and Recycling:**

No response received to date.



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**Dwr Cymru Welsh Water:**

"...We request an advisory note to be included as part of this latest application for approval of reserved matters. The water supply system in the immediate vicinity has insufficient capacity to serve the development and will also cause detriment to existing customers' water supply. Accordingly, the applicant is advised that as part of any future water connection application under Section 41 of the Water Industry Act (1991), a hydraulic modelling assessment and the delivery of reinforcement works may be required at the same time as the provision of new water mains to serve the new development under Section 41 and Section 51 of the Water Industry Act (1991)".

"As part of this latest consultation, we also acknowledge receipt of an amended 'Engineering Layout' (Drawing No. 100 Rev. D) which proposes to discharge foul and surface water flows to private foul and surface water sewers and in principle we offer no objection to this application for approval of reserved matters subject to inclusion of the following advisory notes..."

**Natural Resources Wales:**

"We continue to have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding landfill gas and the landfill mass. If this information is not provided, we would object to this planning application. Further details are provided below.

**Landfill Gas**

As you are aware elevated levels of methane gas from the landfill continue to be detected in some of the gas wells located between the landfill and the proposed phase 5 housing development. The methane component of the landfill gas also appears to be increasing. We have been informed that proposals are currently being prepared to investigate ways of controlling the landfill gas migration. If these proposals are accepted, the gas control measures will be trialled to determine whether adequate landfill gas controls can be achieved. If successful the method could then be formally adopted at the site. It should be noted that the system to control landfill gas migration will likely require changes to the site's Environmental Permitting Regulations (EPR) permit and possibly planning. If the proposed gas control method is not found to be successful then alternative measures will need to be developed and these may have implications on the development.

We understand that the method of gas control presently under consideration will be a system which will actively extract gas from within the landfill's waste body, which it is hoped will reduce the lateral movement of landfill gas from the landfill site. The gas being collected will need to be incinerated and we understand that this is likely to be in the form of a flare which may also require changes to the EPR permit and planning. Please note that even if an effective gas control system is identified and subsequently implemented this will not eliminate the risk of gas migration. Therefore any structures in proximity to the landfill will continue to need appropriate gas protection measures. The developer has previously submitted proposals to attempt to address this and whilst NRW will not comment on the suitability of these proposals, your Authority is advised to ensure that these measures are reviewed to reflect the changing situation on site (e.g. the data set that the assessment is based on is limited and the most recent results indicate increasing methane levels). The gas protection measures being proposed should therefore be based on worse case scenarios.

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It is clear that this is an evolving situation and it is therefore not possible for NRW to provide any further comment on the Phase 5 (or Phase 6) development at this stage as the future design and use will be influenced by the outcome of the gas management investigations. For example an active gas management system will require gas collection and treatment infrastructure, which may have implications on the eventual design and/or use of the phase 5 and phase 6 areas.

Whilst we do not wish to reiterate our previous comments in detail we remain concerned over the siting of any residential properties in such close proximity to a landfill, particularly a landfill which is now presenting gas migration issues. However as the permission for a housing development has already been granted we would request that no further construction is permitted on the phase 5 or the phase 6 site, until your Authority is satisfied that appropriate gas management measures are in place that addresses the issue of landfill gas migration from the landfill site.

#### **Landfill**

We welcome the revised Proposed Site Layout Phase 5 (Drawing P5-5000, Rev D) which now clearly shows the boundary of the landfill waste body. We note the response provided in the applicant's note from Katie Peters, Planning Director, Edenstone Group (no date), states that the "hammerhead" road, located on the landfill waste mass has been constructed, and has been designed in such a way as to "mitigate against potential movement". We note from Drawing P5-5000, Rev D, that this road is on the Landfill waste mass. The revised Drawing P5-5000, Rev. D confirms that trees (and hedges) are proposed to be planted on the waste mass. We require further information to demonstrate that these trees (and hedges) will not compromise the landfill cap and increase the infiltration of rainfall and surface water into the waste mass. Depending on the composition of the underlying waste mass, trees may become unstable as they grow, further compromising the landfill cap and structure and potentially a risk to life and property."

#### **Network Rail:**

Holding Objection.

"We do not believe the existing bridge agreement to be fit for purpose given the proposed change of use. Traffic management would most likely be required following this development and there is no clarification as to who would be responsible for the road surface etc. It is also worth noting there is no footpath on the bridge at present. A suitable bridge agreement needs to be in place for this aspect to be acceptable to Network Rail".

Concerns also raised by Network rail in relation to drainage infrastructure on or attached to the bridge.

#### **Police Designing Out Crime Officer:**

No objection raised. Slight concern in relation to parking bays for plots 1-6. These must be overlooked by the apartment blocks.

Specific design comments provided in relation to Secured by Design standards.



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**Neighbour comments:**

The application was advertised in the press and by site notices. One objection has been received to the public consultation, which may be summarised as follows:

- Concern regarding the traffic and parking problems associated with the use of the historic quarry access by construction vehicles associated with the development.

**APPRAISAL**

**Main Issues**

The main issues to consider in the determination of this application relate to the impacts of the development upon the character and appearance of the area, the impacts upon the residential amenity of existing and future occupiers, the impacts upon highway safety, ecology, drainage, and land contamination 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 the access (within the development), appearance, landscaping, layout and scale for the proposed development of Phase 5.

**Visual Amenity**

The proposed layout reflects the broad principles set out within the illustrative masterplan submitted at the outline planning stage which indicated the provision of frontage development facing out towards the quarry basin.

Following discussions with officers, the scheme has evolved since its original submission which included the provision of 29 units arranged in two rows set back from the quarry basin.

The scheme now proposed is for 19 units within two storey buildings with pitched roofs arranged in a single street with an alignment that follows the natural curvature of the quarry basin. Visual continuity would be provided through the introduction of repetitive gable features, curved building line, and consistent use of materials in the form of brick and render for the external walls and a modern flat concrete tile for the roof covering. These materials are consistent with previous phases of the development and can be secured by a planning condition. It is also noteworthy that two of the four house types (Ogmore and Wye) have been used in a previous phase.

The house types have been improved through the introduction of larger windows and Juliette balconies for the flats to maximise outlook towards the expansive views of the former quarry. The overall aesthetic within this Phase follows the contemporary design approach of Phases 2 and 3.

Indicative areas have been shown on the drawings for the potential locations of solar panels and air source heat pumps. It is recognised that this domestic infrastructure often forms part of new housing developments and will increasingly become more evident moving forward. On this basis, in principle, the provision of this infrastructure is acceptable, however, it is recommended that the specific details of the equipment and their location are secured by a condition in the interests of visual amenity and residential amenity.

For the flats, parking would be provided in a rear parking court. This is acceptable on the basis that it allows for an uninterrupted landscaped frontage for the main block of 6 flats at the entrance to Phase 5. The Police Designing Out Crime officer has noted a "slight" concern with this approach and has stated that the parking areas should be overlooked by the flats. In response to these comments, three entrances to the flats would overlook the access road to the parking areas and both ground floor and first floor windows in the blocks of flats would overlook the parking areas. Therefore, it is considered there would be a good level of natural surveillance for the parking areas. On this basis, the design and layout of the parking area is considered to be acceptable.

For the dwellinghouses, parking is provided separate to the properties within a landscaped parking area to the front of the units that incorporates covered pergola structures to break up the parking areas and add visual interest. The location and design of the parking areas is considered to be acceptable being well overlooked, convenient for the dwellings they would serve and designed within a landscaped setting.

Cross sections have been submitted through the site to illustrate the proposed change in levels. The land levels will be built up by over two metres in parts of the site in order to create suitable level platforms for the dwellings and garden areas which will achieve a similar level to the open space areas within the quarry basin. There would be an embankment at the rear of the gardens, however, the cross section drawings indicate that this would be beyond the rear boundaries of the proposed dwellings with the levels rising up beyond the rear boundaries to the circular path round the quarry basin. The slab levels of the proposed dwellings would rise gradually from east to west with an overall increase across the development of less than 1m.

The provision of green infrastructure at street level, around units 1-6 at the site entrance, along the site frontages and parking areas, would enhance the aesthetic of the street environment, would provide shading, drainage benefits and ecological enhancements. One of the key assets of the site is the retention and re-purposing of the quarry basin for play, active travel and ecology benefits. The provision of enhanced green infrastructure within Phase 5 will improve the general street environment and will provide enhanced connections to the retained areas of vegetation within and around the quarry basin.

The boundary treatments proposed are consistent with previous phases with robust brick screen walls used to define private areas in prominent corner locations. Front boundaries are generally open with a mix of hedging and low railings indicated to be provided to define the boundaries. Rear boundaries and side boundaries that are not within prominent locations would be of timber construction, which is considered to be acceptable. It is recommended that boundary treatment details are secured by a condition and that permitted development rights are withdrawn for any new boundaries forward of the front elevation in the interests of ensuring the development retains and open character.

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The Placemaking officer has sought confirmation regarding the active travel route around the top of the quarry. This feature was included in the application for Phases 3 & 4 (2020/2599/RES). Effectively the existing path on the southern edge of the basin will be retained and will link Phases 3 & 4. The Placemaking officer also requested Juliette balconies for the flats and these have now been incorporated into the development.

In summary, the overall layout and design approach for Phase 5 is considered to be acceptable in terms of its scale, appearance and layout. The scheme proposed reflects the principles set out within the masterplan at outline stage and follows on from the design approach adopted within earlier phases. The layout responds positively to the sites constraints and opportunities and accords with the principles of good design. On this basis it is considered that the proposed development would accord with LDP Policy PS2 and would broadly accord with the guidance contained within the Placemaking Guidance SPG.

### **Residential Amenity**

Phase 5 would not directly adjoin any existing properties within or outside of the site, as such there would be no impacts upon the living conditions of existing residents. Moreover, with all buildings facing towards the quarry within a linear layout, there would be no significant overbearing, overshadowing or overlooking impacts upon future residents.

