

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

DEVELOPMENT MANAGEMENT AND CONTROL COMMITTEE

At: Council Chamber, Civic Centre, Swansea.

On: Thursday, 4 December 2014

Time: 5.00 pm

AGENDA

Page No.

- 1 **Apologies for Absence.**
- 2 **Disclosure of Personal and Prejudicial Interests.** 1 - 2
- 3 **Minutes.** 3 - 7
To approve and sign as a correct record the minutes of the meetings of the Development Management & Control Committee held on 30 September & 9 October 2014.
- 4 **Planning Application No.2008/1615 - Former Bernard Hastie and Co. Site, Morfa Road, Swansea.** 8 - 31
- 5 **Proposals for the Enhancement of Existing Powers Generation Facilities at Tata's Port Talbot Steelworks - Written Representations.** 32 - 39
- 6 **Minutes of the Rights of Way Sub Committee. (For Information)**
To receive the Minutes of the Meetings held on 13 August & 8 October 2014.
<http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=151&MIId=5680&Ver=4&LLL=-1>
<http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=151&MIId=5681&Ver=4&LLL=-1>



Patrick Arran
Head of Legal, Democratic Services & Procurement
Thursday, 27 November 2014

Contact: Democratic Services - 636824

DEVELOPMENT MANAGEMENT & CONTROL COMMITTEE (72)

Councillors:

John C Bayliss (Vice Chair)	Andrea S Lewis
Peter M Black	David J Lewis
Nicholas S Bradley	Richard D Lewis
June E Burtonshaw	Clive E Lloyd
Mark C Child	Paul Lloyd (Chair)
Bob A Clay	Keith E Marsh
Uta C Clay	Penny M Matthews
Anthony C S Colburn	Peter N May
David W Cole	Paul M Meara
Ann M Cook	Hazel M Morris
Sybil E Crouch	John Newbury
Jan P Curtice	Byron G Owen
Nick J Davies	Geraint Owens
W John F Davies	David Phillips
A Mike Day	Cheryl L Philpott
Phil Downing	Jennifer A Raynor
C Ryland Doyle	T Huw Rees
V Mandy Evans	Ioan M Richard
William Evans	Christine Richards
E Wendy Fitzgerald	Paulette B Smith
Robert Francis-Davies	Robert V Smith
Fiona M Gordon	R June Stanton
Joe A Hale	Rob C Stewart
Jane E C Harris	D Gareth Sullivan
Terry J Hennegan	Gloria J Tanner
Chris A Holley	Mitchell Theaker
Paxton R Hood-Williams	Ceinwen Thomas
Beverly Hopkins	C Miles R W D Thomas
David H Hopkins	Des W W Thomas
Lynda James	Mark Thomas
Yvonne V Jardine	L Graham Thomas
Andrew J Jones	Linda J Tyler-Lloyd
Jeff W Jones	Gordon D Walker
Mary H Jones	Lesley V Walton
Susan M Jones	T Mike White
Erika T Kirchner	Neil M Woollard

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A "financial interest" is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE DEVELOPMENT MANAGEMENT AND CONTROL COMMITTEE

HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, SWANSEA ON TUESDAY, 30 SEPTEMBER 2014 AT 7.01PM

PRESENT:

Councillor(s)	Councillor(s)	Councillor(s)
J C Bayliss	C A Holley	J Newbury
J E Burtonshaw	P R Hood-Williams	B G Owen
M C Child	B Hopkins	G Owens
R A Clay	D H Hopkins	C L Philpott
U C Clay	L James	J A Raynor
A C S Colburn	Y V Jardine	T H Rees
D W Cole	M H Jones	N M Ronconi-Woollard
A M Cook	A J Jones	P B Smith
S E Crouch	S M Jones	R V Smith
J P Curtice	J W Jones	R J Stanton
N J Davies	E T Kirchner	R C Stewart
A M Day	R D Lewis	M Theaker
P Downing	D J Lewis	C M R W D Thomas
C R Doyle	A S Lewis	L G Thomas
V M Evans	C E Lloyd	M Thomas
W Evans	P Lloyd	D W W Thomas
E W Fitzgerald	K E Marsh	L J Tyler-Lloyd
R Francis-Davies	P M Matthews	G D Walker
F M Gordon	P M Meara	L V Walton
J A Hale	H M Morris	T M White
J E C Harris		

27 **SUSPENSION OF COUNCIL PROCEDURE RULE 12 "CHAIRMAN OF MEETINGS" IN ORDER TO ALLOW THE PRESIDING MEMBER TO PRESIDE OVER THE MEETING.**

RESOLVED that Council Procedure Rule 12 be suspended in order to allow the Presiding Member to preside over this meeting.

(COUNCILLOR D W W THOMAS PRESIDED)

28 **ELECTION OF A CHAIR FOR THE REMAINDER OF THE MUNICIPAL YEAR 2014-2015.**

RESOLVED that Councillor P Lloyd be elected Chair for the remainder of the 2014-2015 Municipal Year.

(COUNCILLOR P LLOYD PRESIDED)

29 **ELECTION OF A VICE CHAIR FOR THE REMAINDER OF THE MUNICIPAL YEAR 2014-2015.**

RESOLVED that Councillor J C Bayliss be elected Vice Chair for the remainder of the 2014-2015 Municipal Year.

30 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors P M Black, W J F Davies, D Phillips, I M Richard, C Richards, R J Stanton, D G Sullivan and C Thomas.

31 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

No interests were declared.

The meeting ended at 7.03 pm

CHAIR

CITY AND COUNTY OF SWANSEA

MINUTES OF THE DEVELOPMENT MANAGEMENT AND CONTROL COMMITTEE

HELD AT THE CIVIC CENTRE, SWANSEA ON THURSDAY, 9
OCTOBER 2014 AT 5.00 PM

PRESENT: Councillor P Lloyd (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
J C Bayliss	R Francis-Davies	R D Lewis
P M Black	F M Gordon	K E Marsh
R A Clay	J A Hale	P M Matthews
U C Clay	J E C Harris	B G Owen
A C S Colburn	P R Hood-Williams	G Owens
D W Cole	B Hopkins	J A Raynor
J P Curtice	D H Hopkins	I M Richard
N J Davies	L James	D G Sullivan
A M Day	M H Jones	C M R W D Thomas
P Downing	A J Jones	L G Thomas
C R Doyle	S M Jones	M Thomas
V M Evans	J W Jones	L J Tyler-Lloyd
W Evans	E T Kirchner	G D Walker
E W Fitzgerald	A S Lewis	L V Walton

32 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors NS Bradley, JE Burtonshaw, AM Cook, SE Crouch, WJF Davies, CA Holley, YV Jardine, CE Lloyd, PM Meara, HM Morris, D Phillips, TH Rees, C Richards, PB Smith, RJ Stanton, RC Stewart, M Theaker, C Thomas and DWW Thomas.

33 **DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS.**

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

Councillor L James – Minute No.37 – Swansea Bay Tidal Lagoon - Personal & Prejudicial and left prior to discussion.

34 **MINUTES.**

RESOLVED that the minutes of the Development Management & Control Committee held on 14 August 2014 be agreed as a correct record subject to the name of Councillor M Thomas being added to the list of Members present.

35 **PLANNING APPLICATION NO.2014/0825 - TWO STOREY SIDE/REAR
EXTENSION WITH BALCONY AT LLOTROG HOUSE, LLOTROG, PENCLAWDD.**

The Head of Economic Regeneration & Planning submitted a report to determine the application

Mr Davies (agent) spoke in support of the application.

A visual presentation was given.

This application had been reported to the Area 2 Development Control Committee on 14 August 2014. The application was referred to the Development Management and Control Committee with a recommendation that the application be approved contrary to officers recommendation as it was considered that there would be no detriment to the visual amenities of the area.

A plan showing the location site was attached as Appendix A, together with a copy of the report to the Area 2 Development Control Committee at Appendix B. If Members resolved to approve planning permission, contrary to officer's recommendation, proposed conditions were detailed in Appendix C.

RESOLVED that the application **BE APPROVED** contrary to the officers recommendation, subject to the conditions set out in Appendix C on the grounds that the development would not be detrimental to the visual amenities of the area.

36 **RESPONSE TO THE CONSULTATION DOCUMENT - DRAFT TECHNICAL
ADVICE NOTE(TAN) 1: JOINT HOUSING LAND AVAILABILITY STUDIES.**

The Head of Economic Regeneration and Planning submitted a report which informed Members of the Welsh Government's consultation on new planning guidance 'Technical Advice Note 1 Joint Housing Land Availability Studies' (Draft), and considered the approval of the draft response outlined at Appendix A.

The background details and issues relating to the proposals were outlined and discussed.

RESOLVED that

1) the contents of the report be noted.

2) the draft consultation response at Appendix A to the report be confirmed and forwarded to Welsh Government in response to the consultation exercise.

37 **SWANSEA BAY TIDAL LAGOON EXAMINATION PROGRESS REPORT.**

The Head of Economic Regeneration and Planning submitted a report which updated Members on the ongoing examination by the Planning Inspectorate of the application for the tidal lagoon.

He reported that further to the report to Committee on 3 July 2014 and the discussions and decisions undertaken by Members, the examination process and detailed discussions between the various interested parties continue to progress.

The report was updated as follows – Para 3.3 – Traffic & Transport, last line of final bullet point should read 'The applicant does not intend'.

The ongoing examination process and the various issues and proposals arising from it were outlined and discussed in detail. Information to be circulated to all Members regarding the Effective Capacity of the proposed development.

RESOLVED that delegated powers be granted to the Head of Economic Regeneration and Planning to negotiate and agree a Section 106 Obligation for consideration by the Secretary of State for Energy and Climate Change.

38 **IMPLICATIONS OF THE BARKAS CASE. (FOR INFORMATION)**

The Head of Democratic Services reported for information and provided an up-date on the recent decision of the Supreme Court in the above case and its implications on village green applications relating to Council owned land.

RESOLVED that the report be noted.

The meeting ended at 6.43 pm

CHAIR

Agenda Item 4

Report of the Head of Economic Regeneration and Planning

Development Management and Control Committee – 4 December 2014

FORMER BERNARD HASTIE AND CO. SITE, MORFA ROAD, SWANSEA –

Referral of Planning Application Ref 2008/1615

Back to this Committee from the meeting on 19 June 2014

RESIDENTIAL RE-DEVELOPMENT OF SITE TOGETHER WITH NEW ACCESS ROAD, CAR PARKING, LANDSCAPING, INFRASTRUCTURE, RE-PROFILING AND ENGINEERING WORKS (OUTLINE) – AMENDMENT TO SECTION 106 AGREEMENT

Purpose:	To re-consider the Section 106 Planning Obligation Heads of Terms for the above application for the residential re-development of the site of the former Bernard Hastie and Co. Site
Policy Framework:	National and Local Planning Policies.
Reason for Decision:	Statutory responsibility of the Local Planning Authority.
Consultation:	Statutory consultations in accordance with planning regulations as set out in the planning application report contained in Appendix B
Recommendation(s):	APPROVED as set out in the report
Report Author:	David Owen
Finance Officer:	Not applicable
Legal Officer:	Not applicable

BACKGROUND

1.0 Background

- 1.1 This application was reported to the Development Management and Control Committee on 19 June 2014 following a referral from the Area 1 Development Control Committee on the 27 May 2014, with the recommendation that the application be approved, subject to conditions and for the Area Committee to authorise officers to negotiate with the applicants / developers with regard to entering into a Section 106 Legal Agreement as outlined in the recommendation.
- 1.2 The application was referred to this Committee as being of strategic importance on the basis of its relationship to the delivery of the Morfa Distributor Road. The redevelopment of this brownfield site would accord with the adopted Tawe Riverside Corridor Study (TRCS). Moreover, the proposed development would assist in the delivery of the Morfa Distributor Road which is one of the key aspirations of the TRCS, through the dedication of land to allow the construction of the MDR.

1.3 The Committee on 19 June 2014 resolved to amend the Section 106 Planning Obligation to the following Heads of Terms:

- The developer / applicant making a staged financial contribution of £480,000 together with the dedication of land (within the developer / applicant's ownership) to deliver the Morfa Distributor Road - to be constructed by the Local Authority. The dedication of land will be conditional upon the procurement by the Council of a contract for the construction of the Stage 2 works. The site access onto the proposed Distributor Road limiting all traffic movements from the proposed development to travel north until such time as the Distributor Road has been completed to provide the through link to New Cut Road.