The site is within a verdant setting and the occupiers would benefit from expansive views of the quarry at the front of the properties. The plans have been amended to ensure the house types have large windows in the front elevation and Juliette balconies for the upper floor flats to maximise the outlook for the future occupiers.

At the rear the dwellings would benefit from good sized rear gardens and small front gardens. The ground floor flats within the two residential blocks would benefit from dedicated amenity areas with paved areas for sitting out and bike stores. The upper floor flats would have communal amenity areas, as well as benefiting from Juliette balconies. The level of outdoor space serving the flats is considered to be acceptable having regard to the minimum standards set out within the Placemaking Guidance SPG and having regard to the proximity of the development to the consented plan and open space area within the quarry basin.

In terms of the size of the units, all units would be constructed to the Welsh Development Quality Requirements (WDQR) standards.

Overall, it is considered that the design of the development would not result in any significant impacts upon the living conditions of existing residents and would not result in any significant impacts upon the living conditions of the future occupiers of the development. The development would not, therefore, conflict with LDP Policy PS2 or the thrust of the advice within the Placemaking Guidance SPG.

### **Access and Highway Safety**

The proposed development would be accessed via the internal access road running from phase 3.

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The design of the streets and parking areas has been the subject of revisions in order to demonstrate that the layout would provide satisfactory visibility, pedestrian connections and parking provision. Amended plans and information has been submitted to address LHA concerns.

The main street measures 5.5m in width with 2m footways either side terminating in a shared drive accessed by plots 17-19. A spur off the main street would provide access to the rear parking court for the flats.

Two car parking spaces would be provided for each unit, save for the one bed units that benefit from one parking space. There would be with 4 dedicated visitor spaces. Cycle storage would be provided for each property. The development is considered to be within a sustainable location being close to schools, shops and Morrision hospital. On this basis parking provision within the site is considered to be acceptable when considered against the adopted Car Parking Standards SPG. It is recommended that a condition is imposed requiring the parking areas to be implemented and retained as indicated within the application to ensure that satisfactory parking is available at all times for the future occupiers in the interests of highway safety.

The LHA have raised no objection to the proposed layout from a highway safety perspective, however, amendments have been requested in relation to the refuse strategy and it is considered this matter can be dealt with by a planning condition. It is recommended the condition also allows for the submission of further details in relation to the bin collection points and refuse stores to serve the dwellings.

Concerns raised by the LHA regarding the potential for cycle stores to block the internal footway when open are noted. In response to this concern, this would potentially impact on the path to the flat 6, however, in reality any conflict would simply be managed through interaction between the path user and bike store user. It is considered there would be no significant impact upon pedestrian safety. On this basis, it is not considered necessary to impose a condition requiring the hinges of the bike stores to open 180 degrees.

Concerns have been raised in a letter of objection regarding the use of the quarry access by construction vehicles. This route was approved within the construction management plan for the development. The access is considered to be appropriate for construction vehicles given its historic use by vehicles associated with the former quarry and landfill uses at the site.

In light of the above, it is considered that the development would comply with LDP Policies T2, T5, T6 and the Parking Standards SPG.

**Ecology and Trees**

The original outline application was accompanied by an Environmental Statement in order to address potentially significant ecological impacts and to address the complexities arising from the development of housing in such close proximity to a former landfill site.

An Environmental Management Plan (EMP) has been approved under condition 9 of the outline planning permission. This provides a site wide strategy for ecological mitigation, compensation and enhancement. The plan includes specific mitigation measures for bats, peregrine falcon, amphibians and reptiles.

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The site is partially located within the Cwmrhydyceirw to Birchgrove Railway SINC. The impacts of the development upon the SINC were considered as part of the original outline planning permission.

The application has been accompanied by an updated ecological assessment which includes the site area for Phase 5. Since the assessment has been undertaken the site has been cleared, however, it is noted that the approved EMP did not include for any retained habitats within the Phase 5 site area.

In relation to this phase of the development, as with previous phases, specific mitigation, compensation and enhancement measures would be provided through an appropriate landscaping scheme, the provision of bat and bird boxes on the dwellings and the provision of hibernaculum within the site.

The Council's planning ecologist has not objected to the proposals, subject to the implementation of the enhancements as indicated on the approved drawings. It is recommended these enhancements are secured by a condition in the interests of protecting and enhancing the ecology of the area.

In accordance with condition 12 of the outline planning permission this application has been accompanied by an arboricultural impact assessment. This information has been reviewed by the Council's tree officer. The tree officer has commented that there are no significant trees within the base of the quarry as such no tree protection measures are necessary for this phase. The tree officer has further commented that the landscaping details are acceptable and it is recommended that the implementation of the landscaping details are secured by a condition. The management of the open space areas has been secured through the S106 unilateral undertaking attached to the outline planning permission.

Overall, it is considered that the proposed development would not conflict with LDP Policies ER2, ER6, ER8, ER9 and ER11 and would not conflict with the guidance within the Biodiversity and Development SPG or the Trees, Hedgerows and Woodlands SPG.

## **Drainage**

Condition 8 of the outline planning permission requires the provision of a site wide drainage strategy to be submitted based on sustainable drainage principles. The details required by condition 8 have previously been agreed with the Council's drainage section. The condition allows for phased drainage operations and a detailed drainage scheme has been submitted with this application.

All surface water from the development will be discharged at an attenuated rate into the quarry pond which connects to the existing Cwmrhydyceirw Stream along the southern boundary of the wider site. Foul water will be discharged to the existing DCWW sewer in Maes Y Gwernen Road.

The Council's drainage officer and DCWW have offered no objection to the proposed drainage scheme and on this basis the drainage details are considered to be acceptable to satisfy condition 8 of the outline planning permission insofar as they relates to Phase 5.



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It is recommended that the approved drainage details are secured by a condition to ensure the drainage scheme is implemented as approved prior to occupation of the residential units.

DCWW have indicated that the water supply system in the immediate vicinity has insufficient capacity to serve the development and the development will also cause detriment to existing customers' water supply. DCWW have advised that a hydraulic modelling assessment and the delivery of reinforcement works may be required at the same time as the provision of new water mains to serve the new development. Whilst DCWW's comments are noted, conditions relating to this matter were not included within the outline planning permission that was granted at appeal and it would be unreasonable, and outside of the scope of this reserved matters application, to try to address these requirements through the imposition of a planning condition requiring such an assessment to be undertaken. Instead, it is recommended that an informative note is added to draw the applicants attention to this requirement.

In light of the foregoing, it is considered the development would therefore comply with LDP Policies EU4, RP4 and RP5.

### **Land Contamination**

The outline planning permission includes conditions in respect of the requirements to address environmental and human health matters associated with the former landfill operations at the quarry, specifically relating to landfill gas investigation, monitoring and protection measures for the dwellings (condition 7) and monitoring of landfill gas and leachate (condition 18). The requirements of condition 18 have been met, however, further information will be required to address the requirements of condition 7 insofar as they relate to Phase 5.

In relation to landfill gas, NRW have stated that elevated levels of methane gas from the landfill have been detected at monitoring stations between the landfill and the Phase 5 site. The Environmental Permitting Regulations (EPR) permit holder for the site (SI Green) is currently investigating ways of controlling the landfill gas migration. The method of gas control currently being considered is a system to extract the gas from the waste body and then incinerate the gas with a flare. NRW have highlighted that even if this system operates successfully, this would not entirely eliminate gas migration. Gas protection measures for the dwellings would still be required, as with previous phases.

While NRW acknowledge that outline planning permission has already been granted for residential development on the Phase 5 site, they have indicated that no construction work should take place on Phase 5 until such time that the LPA is satisfied that appropriate gas management and protection measures are in place that address the issue of landfill gas migration from the landfill site.

NRW's comments are clearly noted, however, it is not considered necessary for any further conditions to be placed on this reserved matters application to address the gassing issues raised by NRW. Condition 7 of the outline planning permission requires the developer to submit a scheme to investigate and monitor the site for the presence of gas and provide protection measures where necessary for Phase 5. This work will need to take place prior to the commencement of development, in accordance with the condition requirements, once a satisfactory scheme has been approved by the LPA in consultation with NRW and the Council's Pollution Control division.



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The developer and the EPR permit holder are clearly aware of the gassing situation and are in discussions with NRW to address the issue. On this basis, it is not considered necessary, at this stage, for any further information to be submitted with this reserved matters application in order to address the gassing issue.

In relation to the landfill cap, which sits on top of the waste mass to stabilise and protect the waste, NRW have requested further information to demonstrate that the proposed landscaping for Phase 5 would not compromise the landfill cap and would not increase the infiltration of rainfall and surface water into the waste mass.

In response to this concern, while landscaping is a reserved matter that is being considered under this application, and is considered to be acceptable from a visual and ecological perspective, it is recommended that further details are submitted by a condition in order to demonstrate that satisfactory measures will be implemented, such as root barriers for example, to protect the integrity of the landfill cap, in consultation with NRW.

In summary, while NRW have expressed concerns with the proposed development, they have not objected to the proposals on the basis that the LPA should seek further information from the applicant to address the landfill gas and landfill cap issue. As indicated above, it is recommended that the necessary further information can be secured by existing or proposed planning conditions. The Council's Pollution Control division have offered no objection to this reserved matters application and on this basis it is considered the proposed development would not conflict with LDP Policies RP1, RP3, RP4 and RP6.

### **Affordable Housing**

Phase 2 of the development included all 15 affordable housing units within the Parc Ceirw site as required by the S106 unilateral undertaking attached to the outline planning permission. As such, whilst the applicant has indicated the proposed development within Phase 5 would be 100% affordable housing with Coastal Housing Group, there is no planning policy requirement for further affordable housing provision within the development. On this basis, the development would not conflict with LDP Policy H3.

### **Other Matters**

Network Rail have registered a "holding objection" as they consider the existing agreement for the railway bridge is not fit for purpose. Whilst this may or may not be the case, the matters raised by Network Rail including traffic management for the bridge and potential resurfacing are beyond the scope of this reserved matters application. There was no condition on the outline planning permission to restrict vehicle access across the bridge or require any upgrades to it. It should be noted that Phase 5 does not require vehicle access over the bridge as vehicle access is gained from Phase 3.