However, the developer has not completed the Section 106 Planning Obligation as the developer contends that the abnormal development costs have escalated since June, in particular with regard to the required archaeological work, the ground investigation / remediation work and other infrastructure costs, to the extent that the scheme has now become unviable. Whilst the viability of the development is essentially a commercial decision for the developer on whether to proceed with the proposal, having regard to its intrinsic relationship with the proposed MDR this has implications for the Local Authority in delivering this improvement to the strategic highway network.

1.5 A plan showing the location of the application site is attached as Appendix A. Since the Committee on 19 June 2014 a further letter from the applicants has been received, a copy of which is attached as Appendix B. A copy of the report to the Development Management Control Committee on 19 June 2014 is also attached as Appendix C.

2.0 Policy Background

2.1 Unitary Development Plan Policy HC17 states in consideration of proposals for development, the Council will, where appropriate, enter into negotiations with developers to deliver planning obligations under Section 106 of the Town and Country Planning Act. Provisions should be fair and reasonably relate in scale and kind to the individual development.

2.2 The Council's adopted Supplementary Planning Guidance (SPG) on Planning Obligations indicates that the use of such Obligations should ensure that the key infrastructure and other enabling requirements are provided in the first instance to allow development to proceed. Moreover, it states "*It may be necessary to determine the relative priority of different forms of provision in the context of the individual circumstances and planning objectives relative to each development proposal. The element of flexibility in the process should ensure that the viability of development schemes is not prejudiced.*"

The SPG further advises that where a developer contends that the Section 106 requirements are too onerous and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs i.e. a development appraisal. The developer has submitted a viability appraisal in consideration of the proposal in line with the Council's policy using the 3 Dragons Model. The viability appraisal has now been revised to reflect the escalated abnormal development costs.

3.0 Construction of Morfa Distributor Road

3.1 The Council's commitment and agreed funding for the delivery of the MDR was approved by Cabinet on 11 Feb. 2014. The previously agreed Section 106 Planning Obligation required a financial contribution of £480,000 together with the dedication of land (within PMG's ownership) in order to deliver the MDR - to be constructed by the Local Authority.

3.2 The Cabinet report on 11 Feb. 2014 highlighted the total estimated cost (£4.55m) for the scheme and that the scheme will be implemented in a number of stages. Stage 1 of the MDR involving the reconfiguration of the junction between New Cut Road and Morfa Road to accommodate predicted future traffic flows has been completed. The delivery of Stage 2 has been dependant on reconciling the development proposals by Hitachi Europe Ltd at Network Rail's Maliphant St Depot and the development of the Hastie's site to enable the release of land required for the Distributor Road.

3.3 The construction of Stage 2 of the MDR will provide a route from the existing park and ride access to the entrance of the Hastie's site and is integral to the development of the site in order to provide access to the residential development. The site access will therefore join the proposed Distributor Road and all traffic movements will travel north until such time as the Distributor Road has been completed to provide the through link to New Cut Road. However, failure to secure the dedication of land for this section of the MDR (within the developer / applicant's ownership) would significantly affect the ability of the Authority to deliver the strategic highway route.

4.0 Viability Appraisal

4.1 The developer has submitted a revised viability appraisal in consideration of the proposal in line with the Council's policy using the 3 Dragons Model and comparative figures are incorporated into the tables below. The following are relevant to the consideration of this appraisal:

- the scheme revenue is based on the revised layout for 92 dwellings and the revenues have been compared against comparable house prices in the area.
- the scheme Costs & Other Development Costs are similar to those in Swansea, and includes the revised exceptional development costs (£1.868m as compared to £1.4m previously reported).
- the exceptional development costs have increased from £1.4m to £1.868m, largely as a result of the required archaeological scheme of investigation (an increase from £25,000 to £250,000) additional ground contamination / remediation costs, and Welsh Water's quote for a foul sewerage pumping station and rising main and also includes the contribution towards the Morfa Distributor Road of £480,000.

	Previous	Revised
Total Scheme Revenue	£12,285,000	£12,850,000
Total scheme Costs	- £10,895,000	<u>£11,363,000</u>
Residual Value	= £ 1,390,000	£ 922,000
Land Acquisition cost (2007)	£3,120,000	£3,120,000
Residual Value	- £1,390,000	<u>£ 922,000</u>
Loss in site value	£1,730,000	£2,199,000

The submitted appraisal shows that the residual value of the site has decreased from £1,390,000 to £922,000 which would effectively be the sale price. This is significantly lower than the price the landowner acquired the site for in 2007 (i.e. £3,120,000) and shows a negative return of £2,199,000.

5.0 Appraisal

- 5.1 The Planning Obligations SPG states where a developer contends that the proposed Section 106 requirements would render scheme unviable, developers will be expected to submit a breakdown of development costs and anticipated profits on properly sourced evidence. As indicated the developer has submitted a viability appraisal for the site using an industry recognised appraisal model (Three Dragons). The information highlights the significant abnormal costs associated with the development of the site have increased from £1.4m to £1.868m, and as such has significantly reduced the ability of the developer to offer a contribution of £480,000 towards the construction of the MDR.
- 5.2 The SPG also highlights that any reduction in the requirement for Section 106 contributions is only likely to be justified where there is planning merit and/or public interest in developing the site. In this respect, the site is identified in the Morfa Road Masterplan within the Tawe Riverside Corridor Study as residential which is a key material consideration as it was adopted as policy by the Council in October 2006. The question therefore is whether, in the absence of the provision of the financial contribution towards the MDR, the development would be unacceptable in planning terms. In this respect the UDP and associated SPG clearly make provision for developments where abnormal costs would challenge the viability of a development and the applicant has provided satisfactory information to demonstrate that the site cannot bear the financial contribution of £480,000, having regard to the increased abnormal costs. The Head of Transportation has indicated that there is currently sufficient funding from the Regional Transport Plan Grant in order to deliver the MDR Stage 2 works, however, without the dedication of the land from the developer, this would significantly affect the ability of the Authority to deliver the scheme. Therefore whilst the Authority would not receive the financial contribution of £480,000 towards the MDR this should be balanced against potential costs associated with pursuing a Compulsory Purchase Order required to secure the required land. It is considered the development of the site is an aspiration of the TRCS and, therefore, in the balancing exercise, it is considered the proposal would constitute a sustainable development that would be in accordance with development plan policies.

6.0 Conclusion

- 6.1 The applicant has demonstrated through the revised viability assessment that the development would not be commercially viable if the previously agreed Section 106 Planning Obligations were required in full (indeed there was already a predicted loss of £1.7m). Notwithstanding this, the land dedication for the road will be secured on the completion of the Section 106 Planning Obligation which is an essential requirement in order to deliver a key section of the MDR. It is therefore recommended that the Head of Terms of the Section 106 Planning Obligation are amended accordingly.