Network Rail offered no comments in relation to the bridge at the outline planning stage, as such these comments are afforded little weight in the determination of this planning application. It is recommended an informative note is added to make the applicant aware of Network Rail's comments.

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The application site is not located within 500m of a scheduled ancient monument, therefore, it was not considered necessary to consult Cadw on this application. It is not considered the development would result in an adverse impact upon any significant heritage assets within the vicinity of the site.

## **Conclusion**

This is a reserved matters proposal for 19 new dwellings comprising Phase 5 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; residential amenity; highway safety; drainage; land contamination; and ecology.

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:

5004 REV A (Proposed Site Sections), received 23rd January 2024.

5000 REV F (Proposed Site Layout)

5152 REV D (Monnow Floor Plan)

5153 REV D (Monnow Elevations)

5008 REV D (Proposed Street Scenes)

5003 REV C (Proposed Enclosures Layout)

1461302-SBC-00-XX-DR-L-[602] PL06 (Soft Landscape Planting Plan), received 22nd January 2024.

5154 REV A (Ogmore Plots 15-16 Floor Plans and Elevations)

5155 REV A (Ogmore 12-14 Floor Plans)

5156 REV A (Ogmore 12-14 Elevations)

5157 REV A (Wye Floor Plans and Elevation)

5158 (Wye Detached Floor Plans and Elevation)

5007 REV B (Proposed Refuse Strategy Layout)

5006 REV B (Parking and Cycling Strategy Layout)

5002 REV B (Proposed Materials Layout)

5001 REV B (Site Location Plan)

100 REV H (Engineering Layout), received 18th January 2024.

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5200 (Proposed Shed Floor Plans and Elevations), 23rd March 2023.

5150 REV A (Ceirw Floor Plans)

5151 REV A (Ceirw Elevations)

5162 (Parking Pergolas), received 13th March 2023.

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

- 2 Prior to the commencement of development a method statement shall be submitted to and approved in writing by the local planning authority detailing the methods by which the approved landscaping scheme for the site shall be provided whilst ensuring that the structural integrity and function of the land fill cap would not be compromised by the installation of the landscaping or its future growth. The landscaping shall thereafter be installed and maintained in accordance with the approved method statement.  
Reason: To protect the structural integrity and function of the landfill cap in accordance with LDP Policies RP1, RP4 and RP6.
- 3 Prior to the beneficial occupation of any dwelling hereby approved the boundary treatments and means of enclosure for each property shall be implemented in accordance with the details indicated on plan no. 5003 REV C (Proposed Enclosures Layout). The boundary treatments and means of enclosure shall thereafter be retained as approved for the lifetime of the development.  
Reason: To ensure the boundaries at the site are satisfactory in the interests of visual amenity and residential amenity in accordance with LDP Policy PS2.
- 4 The scheme of Ecological Enhancement Measures as indicated on drawing no. 1461302-SBC-00-XX-DR-L-[602] Rev PL06 (Soft Landscape Planting Plan) including bat and bird boxes and hibernaculum shall be installed in accordance with the approved details and in accordance with the approved Environmental Management Plan prior to the beneficial occupation of the last unit to be constructed on Phase 5 and shall thereafter be retained for the lifetime of the development.  
Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and LDP Policy ER 9.
- 5 The foul water drainage system serving each property shall be constructed in accordance with the details indicated on plan no. 100 Rev L (Engineering Layout) prior to the occupation of any dwelling.  
Reason: To protect the integrity of the Public Sewerage System and to ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system in accordance with LDP Policies EU4, RP4 and RP5.
- 6 Notwithstanding the details indicated on the approved drawings, prior to the beneficial occupation of any dwelling hereby approved, a revised refuse management strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall include: for amendments to the layout and location of the bin collection points, where necessary; details of the design of the bin collection points; and details of the refuse stores to serve the dwellings. The approved strategy and details contained therein shall be implemented prior to the beneficial occupation of any dwelling within the development.  
Reason: In the interests of highway safety and environmental health in accordance with LDP Policies T1, T5, RP1 and RP10.

- 7 Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), (or any order revoking or amending that order), no gate, fence, wall or other means of enclosure shall be constructed/erected forward of the principal elevation of any residential unit without the express permission of the Local Planning Authority.  
Reason: In the interests of visual amenity as the development has a soft open interface with the public domain in accordance with LDP Policy PS2.
- 8 Notwithstanding the provisions of Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), which shall not apply to this development, prior to the commencement of development, details of the design and location of any solar panels and air source heat pumps shall be submitted to and approved in writing by the local planning authority. The solar panels shall thereafter be implemented in accordance with the approved details and shall be retained as such for the lifetime of the development.  
Reason: In the interests of visual amenity and residential amenity in accordance with LDP Policy PS2.
- 9 The parking areas as indicated on plan no. 5006 REV B (Proposed Parking & Cycle Strategy Layout) shall be provided prior to the first beneficial occupation of the dwelling that they serve and shall thereafter be permanently retained as such and used solely for the benefit of the occupants of the dwelling associated with that parking space and their visitors for the primary purpose of parking of vehicles and for no other primary purpose.  
Reason: To ensure adequate parking provision is provided and retained for each dwelling and to ensure that the parking spaces are not inhibited by permitted development in accordance with LDP Policies T5 and T6.
- 10 All planting, seeding or turfing comprised in the approved details of landscaping within Phase 5 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 , 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.
- 11 The materials to be used in the construction of the external surfaces of the development shall be in accordance with the details indicated on plan no. 5002 B (Materials Layout) and the document 'Materials Sample Board Phase 5'. The development shall thereafter be carried out in accordance with the approved details.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area in accordance with LDP Policy PS2.

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- 12 The surface water and land drainage system shall be constructed in accordance with the details indicated on plan no. 100 Rev L (Engineering Layout) prior to the formation of any hard surfaces within the development that would drain into the system.  
Reason: To protect the integrity of the Public Sewerage System and to ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system in accordance with LDP Policies EU4, RP4 and RP5.

### 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 Framework: Future Wales - the National Plan 2040:

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping urban growth and regeneration - Strategic placemaking

Policy 7 - Delivering affordable homes

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

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: IO1, PS2, ER2, ER6, ER8, ER9, ER11, T1, T2, T5, T6, EU4, H3, RP1, RP3, RP4, RP5, RP6, RP10 and SI6.

- 2 The water supply system in the immediate vicinity has insufficient capacity to serve the development and will also cause detriment to existing customers' water supply. Accordingly, the applicant is advised that as part of any future water connection application under Section 41 of the Water Industry Act (1991), a hydraulic modelling assessment and the delivery of reinforcement works may be required at the same time as the provision of new water mains to serve the new development under Section 41 and Section 51 of the Water Industry Act (1991).
- 3 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com).

- 4 Network Rail (NR) do not believe the existing bridge agreement to be fit for purpose given the proposed change of use. Traffic management would most likely be required following this development and there is no clarification as to who would be responsible for the road surface etc. It is also worth noting there is no footpath on the bridge at present. NR consider a suitable bridge agreement needs to be in place for this aspect to be acceptable. Another issue raised by NRW relates to the drainage that is attached / on the bridge - it is not clear the rights for this and it appears it may have been here some while and used in connection with the quarry to extend to the open drainage Downside. However, the drainage here would not meet standard as existing and therefore requires improvement.

NR have advised the existing drainage needs documentation or removal, if being documented its attachment etc will need to meet standard and be clear in its rights under easement or perhaps licence. This also raises the issue of the rights held by the site and any commercial value in the drainage connection.

The applicant should be aware of the extent of NR's land ownership, and where any drainage exists crossing the bridge that where applicable this will be subject to the party having/gaining the necessary rights and formal agreements with NR and any other relevant statutory body concerning the discharge, without risk to the railway eg if there was a pipe failure.

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### **Description of Development**

The description of the proposal outlined on the application seeks the change of use of No. 32 St. Teilo Street to a hot food takeaway (Class A3). No changes are proposed to the exterior or the interior of the building.

The premises will have the following opening times:

Monday to Saturday 7am to 4:00pm; and  
Sunday and Bank Holidays 9am to 2.00pm.

### **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 6 - Town Centres First

Policy 9 - Resilient Ecological Networks and Green Infrastructure

#### **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.

##### **Retail and Commercial Development**

4.3.1 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.

4.3.30 Although retailing (A1) uses should underpin retail and commercial centres, it is only one of the factors which contribute towards their vibrancy.

4.3.35 Achieving diversity of uses and activities may require a flexible approach to planning. Where the right balance of use and activity is not being achieved, planning authorities should consider making changes to the acceptable uses in primary or secondary areas, or the retail and commercial centre boundaries themselves.

**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.

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.

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.

RP 4 Water Pollution and the 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. Water courses will be safeguarded through green corridors/riparian buffers. 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 5 Avoidance of Flood Risk - In order to avoid the risk of flooding, development will only be permitted in line with Policy principles.

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.

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.

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RC 9 Ground Floor Non-Retail Uses within Centres - Within the Swansea Central Area Retail Centre and District Centres, proposals for non-retail uses at ground floor level must not give rise to an unacceptable loss and dilution of retail frontage, or have a significant adverse impact upon the vitality, viability or attractiveness of the centre, having regard to the specified policy principles. Business (Class B1) and residential (C3) uses will not generally be supported at ground floor level.

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.

**Supplementary Planning Guidance:**

The supplementary planning guidance documents: 'City and County of Swansea Parking Standards', and "District Centres, Local Centres and Community facilities" are also relevant to the determination of this application.

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:**

**Local Highways Authority:**

This planning submission for this site has been considered on a case specific basis.

The pedestrian access is unaffected by the proposals.

The site has no existing on-site parking. The parking requirement of the proposed use is likely to be of a similar level to that of the existing use, and therefore there is not considered a negative impact upon parking.

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The applicant will be required to clearly demonstrate how refuse will be stored and collected within the maximum refuse handler and walking distances for the commercial uses.

It is recommended that no highway objections are raised to the proposal subject to:

1. The development shall not be occupied until a comprehensive scheme for waste storage (including recycling) has been submitted to the LPA for approval, and that approved scheme shall be laid out prior to beneficial occupation and retained as such thereafter.

**Natural Resources Wales:**

No objection to the proposed development as submitted subject to the developer being made aware of the potential flood risks and advised to install flood-proofing measures as part of the development.

**Pollution Control:**

No objection subject to:

- No development shall take place until a scheme for ventilation extraction, including full details of the equipment to be installed for that purpose has first been submitted to and approved by the Local Planning Authority. Details provided should include:
  - Flue design including termination height,
  - Location and installation method of all fans/air movement devices,
  - Noise rating of all fans/air movement devices,
  - Details of any noise mitigation i.e. silencers or enclosures,
  - Odour control for the system including type of cooking, types of filters to be used and cleaning/maintenance schedule. The approved scheme shall be fully installed prior to its use being commenced.

**Placemaking and Strategic Planning:**

**Overview**

It is understood that whilst the lawful use for the unit is A1, it has in fact been operating as an A3 use for some time and as such the unit does not present as vacant. With reference to the submitted floor plan and elevational drawings, it is understood that there are no external alterations proposed.

**Development Principle - Policies & Analysis**

**Retail policy (District Centres)**

The site lies within the boundaries of Pontarddulais District Centre as delineated on the LDP (LDP Policy RC 5 'District Centres' refers). Therefore, should you be minded to approve this application, you will need to be content that there is a sufficient degree of policy alignment with the provisions of LDP Policy RC 5 as part of reaching a balanced outcome.

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LDP Policy RC 5 seeks to retain appropriate retail opportunities within District Centres to ensure they are vibrant and attractive locations that are well equipped to support the communities they serve. Proposals should be of a scale, type and character that will enhance the future vitality, viability and attractiveness of the Centre whilst maintaining the predominant retail role. To this end, a material consideration in the determination of this application is whether the potential loss of a retail unit (Class A1) within the Pontarddulais District Centre will have an unacceptable impact on the role and function of the Pontarddulais district Centre, with reference to the provisions of Policy RC5.

Proposals should ensure that ground floor uses contribute to an attractive and vibrant streetscene throughout the day. The supporting justification to Policy RC5 however recognises that a range of uses within centres, not just Class A1 retail, can generate footfall and help maintain vibrancy and attractiveness.

Paragraph 2.8.33 of the LDP outlines as follows: "District Centres also provide opportunities for an appropriate blend of non-retail uses that can play an important role in sustaining vitality and viability. The criteria set out in the policy seeks to ensure that development proposals deliver the right offer and balance of facilities in order to encourage investment. A flexible approach will be taken to the consideration of proposed changes of use where appropriate to respond to changing needs and circumstances, but within an overarching framework of safeguarding the primary shopping function of Centres."

Overall, it is imperative that proposals maintain an appropriate mix and balance of uses and fundamentally respect the primary shopping function.

In giving due consideration to the five criteria set out within LDP Policy RC5, you may feel it appropriate to give weight to the following matters:

- The policy amplification states that District Centres can provide opportunities for an appropriate blend of non-retail uses that can play an important role in sustaining vitality and viability;
- The unit is not presently vacant and it is understood that it has been operating in a A3 use capacity for some time as opposed to an A1 use. As such you may feel that this can be considered to be a demonstrable indicator in terms of market demand. Furthermore, you may agree that the unit presents as a prominent feature on the streetscene in terms of its architectural / placemaking function. To this end, maintaining its ongoing occupancy and footfall generation contribution within the District Centre would be highly desired;
- The proposed 'daytime' opening hours offer potential to generate footfall, social interaction and a vibrant and viable streetscene context. Should you deem it to be relevant and enforceable, you may wish to consider the imposition of conditions in regards the 'daytime' opening hours as stipulated by the applicant;
- The preference for retaining and encouraging retail where possible at ground floor level, as set out in the policy, must be balanced against the realities of the fundamental shift in the retail industry and shopping habits.



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- An on-balance decision should be reached as to whether approval of this application would deliver overall benefit to the Centre and would not have an overall unacceptable adverse impact on the Centre's ability to provide a shopping function. To this end, a place-based approach, which recognises the intended role and function of Pontarddulais as a vibrant and viable centre, is required. You may wish to agree that such place-based considerations should also recognise the inherent sustainability credentials exhibited by the Centre itself as well as the wider Pontarddulais settlement. The settlement exhibits public transport provision (bus and rail) as well as a range of community facilities and services.

A further LDP policy that should be given notable weight in the determination of this application is Policy RC 9 'Ground Floor Non-Retail Uses within Centres'. You will note that within the Swansea Central Area Retail Centre and District Centres, proposals for non-retail uses at ground floor level must not give rise to an unacceptable loss and dilution of retail frontage, or have a significant adverse impact upon the vitality, viability or attractiveness of the centre, having regard to the specified policy principles. Business (Class B1) and residential (C3) uses will not generally be supported at ground floor level. Due consideration must be given to the seven criteria listed in LDP Policy RC9. I have addressed these individually below:

**i. The relationship of the proposed unit to other existing or approved non-retail uses within the centre, with a presumption against proposals that result in a continuous run of 3 or more non-retail uses**

It is noted that the applicant's planning statement (received September 2023) states that: "The mixed use would also not result in the introduction of a continuous row of 3 or more A3 units".

In noting the prescriptive nature of this criterion, you are advised that as part of reaching a balanced outcome, regard must also be given to the latest National guidance and the severe economic impact of the Covid-19 pandemic. Edition 11 of Planning Policy Wales (PPW - February 2021) recognises the importance of sustaining and enhancing Centres and encourages a diversity of activity and uses within Centres.

Significantly, it states in paragraph 4.3.36, where economic decline is impacting on a retail and commercial centre, a sole emphasis on retaining A1 uses in premises - either in primary or secondary areas - that have been vacant for a period of time, may undermine a centre's viability and vitality. In such circumstances PPW encourages planning authorities to consider how non-A1 uses may play a greater role to increasing diversity and reducing vacancy levels.

Welsh Government have published guidance that reaffirms its commitment to placemaking with a people-focused and placemaking-led recovery from the pandemic. The Building Better Places: The planning system delivering resilient and brighter futures guidance (July 2020) includes specific reference to commercial centres. Welsh Government recognises that retailers are facing financial difficulty and as a consequence vacancy rates are expected to rise dramatically in commercial centres. To prevent this, it emphasises how commercial centres must adopt a more flexible approach to create a hub of activity thus making commercial centres viable as go-to destination once again.

In noting that the unit is not presently vacant, you may consider it appropriate, with reference to the contemporary national policy position, to give due weight to its ongoing contribution (as an A3 use) to the vibrancy of the District Centre.

**ii. The effect upon the shopping function of the centre, either individually or in combination with other non- A1 retail uses**

Whilst the proposed use does offer potential to contribute towards vibrancy and footfall, it will be important to consider and confirm that the proposed use recognises that such uses should be subordinate to the retail function and provide a complimentary function in this regard. To this end, a dual focused approach should be undertaken in respect of the (1) use/site itself and (2) the overall sense of place/role and function of the centre. Whilst the review of adjacent properties can be undertaken by way of site visit, you will note that information on vacancy rates within Retail Centres is available within the LDP Annual Monitoring Reports, whilst the Council's Research and Information Service Team undertake survey work on the Centres which can also be referred to.

**iii. The nature and design of the shop front and window display that is to be provided**

You may wish to agree that an A3 use offers the opportunity to promote and embed an active and interesting ground floor frontage and streetscene. It is understood that no external alterations are proposed. However (if you deem relevant and enforceable) you may wish to consider the imposition of conditions that require that the existing ground-floor windows and shop fronts are not obscured, either internally or externally, by paint, whitewash, film, curtains or any other opaque material. However, in summary, an A3 frontage can present as interesting, interactive and would not typically result in the creation of 'dead frontages'.

**iv. The location and character of the unit and/or site, including its relative proximity to the most primary frontage and its relative importance for retention as a retail use by virtue of its: design; orientation; size; or siting;**

As previously stated, it is considered that the unit does offer a placemaking contribution from a character perspective and as such its ongoing usage and occupancy is desired.

It should be noted that the LDP does not in itself delineate primary and secondary retail frontages on the Proposals Map. The District Centres, Local Centres and Community facilities Supplementary Planning Guidance (SPG) - 2010- was adopted by the Council prior to formal adoption of the Swansea LDP, however it does remain valid and can provide important guidance to inform planning decision making. This does provide a micro level analysis of the Centre and identifies a primary frontage, however a pragmatic approach to its use and the weight afforded to it is advised, particularly in light of the required appreciation of the contemporary policy position and evidential facets - particularly post Covid-19.

**v. The impact of the proposed use upon the amenity of adjacent or nearby residents and businesses**

It is noted that the unit has been operating as a A3 use for some time and there do not appear to be any issues in respect of amenity and nearby residents.

You will note that the LDP contains a suite of policies in regards Resources and Public Health Protection - notably RP 1 'Safeguarding Public Health and Natural Resources' RP 2 'Noise Pollution' and RP 3 'Air and Light Pollution'. Due reference would be given to any consultation response from the relevant consultees.

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In regards the consideration intensification of use and notably parking (LDP Policy T6 'Parking' refers), it is noted that this is a settlement that exhibits sustainability credentials. Due reference would be given to any consultation response from the relevant consultees.

**vii. The likelihood of the unit remaining vacant for a significant period of time, to be informed by evidence of appropriate marketing undertaken over a minimum of 12 months to establish a retail occupier.**

Whilst not a validation requirement, it is considered the submission of marketing evidence is important as it allows for the consideration of whether there is a demonstrable case of market failure (in the case of this proposal - market failure in regards A1 use). Regrettably, it would not appear that any such evidence has been forthcoming from the applicant.