7.0 RECOMMENDATION:

- 7.1 It is recommended that the application be **APPROVED**, subject to the following conditions and to Committee authorising officers to negotiate with the applicants / developers the applicant entering into a Section 106 Legal Agreement with regard to:

Revised Section 106 Planning Obligation Heads of Terms

- That the financial contribution of £480,000 towards the delivery of the Morfa Distributor Road (MDR) be foregone.
- The dedication of the land (within the developers / applicant's ownership) in order to allow the Local Authority to construct the MDR to take place immediately upon the completion of the Section 106 Planning Obligation.
- The site access onto the proposed Distributor Road limiting all traffic movements from the proposed development to travel north until such time as the Distributor Road has been completed to provide the through link to New Cut Road.
- A sum of £250,000 be made available by the developer / applicant for the intrusive archaeological investigation on the site in line with agreed tenders and scope to be agreed by the Local Authority.
- That any savings arising from that intrusive archaeological investigation be made available to the Council for the Morfa Distributor Road and that the applicants be required to submit to the council tenders for the archaeological works and subsequent payments for this work in order that any balance is readily identified.

CONDITIONS

- 1 Approval of the details of the appearance, scale and the landscaping of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: To ensure that the development is carried out in an orderly and satisfactory manner.
- 2 Detailed plans and drawings with respect to the matters reserved in condition (01) shall be submitted for approval by the Local Planning Authority not later than the expiration of three years from the date of this permission.
Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

- 3 The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that development is begun within a reasonable period.
- 4 The development shall be completed in accordance with the approved plans prior to any part of the development being brought into beneficial use, unless otherwise agreed by the Local Planning Authority.
Reason: To ensure that the development is completed in accordance with the plans approved by the Council, and so avoid any detriment to amenity or public safety by works remaining uncompleted.
- 5 Before any part of the development hereby approved is occupied the means of enclosing the boundaries of the site and individual curtilages of all dwellings shall be completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of visual amenity and general amenity.
- 6 Before the development hereby permitted is commenced, details of the levels of the buildings, roads and footpaths in relation to the adjoining land and highways together with any changes proposed in the levels of the site shall be submitted to and agreed by the Local Planning Authority in writing.
Reason: To ensure that the work is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, and the amenities of adjoining occupiers.
- 7 Samples of all external finishes together with an external finishes schedule illustrating the disposition of finishes within the layout shall be submitted to and approved by the Local Planning Authority before the development is commenced. The scheme shall be implemented in accordance with the approved details.
Reason: In the interests of visual amenity.
- 8 Prior to the commencement of the development of the adoptable roads, full road engineering details of the internal road layout shall be submitted to and approved by the Local Planning Authority and shall be constructed in accordance with the approved details.
Reason: To allow the proper consideration of all details in the interests of highway safety.
- 9 No part of the development shall be occupied until the proposed adoptable roads linking to the existing adopted road network have been constructed to base course level and provided with street lighting in accordance with details to be submitted to and approved by the Local Planning Authority.
Reason: To ensure that the development is provided with satisfactory vehicular access in the interests of public safety.

- 10 No part of the development hereby approved shall be occupied until a Travel Plan for the development has been submitted to and approved by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved scheme.
Reason: In the interests of sustainability and to reduce reliance on the car as a mode of transport.
- 11 Unless otherwise agreed by the Local Planning Authority, prior to the commencement of development a scheme shall be submitted to and approved by the Local Planning Authority to provide that all habitable rooms achieve an internal noise level of 37dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with acoustically treated active ventilation units. No habitable room shall be occupied until the approved sound insulation and ventilation measures have been installed in that room.
Reason: To ensure acceptable living conditions for future residents having regard to the existing and proposed noise environment experienced at the site.
- 12 Unless otherwise agreed by the Local Planning Authority, no development (which shall exclude site clearance, demolition, ground investigation and site preparation works) approved by this planning permission shall be commenced until a phased scheme, comprising three progressively more detailed reports, detailing measures to be undertaken in order to investigate the presence of land contamination, including relevant gas and vapour related risks, at the proposed site shall be submitted to and approved by the Local Planning Authority. The Phase 1 desktop study should include a Conceptual Method for the initial site investigation which must include a risk assessment relating to the potential affects on groundwater and surface water as a result of the works. Where the site investigation indicates the presence of such contamination, including the presence of relevant gas/vapour, a Method Statement shall indicate the extent of the contamination and the measures to be undertaken in order to remediate the contamination identified, including measures to minimise the impact on ground and surface waters. The reports shall be submitted individually. The provision of the Phase 2 (Method Statement) detailed report and Phase 3 remediation strategy/validation report will be required only where the contents of the previous [Phase 1 desk top study] report indicates to the Local Planning Authority that the next phase of investigation/ remediation is required.
Reason: To ensure that the site contamination is satisfactorily remediated in the interests of public safety and amenity.
- 13 Prior to the occupation of any residential unit, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include 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 also include any plan (a "long term monitoring and maintenance plan") for longer-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 demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- 14 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- 15 If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise 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, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To protect the water environment. Given the size / complexity and history of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

- 16 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the water environment.

- 17 A detailed scheme for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with the approved scheme.