A further concern is the fact that this is a small unit, and as such would appear to offer a potentially important function as a 'start-up' resource for fledgling A1 enterprises, contrasting with those larger units found elsewhere. A review of whether there are any other similar units readily available / vacant would be helpful.

In noting the above concerns, and as part of a balanced outcome, you may wish to give some weight to the fact that the A3 use appears to have been operational for some time and as such it appears to be a viable use of a prominent unit on the Pontarddulais streetscene.

### **Placemaking and Biodiversity Requirements - Policies & Analysis**

The Development Plan at national and local level places significant emphasis on the importance of placemaking and the following identifies the key policies and principles in this regard that all proposals must to adhere to:

Future Wales Policy 2 requires that:

- all development should adhere to the defined placemaking principles in order that it positively contributes towards building sustainable places that support well-being objectives, and
- opportunities should be taken to ensure that multifunctional (Green Infrastructure) GI is fully integrated into development schemes at a range of scales wherever possible.
- Swansea LDP Policies PS 2 and ER 2 require that:
- all proposals should adhere to the defined placemaking principles and development criteria, to ensure that proposals make a positive contribution to the experience and enjoyment of places
- development should enhance the quality of places and spaces, and respond positively to aspects of local context and character
- the design, layout and orientation of proposed buildings, and the spaces between them, should provide for an attractive, legible, healthy, accessible and safe environment, and must not cause unacceptable impacts on people's amenity, and that

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- development must take opportunities to maintain and enhance the County's GI network, having regard to the extent, quality and connectivity of the GI resource.

Swansea Council is a signatory to the Wales Placemaking Charter which defines the placemaking principles and range of considerations that should be applied to all developments, in the interests of maintaining and creating good places.

In tandem with placemaking requirements, the Development Plan and national policy also requires that all applications must enhance biodiversity and ecosystem resilience, and that nature-based solutions to the design process should be integrated wherever possible, which is in line with the Council's duty under Section 6 of the Environment (Wales) Act 2016. In particular:

**Future Wales Policy 9 requires that:**

- in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment action.

**PPW** requires that:

- all applications must submit a GI Statement that is proportionate to the scale of development
- applicants should identify the actions and approach taken to maintain and enhance biodiversity and ecosystem resilience as part of the proposed development, following a 'stepwise approach' (Para 6.4.21)

**Swansea LDP Policy ER9** highlights that:

- all development should maintain, protect and enhance ecological networks and features of importance for biodiversity

The adopted Biodiversity and Development SPG sets out how the requirement for biodiversity can be addressed using the step wise approach, as well as details of specific measures that could be provided to enhance biodiversity and ecosystem resilience.

**Other Key Issues**

With reference to LDP Policy RP 5 'Avoidance of Flood Risk' and notably the provisions of national policy in the form of Technical Advice Note (TAN 15) 2004 - and the emerging updated TAN 15 - you are advised to review the site's location in respect of Zone C1 of the Development Advice Map, along with the Flood Map for Planning. Due regard would be given to the responses from relevant consultees in this regard. It is noted that Natural Resources Wales offer no objection, rather they outline advice in terms of advisories.

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With reference to LDP Policy HC3 'Development in the Welsh Language Sensitive Area', you will note that Pontarddulais is included within the Language Sensitive Area. Whilst there may not be signage proposed in this proposal that is subject to planning control and/or the proposal does not meet the thresholds of LDP policy HC3 - you are advised to actively encourage that any signage proposed should be bi-lingual.

In addition to the SPG already cited, you will note that a Shopfront and Commercial Frontage Design Guide (2017) has been adopted by the Council pre the LDP. However, it is accepted that given there are no external alterations proposed this may not be of particular relevance in this instance.

### **Final Comments**

It is considered that there remains scope for the applicant to further evidence a demonstrable alignment with LDP policy. In spite of this, you may wish to agree that the unit's ongoing operation as a viable A3 use, together with the contemporary policy emphasis on vitality, viability and attractiveness, are notable considerations that should be given particular weight and could weigh in favour in the determination of this application.

### **Neighbour comments:**

The application was advertised by neighbour notification letters sent to Nos. 30 (ground and first floor) and 34 St Teilo Street and through the display of a site notice on the 5th October 2023. The application was also advertised as a departure in the local press. No responses were received.

### **APPRAISAL**

#### **Main Issues**

The main issues to consider in the determination of this application relate to the principle of this type of use within Pontarddulais District Centre having regard to the Centre's vitality, viability and attractiveness, the impact of the proposal upon the visual amenities of the area, the residential amenities of the neighbouring properties and highway safety having regard to the prevailing provisions of the relevant development plan 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 site lies within the boundaries of Pontarddulais District Centre. Policy RC 5 of the LDP seeks to retain appropriate retail opportunities within District Centres to ensure they are vibrant and attractive locations that are well equipped to support the communities they serve. Attached to this policy is the criteria to which all proposals within the District Centre is required to satisfy.

To this end, a material consideration in the determination of this application is whether the potential loss of a retail unit (Class A1) within the Pontarddulais District Centre will have an unacceptable impact on the role and function of the Centre. Paragraph 2.8.33 of the LDP outlines as follows: "District Centres also provide opportunities for an appropriate blend of non-retail uses that can play an important role in sustaining vitality and viability.

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The criteria set out in the policy seeks to ensure that development proposals deliver the right offer and balance of facilities in order to encourage investment. A flexible approach will be taken to the consideration of proposed changes of use where appropriate to respond to changing needs and circumstances, but within an overarching framework of safeguarding the primary shopping function of Centres."

To assist in determining whether this proposal satisfies the requirements of Policy RC5, regard and weight is afforded to Policy RC9 of the LDP which specifically considers ground floor non-retail uses within District Centres. This policy states that proposals for non-retail uses at ground floor level must not give rise to an unacceptable loss and dilution of retail frontage, or have a significant adverse impact upon the vitality, viability or attractiveness of the centre. Regard should be had to:

- i. the relationship of the proposal to other existing or approved non-retail uses,
- ii. the effect upon the shopping function of the centre,
- iii. the nature and design of the shop front and window,
- iv. the location and character of the unit and/or site,
- v. the impact of the proposed use upon the amenity of adjacent or nearby residents and businesses,
- vi. whether the development allows for, or retains the effective use of, upper floors; and
- vii. the likelihood of the unit remaining vacant for a significant period of time.

Notwithstanding the above, within Section 2.8.46 of the LDP, it is stated that a range of uses within Centres, in addition to Class A1 retail, can generate footfall and help maintain vibrancy and attractiveness. It is imperative that proposals maintain an appropriate mix and balance of uses, and fundamentally respect the primary shopping function. Further guidance on the appropriate proportions of Class A1 retail uses to be retained within primary and secondary frontages is provided in the adopted District Centres, Local Centres and Community Centres SPG, in the interest of avoiding any unacceptable deadening of the commercial frontage.

Also, it should be acknowledged that the SPG was derived from the former Unitary Development Plan, rather than the current Local Development Plan, and therefore it may be appropriate only to afford limited weight to its contents as part of assessing LDP policies against the development proposal, bearing in mind that each application should be judged on its own individual merits, focusing on the overarching aim of retail development policies of protecting the vitality, viability and attractiveness of District Centres.

The proposal is assessed below having regard to the aforementioned criteria contained within Policy RC9 of the Swansea LDP.

**i. The relationship of the proposed unit to other existing or approved non-retail uses within the centre;**



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The application site forms part of the primary retail frontage of Pontarddulais District Centre. The SPG states that within District Centres, the minimum percentage of A1 shops to be retained within primary frontage areas is 50%. Appendix E of the SPG outlines how to calculate non-retail uses. It advises that a frontage should generally comprise a continuous, linear run of adjacent properties on the same street that together form a meaningful grouping.

The River Loughor which separates Nos. 18 and 19 St Teilo is not significant undeveloped space and Bryn Road (between The Wheatsheaf and Jenkins) is a narrow single width road which does not identify as a prominent or noteworthy gap in the context of the primary frontage and overall streetscene. On this basis, the relevant frontage is considered a block between Nos. 12 (The Pet Store) to 68 (Classic Blinds & Curtains) on St Teilo Street.

Within this frontage, there are 18 commercial units, intersperse with residential dwellinghouses. Within the 18 units, 61% are currently in Class A1 use, which would reduce to 55% because of the development proposal. This figure nevertheless exceeds the 50% threshold required by the SPG to retain a high proportion of Class A1 retail shops at primary frontages in District Centres. In addition, and in accordance with para. 6.10 of the SPG, the proposal would generate footfall akin to a retail use due to its daytime opening hours and bring increased vitality to the area. As such, it is not considered that the use of the unit as a hot food takeaway (Class A3) would itself undermine the retail vitality and viability of the Centre.

**ii. The effect upon the shopping function of the centre, either individually or in combination with other non-A1 retail uses;**

The application site is located between Celtic Wealth Management (Class A2 Financial Services) and Tree and Gubb Stonemasons (Class B1). The SPG acknowledges that whilst retailing should continue to underpin District and Local Centres, a broad range of appropriately located supporting non-retail facilities and services will be encouraged to help safeguard their wellbeing. In this case, it is considered that the proposed daytime use of the unit which is intended to open Monday to Saturday 7am to 4:00pm and Sunday and Bank Holidays 9am to 2:00pm would contribute to the centre's vibrancy.

**iii. The nature and design of the shop front and window display that is to be provided;**

With regard to visual amenity, there are no external alterations proposed to the front exterior of the building. The existing shop front display will therefore be retained and would ensure adequate visual interest and interaction within the public realm of the District Centre.

**iv. The impact of the proposed use upon the amenity of adjacent or nearby residents and businesses;**

Whilst it is acknowledged that there are residential properties within the vicinity of the application premises, the unit is located within a hub of commercial uses. Therefore, it is considered that the level of activity associated with the proposed use is considered appropriate for the area and would not significantly harm the residential amenity of surrounding properties. The Council's Pollution Control Section has been consulted on the development proposal and has raised no objection subject to conditions relating to a scheme for ventilation extraction.