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

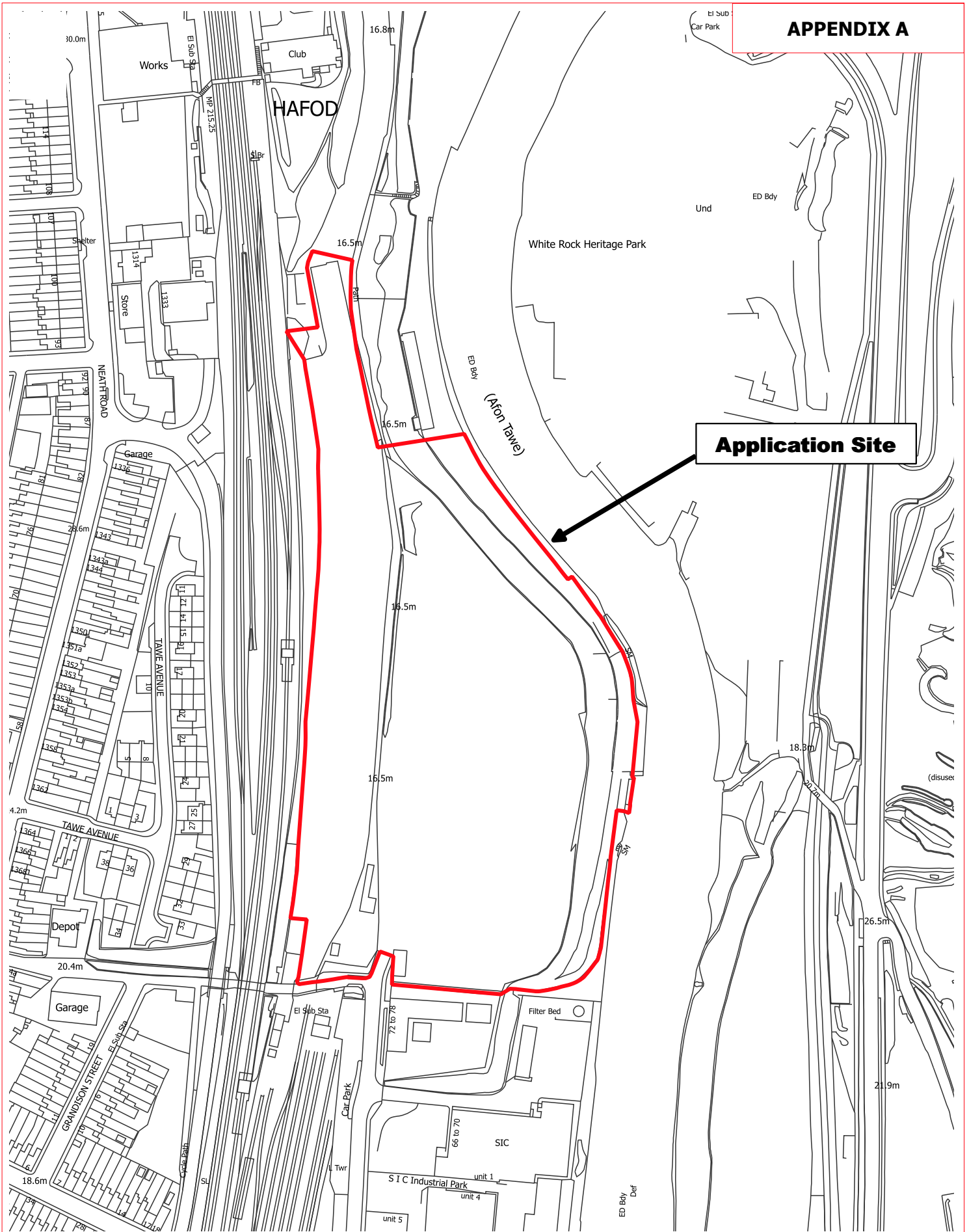
- 18 No development shall take place until a waste management plan for the control, management, storage and disposal of excavated material has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure sustainability principles are adopted during the development.

- 19 The development hereby approved shall not be occupied until a scheme for the comprehensive and integrated foul water, surface water and land drainage for the site has been implemented in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment or the existing public sewerage system.

- 20 No infiltration of surface water drainage into the ground is permitted other than with the written approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
Reason: To prevent pollution of the water environment.
- 21 No built development approved by this permission shall take place within the area defined as zone C1 / C2 on the Welsh Assembly Government's development advice map (DAM), referred to under TAN15: Development and Flood Risk (July 2004). Development shall only take place on those areas currently above 16.5 m AOD.
Reason: To reduce the risk of flooding to the proposed development and future occupants.
- 22 No development approved by this permission shall be commenced until a Construction Method Statement detailing all necessary pollution prevention measures for the construction phase of the development is submitted to and approved in writing by the Local Planning Authority.
Reason: In order to prevent pollution.
- 23 No development shall take place within the area indicated (i.e. the area of archaeological interest) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
Reason: To safeguard this area of archaeological interest.
- 24 The proposed development shall facilitate the provision of a pedestrian link along the southern boundary of the site linking the existing path along the River Tawe to Morfa Road.
Reason: In order to facilitate pedestrian access to the walkway along the River Tawe.



Planning Application No. 2008/1615
Bernard Hastie and Co and adjacent Maliphant Sidings, Morfa Road, Swansea, SA1 2EW
Page 17

Scale 1:2500 @ A4

Phil Homes, BSc (Hons), MSc, Dip Econ
Head of Economic Regeneration & Planning
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Ordnance Survey 100023509



APPLICANT'S LETTER

Former Bernard Hastie and Company, Morfa Road, Swansea. Ref 2008/1615

I refer to the above application which has been previously considered by your council on a number of occasions – most recently in June 19th 2014 when a revised layout (and unit numbers) and revised terms of the S106 agreement (to those agreed in 2010) were the subject of a resolution for approval.

As you are aware the S106 agreement has not been signed. This is due in part to the ongoing assessment of a scope of archaeological work required prior to commencement of development which has been the subject of discussion with GGAT. In addition, the abnormal costs associated with the development of the site have now been the subject of contractual tenders which have increased the cost of development against the estimates available in May. Together these have significantly increased the overall cost of development. This is set against a background where there is already a predicted loss of £1.7m to the landowner and a below industry standard profit (15%) to the housebuilder. These facts are not disputed by your estates department who have assessed the previous viability appraisals.

As a result of these significantly increased costs my clients are therefore seeking to amend the terms of the S106 further.

The changes to costs are as follows:

- **Archaeological works.**

The applicant has employed SLR as their professional advisor ref archaeological scope. SLR had recommended a scope of works and these had been verbally agreed with GGAT. However, following further discussion with GGAT it is clear that GGAT require significantly more extensive intrusive (work pre commencement) than previously recommended and costed by SLR. The scope involves an increased scale of intrusive work from an originally proposed trench of 50 x 10 m to an area of 70 x 70 m . This is tenfold the area originally costed with commensurate increases in cost from £25,000 originally estimated to £250,000. You should be aware that this is only the initial investigation. If archaeological remains of interest are found at a depth of up to 2 m then further work may be required up to a depth of 10m. I understand that you and others from your council have met with GGAT independently of the applicant and their advisors and that the requirement by GGAT for the wider scope of works compared to that envisaged in by SLR in May has been confirmed.

My clients have to date spent £22,000 in seeking to agree a scope of works with GGAT. For clarity this is not included in the abnormal development costs.

My clients are in the process of seeking additional cost estimates for the intrusive archaeological work in order that comparable tenders are available. Any savings that are achieved would not be passed on to the landowner or developer but would be ring fenced for the construction of the road (see later).

- **Abnormal Site Development Costs**

The developer has now received tenders for the site preparation costs. These have resulted in an increase in abnormal development costs from £1.375M to £1.617 (excluding archaeology).

These figures have been informed by additional site investigation work post demolition and the removal of tarmac and hard standings from the site. This has confirmed that radon previously detected on site was not as a result of the tarmac and that increased remediation, capping and radon protection measures would be required. In addition, Welsh Waters quote for foul pump station and rising main was also increased.

These figures both include a contribution of £480,000 to the construction of the Morfa Distributor Road.

I attach a summary of the cost changes (including archaeology) for your information.

As you are aware the original (2010) resolution to grant consent for this development acknowledged:

'that scheme viability will be material to the details of the Section 106,, and the applicant has supplied some financial information in that respect. This will need to be given more detailed consideration in the final drafting of the Section 106 with priority being afforded to the construction of the highway and investigation of the archaeological resource within the site.'

This detailed consideration of costs has continued, but it is clear that the investigation into the archaeological resource - should the scope of works required by GGAT prevail, will significantly reduce the ability of the developer to financially contribute towards the Morfa Distributor Road.

My clients are therefore seeking to amend the S106 as follows:

- That the financial contribution to the road required by the June resolution be removed.
- That a sum of £250,000 be made available for intrusive archaeological investigation on the site in line with agreed tenders and scope to be agreed with GGAT and your council.
- That any savings arising from that intrusive archaeological investigation be made available to the Council for the Morfa Distributor Road and that the applicants be required to submit to the council tenders for the archaeological works and subsequent payments for this work in order that any balance is readily identified.

You should be aware that the archaeological investigation will be completed before the commencement of residential development on the site and therefore any savings from the work will be identified and available on commencement of the residential development.

The dedication of land for the road will take place immediately following and in parallel with the signing of a S106 agreement in the revised terms set out above.

I attach a newly worked appraisal (using 3 Dragons Model). This is a direct comparable to that previously submitted to you. This shows that without these changes, the loss to the landowner would increase from £1.75 M to £2.2M.

My clients are disappointed to have to once again request that this be returned to committee. It is appreciated that you and other officers have sought to confirm GGAT's requirements through an independent meeting. I will keep you informed of any changes to the position – in particular to any further tenders received regarding the initial intrusive scope of works in order that you have an up to date position for committee on December 4th.

Report of the Head of Economic Regeneration and Planning

Development Management and Committee – 19, June 2014

FORMER BERNARD HASTIE AND CO. SITE, MORFA ROAD, SWANSEA –

Referral of Planning Application Ref 2008/1615

From the Area 1 Planning Committee

On 27th May 2014

**RESIDENTIAL RE-DEVELOPMENT OF SITE TOGETHER WITH NEW ACCESS ROAD,
CAR PARKING, LANDSCAPING, INFRASTRUCTURE, RE-PROFILING AND
ENGINEERING WORKS (OUTLINE) – AMENDMENT
TO SECTION 106 AGREEMENT**

Purpose:	To determine the above application for the residential re-development of the site of the former Bernard Hastie and Co. Site
Policy Framework:	National and Local Planning Policies.
Reason for Decision:	Statutory responsibility of the Local Planning Authority.
Consultation:	Statutory consultations in accordance with planning regulations as set out in the planning application report contained in Appendix B
Recommendation(s):	APPROVE as set out in the report
Report Author:	David Owen
Finance Officer:	Not applicable
Legal Officer:	Not applicable

BACKGROUND

1.0 Background

- 1.1 This application was reported to the Area 1 Development Control Committee on the 27 May 2014, with the recommendation that the application be approved, subject to conditions and for the Area Committee to authorise officers to negotiate with the applicants / developers with regard to entering into a Section 106 Legal Agreement as outlined in the recommendation.
- 1.2 The Area 1 Development Control Committee subsequently resolved to report the application to this Committee as being of strategic importance on the basis of its relationship to the delivery of the Morfa Distributor Road. A plan showing the location of the application site is attached as Appendix A. Since the Area Committee on 27 May a letter from the applicants has been received, a copy of which is attached as Appendix C. A copy of the original report to the Area 1 Development Control Committee on 9 March 2010 is attached as Appendix B.

- 1.3 This application for the proposed residential re-development of the site was originally reported to the Area 1 Development Control Committee on 9 March, 2010 when it was resolved to grant planning permission subject to a Section 106 with the following Heads of Terms:
- i) The construction of proposed section of Morfa Distributor Road within the developable area (estimated to be the cost of £543,000).
 - ii) An affordable housing contribution
 - iii) A contribution of £15,000 towards pedestrian improvements in the vicinity of the railway crossing
 - iv) Proposed archaeological investigations
- 1.4 The Section 106 has not been completed largely due to the uncertainties of the land required for the Maliphant Rail Depot and the timescale / funding issues for the delivery of the Morfa Distributor Road (MDR). Since then the Maliphant Rail Depot proposals have received planning permission and work is currently progressing which has created certainty over the 'land transfer' for delivering the MDR. Additionally, funding has now become available to the Authority towards the phased delivery of the MDR, however, additional developer contributions are required to ensure the completion of the MDR in its entirety (in accordance with the adopted Tawe Riverside Corridor Study (TRCS). With regard to the Hasties site itself, the applicant PMG, now has an option agreement with Persimmon Homes to develop the site. The outline proposal reported to Committee in 2010 proposed a development of 136 units, the revised Persimmon layout now proposes a reduced layout of 92 units.
- 1.5 The developer contends that the current agreed Section 106 Heads of Terms render the scheme unviable and have therefore requested that they are re-considered as part of the revised proposal and the application is therefore reported to this Committee for determination. The developer has submitted a viability appraisal in consideration of the proposal in line with the Council's policy using the 3 Dragons Model.