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It is also noted that this is a detached, single-storey with limited storage space above, which is relatively small with only a floorspace of approximately 57sqm. Furthermore, a condition to control opening times to daytime hours would also significantly reduce the impacts of the use upon the amenities of neighbouring properties and reinforce the weight afforded to the proposal being a daytime use, in the interests of protecting the vitality, viability and vibrancy of the Centre.

**v. Whether the development allows for, or retains the effective use of, upper floors;**

The application property is largely a single storey building with limited storage above and as such this criterion is not significantly relevant in the determination of the planning application.

**vi. The likelihood of the unit remaining vacant for a significant period of time, to be informed by evidence of appropriate marketing undertaken over a minimum of 12 months to establish a retail occupier.**

Criterion vi requires that marketing particulars including adverts details, offers, interested parties etc. should be submitted with the planning application. The agent has confirmed that the property was not marketed to secure a new retail occupier. As such, there is no evidence to demonstrate long-term vacancy and/or a lack of demand from a retail occupier. However, taking a flexible and pragmatic approach, Class A3 uses are considered an appropriate use within District Centres. Such uses can meet the needs of residents and visitors to a Centre, add vibrancy to an area and contribute positively to vitality and viability.

Unlike a traditional A3 hot-food establishment which tends to open in the evenings and night, this proposal is for a daytime use which will operate during typical shopping hours, and the nature of the use of the premises is akin to a retail outlet or a day-time café and likely to generate the same footfall and patterns of pedestrian movement. The proposal also seeks to retain an active premises frontage.

In conclusion, whilst it is acknowledged that that the proposal does not accord with aspects of Policy RC9, it is considered, on balance, that the proposed change of use would complement the existing offer in Pontarddulais District Centre, thereby promoting economic activity and contribute to the diversity of uses within the Centre. It would also generate footfall throughout the daytime, and retain interest and vibrancy within the Centre. As such, it would not have an adverse impact upon the vitality, viability or attractiveness of the Centre which are generally regarded as the key aspects of planning policy associated with safeguarding retailing and commercial centres. In this context, the proposal is deemed, on balance, to satisfy the general aims of Policies RC5 and RC9 of the Swansea LDP and the Supplementary Planning Guidance Document entitled 'District Centres, Local Centres and Community Facilities'.

**Placemaking/ Visual Impact**

No external alterations are being proposed to the application building. As such, it is not considered that the proposed development would have any serious adverse impact on the character and appearance of the host building or the street scene.

**Residential Impact**

Whilst there are some residential properties within the vicinity at the premises, the unit is located within a hub of commercial uses. Therefore, it is considered that the level of activity associated with the proposed use is considered appropriate for the area and would not significantly harm the residential amenity of surrounding properties, in terms of increased levels of noise and disturbance. To this end and as noted above, the Council's Pollution Control Section has been consulted on the development proposal and has raised no objection subject to conditions relating to a scheme for ventilation extraction.

It is also noted that this is a detached single-storey unit with some limited storage space above and is relatively small with only a floorspace of approximately 57sqm. Furthermore, a condition to control opening times to daytime hours would also significantly reduce the impacts of the use upon the amenities of neighbouring properties.

**Highway Safety/ Active Travel**

The application site is located within an established District Shopping Centre, which has a wide range of commercial premises and amenities and is served by excellent transport links and car parking in the form of on street parking bays. As such, given the sustainable location, it is not considered that the proposal would have an unacceptable impact on the safe and efficient operation of the transport network.

Accordingly, the Head of Transportation and Engineering has therefore raised no objections to the proposal.

Notwithstanding the above, the LHA has requested a condition for details of how refuse will be stored and collected to be submitted and agreed by the LPA. The submitted plans however show an external area to the rear of the application premises which is adequate for the storage and recycling of waste for a commercial property of this size. It would then be the operators responsibility to place waste on kerbside on refuse collection days. As the premises previously operated as a sandwich delicatessen, the refuse arrangements would be similar for the proposed use. As such, the proposal, on balance, complies with LDP policy RP 10 for sustainable Waste Management for New Development.

**Biodiversity**

Policy 9 of Future Wales states that in all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated.

Policy ER 9 of the LDP supports this and states that proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Whilst the applicant has not indicated any measures as part of the application, it is considered reasonable and necessary in this instance to secure a scheme of ecological enhancement measures by condition to ensure that a net benefit is provided to biodiversity as part of this application.

## **Flooding**

The site lies entirely within a C1 flood zone. Given the scale and nature of the proposed development, NRW do not object to the proposal subject to the applicant being made aware of the potential flood risks and advised to install flood-proofing measures as part of the development. An informative to this effect is therefore recommended.

Notwithstanding this, the proposal still needs to be assessed against Paragraph 6.2 of TAN 15. In broad terms, the Local Development Plan seeks to ensure that the vitality and viability of established centre are not adversely affected. Whilst the proposal would result in a loss of a retail unit, the scheme has been assessed on its own merits and conclude that it would not, on balance, adversely affect this District centre. As such, the proposal is deemed to be compliant with the aims of the LDP to justify the proposed use. Whilst no Flood Consequences Assessment has been submitted, the proposal involves less vulnerable development (which is the same as the existing use) and generally concurs with the aims of PPW and meets the definition of previously developed land. NRW have no objection to the scheme. On this basis, therefore, the proposal is considered to comply with the requirements of Policies PS2, ER1 and RP5 and the overall intentions of the TAN 15.

## **Conclusion**

Having regard to all relevant planning policy, guidance and material considerations, it is considered, on balance, that the proposal represents an acceptable form of development that would complement the existing offer in Pontarddulais District Centre. Whilst it is acknowledged that that the proposal does not accord with aspects of Policy RC9 of the LDP, it is considered, on balance, that the proposed change of use would promote economic activity and contribute to the diversity of uses within the Centre, generating footfall throughout the daytime, and retaining interest and vibrancy. As such, it would not have an adverse impact upon the vitality, viability or attractiveness of the Centre which are generally regarded as the key aspects of planning policy associated with safeguarding retailing and commercial centres. In this context, the proposal is deemed, on balance, to satisfy the general aims of Policies PS2, RC5 and RC9 of the Swansea LDP and the Supplementary Planning Guidance Document entitled 'District Centres, Local Centres and Community Facilities'.

Regard has also 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.

## **RECOMMENDATION**

### **APPROVE, subject to 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.

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- 2 The development shall be carried out in accordance with the following approved plans and documents: Site and location plan (2385-AL(SP)01 and existing floor plans, received on 19th September 2023, existing elevations (002), received on 29th September 2023  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The use hereby approved shall not operate and no customers shall be allowed on the premises outside of the following hours:
- Monday to Saturday 07:00 - 16:00; and
- Sunday and Bank Holidays 09:00 to 14:00
- Reason: To ensure that the premises operates during the daytime and retains a complimentary function which protects the vitality, viability, vibrancy and attractiveness of the District Centre and to safeguard the amenities of neighbouring residents - Policies PS2, RC5 and RC9 of the Swansea Local Development Plan (2010-2025).
- 4 Within 3 months of the date of the hereby grant of planning permission, a scheme of Ecological Enhancement Measures and an Implementation Timetable shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.  
Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and ER 9 of the Swansea Local Development Plan (2010-2025).
- 5 Any equipment required to control the emission of fumes and odour from the hereby approved use shall be first submitted to and approved by the Local Planning Authority in writing prior to being installed at the application premises. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.  
Reason: In the interests of conserving public health and local amenity and in the interests of visual amenities - Policies PS2 and RP1 of the Swansea Local Development Plan (2010-2025).

### Informatives

- 1 The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application: Policy 1, 2, 6 and 9.
- 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: Policies PS2, ER1, RP1, RP4, RP5, RP10, RC5, RC9, ER8, ER9, T1 and T6.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.

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- 3 Natural Resources Wales (NRW) recommend that consideration be given to the incorporation of flood resistance/resilience measures into the design and construction of the development. These could include flood barriers on ground floor doors, windows and access points, implementation of suitable flood proofing measures to the internal fabric of the ground floor and locating electrical sockets/components at a higher level above possible flood levels.

NRW refers the applicant to their website for further advice and guidance available. Additional guidance including the leaflet "Prepare your Property for flooding" can be found there. The developer can also access advice and information on protection from flooding from the ODPM publication 'Preparing for Floods: Interim Guidance for Improving the Flood Resistance of Domestic and Small Business Properties' which can be found there.

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The site comprises an irregular shaped parcel of greenfield land measuring approx. 1.7 ha located outside and adjoining the defined LDP settlement boundary around the north of Penyrheol. The site is bordered by agricultural land to the north, a covered DCWW reservoir and a working farm to the west and existing residential development comprising 3 no. detached dwellings set in substantial plots to the east. The southern boundary fronts onto Pencefnarda Road. The residential settlement of Penyrheol is located on the opposite side of Pencefnarda Road to the south. The site slopes upwards from east to west with the existing 3 no. detached dwellings to the east of the site boundary at a significantly lower ground level than the reservoir to the west. There is currently no access to the site from Pencefnarda Road.

Since the granting of consent, 9 of the pre-commencement conditions have been discharged, with the live decision notice attached to the consent currently Version 6. In addition, the 6 person 4 bedroom detached properties have been modified slightly to remove the small front dormer projections via non-material amendment application 2023/2471/NMA, approved 19th December 2023 and the brick type for certain properties has been amended via non-material amendment application 2023/1640/NMA, approved 5th September 2023 (from Forterra Rossendale Red to Forterra Farmstead Antique, from smooth red brick to textured brick of varied richness of red).

The applicant originally sought for the addition of Photo Voltaic Cells and Air Source Heat Pumps via an application for non-material amendment (2023/1226/NMA refers). However, as no Photo Voltaic Cells or Air Source Heat Pumps were included in the original consent, the prominence of the amendments and the potential impact of some of the Air Source Heat Pumps on residential amenity, the proposal was considered to represent a material amendment to the consent and was refused on 21st August 2023.

Subsequently, the applicant is seeking to regularise the above amendments via a Section 73 application.

### **Description of Development**

An application has been made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary Condition 2 (Plans) of planning permission 2020/2357/FUL granted 29th September 2021, to allow for the addition of Photo Voltaic (PV) Cells to the roofs of all properties and flat block and Air Source Heat Pumps (ASHPs) to the rear of all properties and flats block.

The original planning permission has the following description of development:

Construction of 44 no. dwellings (100% affordable housing) with landscaping, access and associated works.

Condition 2 deals expressly with the approved plans, with a full set of the approved plans being re-submitted for this application with the addition of PV cells and ASHPs where relevant.

As stated previously, the development has already commenced, the original consent is therefore considered extant.

### **Consultation**

The application was advertised by Ward Member and Consultation letters sent on 3rd January 2024. A Site Notice was also placed on the public highway fronting the site on 5th January 2024.

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## **Consultation Responses**

### Gorseinon Town Council

No objection raised in the minutes of the Town Council Meeting dated 3rd January 2024.

No further comments have been received to this application to date.

## **APPRAISAL**

### **Section 73 procedure**

As a Section 73 application, the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and-

- a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- b) If they decide that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Any new planning permission should include all the previous conditions (where necessary) in order to avoid the possibility of the new permission being interpreted as having no conditions other than those applied to vary.

### **Issues**

The main issues for consideration during the determination of this application relate to whether the variation of the plans condition would have an acceptable impact upon visual and residential amenity having regard for the provisions of the Swansea Local Development Plan and the Site History.

### **Principle of Development**

The principle of residential development at this site, albeit for 100% affordable housing, has been established by the original consent. The only matter for consideration here is the impact of the PV cells and ASHPs would have over and above that of the original consent. In this regard, Policy EU 2 of the LDP encourages new development to maximise the contribution of renewable or low carbon energy technology to the meet the energy demands of the proposal. Therefore, subject to the amendments to the original consent meeting the policy requirements in the assessment below, there would be no conflict with Policy that would prejudice the principle of the development at this location.

### **Visual Amenity**

As stated previously, the applicant originally sought for the addition of PV cells and ASHPs to the properties as a non-material amendment to the original consent (2023/1226/NMA). However, the scale of the amendments, given no PV cells or ASHPs were included with the original consent, were considered to materially alter the consent.

In terms of the introduction of PV cells at this site, they are becoming more and more prevalent in large scale housing developments to meet the requirements of National and Local Policy to promote renewable energy in new development. Whilst noting they did not form part of the original consent, it is considered that the introduction of PV cells across the site, given they are well proportioned within the respective roof slopes, would not appear unduly incongruous or out of character with this modern residential estate.

Similarly, the introduction of ASHPs, whilst not forming part of the original scheme, are sited to be to the rear of the properties and as such, would not be unduly prominent or visually intrusive. Moreover, they are not considered incongruous additions to modern residential development sites, sited at ground level and located to the rear of the properties.

The scheme contains one block of flats and it is noted that a small number of ASHPs would be sited around cill level. However, these are sensitively located to be screened by the wider development, facing parking courtyards and an embankment separating the block from public open space. Furthermore, the element facing the embankment would be sited on a wall with a white rendered backdrop which mitigates its visual impact. It is therefore considered, on balance, that the ASHPs would not appear unduly prominent or visually intrusive within this modern residential estate.

In light of all of the above, it is not considered that the introduction of PV Cells or ASHPs at this location would generate an adverse visual impact upon the character and appearance of the area and the wider surroundings. The proposal would also have a positive impact on the use of renewable energy resources in terms of placemaking principles, Similarly, the layout and overall design of the development would not be altered by these additions, ensuring the development would still create a good quality and distinctive streetscape that would accord with the provisions of LDP Policy PS 2 and the Placemaking Guidance for Residential Design SPG.

### **Residential Amenity**

Given the scale and siting of the proposed PV cells, contained proportionately within their respective roof slopes, it is not considered that an adverse impact on residential amenity would result. Similarly, the nature and siting of the ASHPs on the dwellings, set at ground floor level away from shared boundaries, would not adversely impact neighbouring amenity. It is noted that a small number of ASHPs would be sited around cill level in relation to serve first floor flats, however, the nearest windows to the units would be kitchen windows and they are sited sufficiently away from said units so as to not appear visually intrusive or detrimental to amenities of occupiers. Furthermore, the technical data submitted in support states the units generate a noise level no greater than 60db, which is the equivalent of a normal conversation or small domestic appliances. It is not therefore considered that the proximity of the ASHPs to the kitchen windows of the flats would give rise to an adverse impact on the amenity of future occupiers of said flats.

### **Highway Safety**

The proposed development would not impact the availability of parking on site, nor would it increase the demand for car parking. As such, highway safety is considered to be unaffected by the proposed development.

Whilst it is noted that Condition 4 (engineering, street lighting and construction of internal roads) has yet to be discharged, details were submitted in advance of commencement and are subject to ongoing Highway Authority negotiation, and this will need to be re-imposed in full given the details have yet to be formally discharged. Notwithstanding this, it is considered that the proposed introduction of PV cells and ASHPs would not impact access and highway safety.

## Ecology

No additional ecological impacts are considered to arise from the amended scheme and the details of the approved ecological enhancement scheme (BBHL-01 REV C received 23rd August 2021) are still applicable.

## Other Issues

The S73 procedure effectively grants a new permission for the site, which in this instance involves the entire residential development. Therefore, it is necessary to include all the original conditions, and, where relevant, those that have since been amended, in order to retain control of the site via approved details. The development is in an advanced state, with the pre-commencement conditions already discharged (with the exception of Condition 4 mentioned in the Highway Safety section), therefore, where necessary, the relevant conditions have been amended to reflect the discharged details accordingly. Condition 1, which required the development to commence within 5 years of the permission is the only condition which, given the development has commenced, is the only condition no longer required to be imposed.

## Planning Obligations

The original S.106 agreement for this development provided for the following:

- i. 44 affordable housing units (100%) on the site comprising 100% social rented tenure and DQR compliant;
- ii. Highways contribution of £25,000 to pay for:
  - Pedestrian crossing facilities, comprising dropped kerbs and tactile paving on Heol Elfed at the junction with Pencefnarda Road;
  - Pedestrian crossing facilities, comprising dropped kerbs and tactile paving on Heol Elfed at the junction with Frampton Road;
  - Junction Upgrades, comprising a refuge with dropped kerbs and tactile paving throughout on Pencefnarda Road at the junction with Frampton Road.
  - Pedestrian crossing facilities, comprising dropped kerbs and tactile paving on Pencefnarda Road with no raised crossing.Monies to be paid prior to the occupation of the 1st residential unit;
- iii. Education - Contribution of £30,200 plus indexation for YGG Pontybrenin 50% of the education contribution (plus indexation) on the commencement of development; and the remaining 50% on the occupation of the 25th residential unit on the site;
- iv. Play - To provide the Local Equipped Area of Play, in accordance with Drawing No edp6658\_d011e dated 26th May 2021, prior to the occupation of the twenty fifth dwelling on the site;
- v. Maintenance and Management plans for the retained trees, new trees and planting, raingardens, existing hedgerows, LEAP, opens spaces, to be submitted and implemented prior to the occupation of the 1st residential unit



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- vi. A Management and Monitoring fee of £3,956 (based on 20% of the planning application fee)

As this application would effectively result in a new permission for the whole site, a new legal agreement is required (via a deed of variation) to ensure ongoing compliance with the applicant's obligations listed above. The amended condition, which forms part of this section 73 application, would not create any additional obligations or require additional contributions over and above those remaining from the existing S.106 agreement.

### **Conclusion**

In conclusion, the proposed variation of condition 2 to allow for the addition of Photo Voltaic Cells is considered to have an acceptable impact on visual and residential amenity and the addition of Air Source Heat Pumps are, on balance, also considered acceptable in terms of their amenity impact. The proposals are therefore considered to accord with Policy PS 2 of the Swansea Local Development Plan.

### **Recommendation**

**Approve, subject to the conditions indicated below and the applicant entering into a Deed of Variation to the Section 106 Planning Obligation in respect of the requirements listed above;**

**If the Section 106 agreement is not signed within 3 months of the date of the Committee resolution, then delegated powers be given to the Head of Planning and City Regeneration to exercise discretion to refuse the application.**

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

- PF-01 Rev C Plot Finishes;
- SOC-T-01 Schedule of Components (Typical Single entrance and canopy combinations)
- Sheet 1 of 5;
- SOC-T-02 Schedule of Components (Combined and other external doors) Sheet 2 of 5;
- SOC-T-04 Schedule of Components (Chimney details) Sheet 3 of 5;
- SOC-T-04 Schedule of Components (Dormer and roof windows) Sheet 4 of 5;
- SOC-T-05 Schedule of Components (Window profiles) Sheet 5 of 5;
- EDP6658-D012 Rev B Detailed soft landscape plan;
- EDP6658-D011 Rev E Public Open Space Play Strategy;
- D01 Brick screen wall;
- D02-1800 Close board fence;
- D03-1200 Close board fence;
- D04 Close board gate;
- D05-1100 High ball top railings;
- D08-1800 Retaining wall;
- D09-110 Handrail;



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- D10 Steps with side wall;
- D11 Retaining wall with ball top railings;
- D12-500 Steel kneel rail;
- D13-2000 Close board fence;
- D14-900 Picket fence;

Received 2nd June 2021;

- edp6658\_d013 Typical raingarden section

Received 13th August 2021;

- HF-01 REV F House Finishes layout;
- 1958 SS-01 Rev G Typical Street scenes;
- BBHL-01 Rev C Bird & bat box locations & hedgehog access routes;

Received 23rd August 2021

- 2511/501 Rev A - Infiltration Basin Details
- EW-01 REV G External works layout;
- Shed 01 - Timber Shed Detail

Received 31st August 2021;

- 2511/505 Rev B Engineering levels
- 2511/506 Rev C Road & site sections

Received 3rd September 2021.