2.0 The planning application

- 2.1 The revised proposal seeks outline planning permission for the following development for 66 no. two / three storey houses and 26 apartments. The application is submitted for outline permission with matters of layout and access to be determined at this stage. The issues of appearance, scale and landscaping are reserved for future consideration.
- 2.2 The revised layout has also been accompanied by an Environmental Statement Addendum (ESA) and revised Non-Technical Summary reviewing the revised proposal in the context of:
- Alternative considered
 - Ecology
 - Cultural Heritage
 - Air Quality
 - Noise
 - Highways and Transportation
 - Land Quality

The general conclusion of the ESA is that the project refinements do not impact upon the findings of the original ES. This conclusion is accepted. However, following the demolition of all buildings on the site, a review of the previous archaeological report has been undertaken and this is summarised in the archaeological section below.

- 2.3 The accompanying amended Design and Access Statement indicates that the current economic situation has identified that the original 2008 scheme is no longer viable and the revised layout for 92 dwellings comprises a mixture of design includes 2 storey houses which are typical to the area, some 2.5 storey houses, some 3 storey houses and 3 no. 3 storey feature buildings which will house the proposed flats. The layout will provide a strong street frontage along the proposed MDR as well as providing a central vista through the site, the provision of a strong perimeter block/outer edge to the development, orientating the site towards the river. The site also provides 2 no. public viewing points to maximise the views offered across the river. The proposed development will have a single direct vehicular access off the proposed MDR located at the western end of the development. The layout also provides for pedestrian links onto the proposed MDR to allow residents to obtain pedestrian access to the south of the site linking into Morfa Road and to the proposed footbridge over the railway line.
- 2.4 The principle of the development at this location has not changed since the Committee resolution in 2010. The redevelopment of this brownfield site is considered to be one of the key development aspirations of the adopted Tawe Riverside Corridor Study (TRCS). Moreover, the proposed development would assist in the delivery of the Morfa Distributor Road which is one of the key aspirations of the TRCS, through making a developer contribution of £480,000 and also the dedication of land to allow the construction of the MDR.

3.0 Amended Section 106 Planning Obligations Heads of Terms

- 3.1 Unitary Development Plan Policy HC17 states in consideration of proposals for development, the Council will, where appropriate, enter into negotiations with developers to deliver planning obligations under Section 106 of the Town and Country Planning Act. Provisions should be fair and reasonably relate in scale and kind to the individual development.
- 3.2 The Council's adopted Supplementary Planning Guidance (SPG) on Planning Obligations indicates that the use of such Obligations should ensure that the key infrastructure and other enabling requirements are provided in the first instance to allow development to proceed. Moreover, it states "*It may be necessary to determine the relative priority of different forms of provision in the context of the individual circumstances and planning objectives relative to each development proposal. The element of flexibility in the process should ensure that the viability of development schemes is not prejudiced.*" The SPG further advises that that where a developer contends that the Section 106 requirements are too onerous and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs i.e. a development appraisal. As indicated above, the developer has submitted a viability appraisal in consideration of the proposal in line with the Council's policy using the 3 Dragons Model.

4.0 Construction of Morfa Distributor Road

- 4.1 The agreed Heads of Terms required the developer to construct the proposed section of Morfa Distributor Road within their developable area. However, having regard to the Council's commitment and agreed funding for the delivery of the MDR (Cabinet approved 11 Feb. 2014) the Head of Transportation has agreed with the developer (PMG) that in lieu of the above requirement a financial contribution of £480,000 will be required together with the dedication of land (within PMG's ownership) to deliver the MDR - to be constructed by the Local Authority.
- 4.2 The Cabinet report on 11 Feb. 2014 for the delivery of the Morfa Distributor Road highlighted the total estimated cost (£4.55m) for the scheme and that the scheme will be implemented in a number of stages. Stage 1 of the MDR involving the reconfiguration of the junction between New Cut Road and Morfa Road to accommodate predicted future traffic flows has just been completed. The delivery of Stage 2 has been dependant on reconciling the development proposals by Hitachi Europe Ltd at Network Rail's Maliphant St Depot and the development of the Hastie's site to enable the release of land required for the Distributor Road.
- 4.3 The construction of Stage 2 of the MDR will provide a route from the existing park and ride access to the entrance of the Hastie's site and is integral to the development of the site in order to provide access to the residential development. The site access will therefore join the proposed Distributor Road and all traffic movements will travel north until such time as the Distributor Road has been completed to provide the through link to New Cut Road. The dedication of land will be conditional upon the procurement by the Council of a contract for the construction of the Stage 2 works. Moreover, the Cabinet Report indicates that the construction of Stage 2 will not commence until dedication of the land has taken place and until significant funding is available from the developer's contribution and / or Regional Transport Plan Grant funding. Therefore failure to secure the developer's contribution of £480,000 together with the dedication of land (within the developer / applicant's ownership) would significantly affect the ability of the Authority to deliver the Morfa Distributor Road.

5.0 Affordable Housing Obligations

- 5.1 The Report to the Area 1 Development Control Committee in 2010 acknowledged that the provision of affordable housing was dependant on the scheme viability with the recognition that the road construction was the highest priority. The Head of Housing has previously indicated that a minimum provision of 15% affordable housing should be provided on the site, with the mix of units and tenure to be determined. However, the developer indicates that the cost of providing affordable housing on the site would be prohibitive having regard to the abnormal costs associated with developing the site.
- 5.2 The developer has submitted a viability appraisal in consideration of the proposal in line with the Council's policy using the 3 Dragons Model. The appraisal makes no allowance for affordable housing and concludes that the site is only viable (and even in that case at a 15% developer profit which is less than the default level contained in the 3 Dragons Model) on the basis of nil affordable housing on the site.

The following are relevant to the consideration of this appraisal:

- the scheme revenue is based on the revised layout for 92 dwellings and the revenues have been compared against comparable house prices in the area.
- the scheme Costs & Other Development Costs are similar to those in Swansea, and includes the exceptional development costs (£1.4m).
- exceptional development costs are £1.4m, which takes account of ground contamination / remediation costs, and abnormal services and also includes the contribution towards the Morfa Distributor Road of £480,000.

Total Scheme Revenue		£12,285,000
Total scheme Costs	-	<u>£10,895,000</u>
Residual Value	=	£ 1,390,000

Land Acquisition cost (2007)		£ 3,120,000
Residual Value	-	<u>£ 1,390,000</u>
Loss in site value		£ 1,730,000

The submitted appraisal shows that the residual value of the site would be £1,390,000 which is effectively the sale price agreed by the developer. This is significantly lower than the price the landowner acquired the site for in 2007 (i.e. £3,120,000) and shows a negative return of £1,730,000. This excludes the finance costs of holding the property incurred since 2007, and additionally, excludes any contingency of abnormal cost in respect of further archaeological site investigations which could further impact on the site viability.