- 1958/4B2P2 /01 REV A FLOOR PLANS
- 1958/4B2P2 /02 REV C ELEVATIONS BRICK
- 1958/4B2P3 /01 REV A FLOOR PLANS
- 1958/4B2P3 /02 REV B ELEVATIONS BRICK
- 1958/4P2BV1 /02 REV B ELEVATIONS BRICK
- 1958/4P2BV1 /03 REV B ELEVATIONS RENDER
- 1958/4P2BV2 /01 REV A FLOOR PLANS
- 1958/4P2BV2 /02 REV B ELEVATIONS BRICK
- 1958/4P2BV2 /03 REV B ELEVATIONS RENDER
- 1958/4P5P /01 REV A FLOOR PLANS
- 1958/4P5P /02 REV C ELEVATIONS RENDER
- 1958/5B3P2 /01 REV B FLOOR PLANS
- 1958/5B3P2 /02 REV C ELEVATIONS BRICK
- 1958/5B3P2 /03 REV C ELEVATIONS RENDER
- 1958/5P3B /01 REV B FLOOR PLANS
- 1958/5P3B /02 REV B ELEVATIONS BRICK
- 1958/5P3B /03 REV B ELEVATIONS RENDER
- 1958/5P3BGV2/01 REV A FLOOR PLANS
- 1958/5P3BGV2/02 REV B ELEVATIONS BRICK
- 1958/P28 /01 REV A FLOOR PLANS
- 1958/P28 /02 REV B ELEVATIONS RENDER
- 1958/P31 /01 REV A FLOOR PLANS

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- 1958/P31 /02 REV A ELEVATIONS RENDER
- 958/4P2BV1 /01 REV A FLOOR PLANS
- 958/5P3BG /01 REV B FLOOR PLANS
- 958/5P3BG /02 REV B ELEVATIONS RENDER
- LP-01 REV A Location Plan
- POBL/6P4BD /01 REV B FLOOR PLANS
- POBL/6P4BD /02.1 REV C ELEVATIONS RENDER
- POBL/6P4BD /02.2 REV C ELEVATIONS BRICK
- POBL/APT4H /01 REV A GROUND FLOOR
- POBL/APT4H /02 FIRST FLOOR
- POBL/APT4H /03 REV C ELEVATIONS SHEET 1 OF 2
- POBL/APT4H /04 REV C ELEVATIONS SHEET 2 OF 2

Received 18th December 2023

- TP-01 Rev R Site Layout Plan

Received 25<sup>th</sup> January 2024

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

- 2 Tree Protection Measures shall be carried out in strict accordance with the details provided under application 2021/3001/DOC, approved by Swansea Council on 14th February 2022.  
Reason: To ensure the safeguarding of trees within the development site.

- 3 No development shall commence on the internal road layout and footways until full engineering, street lighting and construction details of the internal road layout and footways have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the roads and footways shall be constructed in accordance with the approved details.  
Reason: To allow proper consideration of the construction details in the interests of highway and pedestrian safety.

- 4 The Construction Environment Management Plan shall be implemented in strict accordance with the details submitted under application 2022/1189/DOC, approved by Swansea Council on 22nd February 2022.  
Reason: In the interest of pollution prevention, biodiversity protection and the wider environment.

- 5 The ecological enhancement measures (bat/bird boxes & hedgehog gaps in fencing) as illustrated on Drawing No. BBHL-01 Rev C received 23rd August 2021, shall be fully provided no later than 6 months following the first beneficial occupation of the 40th dwelling and shall retained and maintained as such for the lifetime of the development.  
Reason: In the interests of the biodiversity of the area.

- 6 Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made at manhole reference number SS58994772.  
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

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- 7 Land Contamination Remediation shall be carried out in strict accordance with the phasing details submitted via application 2021/3001/DOC, approved by Swansea Council on 14th February 2022.  
Reason: To ensure that the safety of future occupiers is not prejudiced.
- 8 Prior to the occupation of any residential unit hereby approved a verification report demonstrating completion of the works set out in the approved remediation strategy, if required by Condition 7 of this permission, and the effectiveness of the remediation shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall include any plan [a "long term monitoring and maintenance plan"] for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.  
Reason: To ensure that the safety of future occupiers is not prejudiced.
- 9 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.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the curtilage of any dwelling house forward of the principal elevation of that dwelling house other than those shown on the approved plans.  
Reason: In the interests of highway safety to ensure adequate visibility splays are provided for all plots and the interests of visual amenity to ensure the landscaping is maintained across the site.
- 11 The car parking spaces as shown on the approved plans shall be provided prior to the first beneficial use of the dwelling to which they relate and shall be kept available for the parking of motor vehicles at all times.  
Reason: To reduce the likelihood of obstruction of the highway or danger to road users.
- 12 The Site Waste Management Plan shall be implemented in strict accordance with the details submitted under application 2022/1189/DOC, approved by Swansea Council on 22nd February 2022.  
Reason: To ensure waste at the site is managed in line with the Waste Hierarchy in a priority order of prevention, re-use, recycling before considering other recovery or disposal option.
- 13 The development hereby approved shall be undertaken in accordance with the recommendations contained in Section 4 'Method Statement' of the Ecological Assessment Update by First Ecology dated May 2021.  
Reason: In the interests of biodiversity and protecting retained habitats and wildlife on the site during the construction process.

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- 14 The Sensitive External Lighting Strategy shall be implemented in strict accordance with the details submitted via application 2022/1189/DOC, approved by Swansea Council on 22nd February 2022.  
Reason: In the interest of bats, other nocturnal species, and the wider environment.
- 15 All planting, seeding or turfing comprised in the approved details of landscaping - Drawing No.EDP6658-D012 Rev B Detailed Soft Landscaping Plan received 2nd June 2021 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 visual and residential amenity and 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.
- 16 Notwithstanding the details as shown on Drawing No. EDP6658-D012 Rev B Detailed Soft Landscaping Plan and Drawing No. edp6658\_d013 Typical Raingarden Sections, soft landscaping adjacent to the highway shall be implemented in strict accordance with the details submitted via application 2021/3001/DOC, approved by Swansea Council on 14th February 2022.  
Reason: In the interests of visual and residential amenity and in the interests of maintaining a suitable scheme of landscaping, including the provision of street trees.
- 17 Prior to the construction of the Local Equipped Area of Play (LEAP), full details of the equipment (as indicated on Drawing No. EDP6658-D011 Rev E Public Open Space Play Strategy received 2nd June 2021), shall be submitted to and approved in writing by the Local Planning Authority.  
  
The play equipment shall be installed and maintained in accordance with the details thereby approved.  
  
Reason: To ensure adequate play facilities are provided in the interest of the wellbeing of the future residents.
- 18 External finishes shall be implemented in strict accordance with the details submitted under application 2022/1189/DOC, approved by Swansea Council on 22nd February 2022 and partially amended by details submitted under application 2023/1640/NMA, approved by Swansea Council on 5th September 2023.  
Reason: In the interest of visual amenity.
- 19 Prior to the first beneficial use of any of the buildings within each phase of the development, full details of the proposed arrangements for future management and maintenance of the proposed internal road within the development shall be submitted to and approved in writing by the Local Planning Authority unless an agreement has been entered into under Section 38 of the Highways Act 1980.

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The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.

Reason: To ensure that the development is provided with satisfactorily maintained and managed streets.

20 The visibility splay to the left of the site exit shall be implemented in strict accordance with the details submitted via application 2022/1189/DOC, approved by Swansea Council on 22nd February 2022.

Reason: To ensure adequate visibility can be achieved for vehicles exiting the site to the left, looking East, in the interests of highway safety and ensure the landscaping is amended accordingly.

21 The development hereby approved shall be undertaken in accordance with the following measures:

- The bilingual marketing of properties;
- The production of a welcome pack for each household which sets out Welsh language provision in the area;
- Ensuring street names are in Welsh in order to protect and promote the local linguistic character and cultural distinctiveness of Penyheol.

Reason: To ensure that the proposal protects, promotes and enhance the Welsh language given that the site is a windfall site located in a Welsh Language Sensitive Area.

### Informatives

1 The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application: 1,2,7,9,28.

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:

PS 1, PS 2, PS 3, IO 1, H 2, HC 3, H 6, SI 1, SI 3, SI 6, SI 8, ER 1, ER 2, ER 8, ER 9, ER 11, CV 1, CV 2, T 1, T 2, T 5, T 6, EU 2, EU 4, RP 4 and RP 10.

2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.

3 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:

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

- 4 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in 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 capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal whether a bat is present at the time or not. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (0300 065 3000).

- 5 Dormice are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in 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 capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal. If evidence of dormice is encountered e.g. live or dead animals or nests, work must cease immediately and the advice of Natural Resources Wales sought.

- 6 Badgers are protected under the Protection of Badgers Act 1992. It is an offence to wilfully kill, injure or take a badger; to interfere with a sett by damaging or obstructing it or by disturbing a badger when it is occupying a badger sett, with intent or recklessly. If any evidence of badger use is encountered e.g. possible setts (these can be a single hole) work must stop immediately and the advice of Natural Resources Wales sought before continuing with any work

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

- 8 Dwr Cymru Informative Note:  
The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991.



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If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains.

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

9      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.

The Local Authority has the power to impose the specified hours by service of an enforcement notice.

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

2 Smoke/ Burning of materials

No burning of any material 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 locals residences from on site lighting.

10 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 e-mail [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk)

11 All access works would be 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.

12 The developer must contact the Highway Authority regarding the provision of a Construction Method Statement.

13 Protected species may be present. Many species are protected under the Wildlife & Countryside Act 1981 (as amended) or are listed in the Conservation of Habitats and Species Regulations 2010 (this legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal).

14 The Council is responsible for the naming and numbering of streets within the administrative area. All new property addresses or changes to existing addresses arising from development for which planning consent is sought must be cleared through the Council's Street Naming and Numbering Officer as soon as building work commences. Street naming and numbering proposals must be agreed with the Council prior to addresses being created or revised. Please note that there is a charge for the provision of some street naming and numbering services.

15 All trenches and excavations shall 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 shall 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.