- 5.3 The information has been assessed by a Council Development Surveyor and having regard to the exceptional development costs and the residual value generated by the proposed development, is considered to demonstrate that at the current time the development cannot support the provision of any affordable housing over and above the contribution of £480,000 towards the priority given to delivering the MDR.

6.0 Pedestrian improvements to railway crossing / Maliphant Road tunnel

- 6.1 The approved Heads of Terms require the developer to contribute £15,000 towards pedestrian improvements in the vicinity of the railway crossing. The approved development granted to Network Rail / Hitachi for the Maliphant Rail Depot involves the construction of a new footbridge in order to close the Maliphant Tunnel to vehicular traffic due to their operational requirements. The footbridge will retain pedestrian access with the Maliphant Tunnel retained for pedestrian access only. Whilst the TRCS envisages that the link under the railway line would be for pedestrians and cyclists only and would be enhanced, the transfer of some land to the Council to enable the delivery of the MDR in lieu of the previously agreed contribution has been agreed. Additionally, it is proposed to impose an additional condition to facilitate the provision of a pedestrian link along the southern boundary of the site linking the existing path along the River Tawe to Morfa Road.

7.0 Proposed Archaeological Investigations

- 7.1 Glamorgan Gwent Archaeological Trust (GGAT) originally required a full archaeological investigation prior to determination of the application in order to provide an informed recommendation as to the appropriate level of mitigation required.

However, the site then was still occupied which caused the developer some operational difficulty in implementing such investigation. Instead it was agreed that as part of the Section 106 Planning Obligation, archaeological investigations would be required prior to commencement of work. Since then all buildings on the site have been demolished and currently a scheme of archaeological investigation (agreed with GGAT) is being carried out to ascertain the precise resource on the site. The requirement to be included in the Sec. 106 is therefore no longer required and any further archaeological work may be secured through appropriate planning conditions.

8.0 Appraisal

8.1 Within the report to Committee in 2010 it was indicated that the scheme viability will be material to the details of the Section 106 Planning Obligation and that priority will be afforded to the construction of the MDR and the investigation of the archaeological resource within the site. The Planning Obligations SPG states where a developer contends that the proposed Section 106 requirements would render scheme unviable, developers will be expected to submit a breakdown of development costs and anticipated profits on properly sourced evidence. As indicated the developer has submitted a viability appraisal for the site using an industry recognised appraisal model (Three Dragons). The information highlights the significant abnormal costs associated with the development of the site, which are estimated to cost in excess of £1.4m and at the current time the development cannot support any affordable housing if it is to offer a contribution of £480,000 for the construction of the road.

8.2 The SPG also highlights that any reduction in the requirement for Section 106 contributions is only likely to be justified where there is planning merit and/or public interest in developing the site. In this respect, the site is identified in the Morfa Road Masterplan within the Tawe Riverside Corridor Study as residential which is a key material consideration as it was adopted as policy by the Council in October 2006. The question therefore is whether, in the absence of the provision of affordable housing, the development would be unacceptable in planning terms. In this respect the UDP and associated SPG clearly make provision for developments where abnormal costs would challenge the viability of a development and the applicant has provided satisfactory information to demonstrate that the site can not bear any affordable housing provision in addition to a financial contribution of £480,000. It is considered the development of the site is an aspiration of the TRCS and, therefore, in the balancing exercise, it is considered the proposal would constitute a sustainable development that would be in accordance with development plan policies.

9.0 Conclusion

9.1 The applicant has demonstrated through a viability assessment that the development would not be commercially viable if the previously agreed Section 106 Planning Obligations were required in full. Notwithstanding this, a contribution of £480,000 has been offered by the developer in lieu of the construction of the section of the Morfa Distributor Road within the developable area together with the dedication of a section of land within the developer's ownership in order to deliver a key section of the MDR. It is therefore recommended that the Head of Terms of the Section 106 Planning Obligation are amended accordingly.

10.0 RECOMMENDATION:

It is recommended that the application be **APPROVED**, subject to the following conditions and to Committee authorising officers to negotiate with the applicants / developers the applicant entering into a Section 106 Legal Agreement with regard to:

Section 106 Planning Obligation Heads of Terms

- The developer / applicant making a staged financial contribution of £480,000 together with the dedication of land (within the developer / applicant's ownership) to deliver the Morfa Distributor Road - to be constructed by the Local Authority. The dedication of land will be conditional upon the procurement by the Council of a contract for the construction of the Stage 2 works, with the site access onto the proposed Distributor Road limiting all traffic movements from the proposed development to travel north until such time as the Distributor Road has been completed to provide the through link to New Cut Road.

CONDITIONS

- 1 Approval of the details of the appearance, scale and the landscaping of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: To ensure that the development is carried out in an orderly and satisfactory manner.
- 2 Detailed plans and drawings with respect to the matters reserved in condition (01) shall be submitted for approval by the Local Planning Authority not later than the expiration of three years from the date of this permission.
Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.
- 3 The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that development is begun within a reasonable period.
- 4 The development shall be completed in accordance with the approved plans prior to any part of the development being brought into beneficial use, unless otherwise agreed by the Local Planning Authority.
Reason: To ensure that the development is completed in accordance with the plans approved by the Council, and so avoid any detriment to amenity or public safety by works remaining uncompleted.
- 5 Before any part of the development hereby approved is occupied the means of enclosing the boundaries of the site and individual curtilages of all dwellings shall be completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of visual amenity and general amenity.

- 6 Before the development hereby permitted is commenced, details of the levels of the buildings, roads and footpaths in relation to the adjoining land and highways together with any changes proposed in the levels of the site shall be submitted to and agreed by the Local Planning Authority in writing.
Reason: To ensure that the work is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, and the amenities of adjoining occupiers.
- 7 Samples of all external finishes together with an external finishes schedule illustrating the disposition of finishes within the layout shall be submitted to and approved by the Local Planning Authority before the development is commenced. The scheme shall be implemented in accordance with the approved details.
Reason: In the interests of visual amenity.
- 8 Prior to the commencement of the development of the adoptable roads, full road engineering details of the internal road layout shall be submitted to and approved by the Local Planning Authority and shall be constructed in accordance with the approved details.
Reason: To allow the proper consideration of all details in the interests of highway safety.
- 9 No part of the development shall be occupied until the proposed adoptable roads linking to the existing adopted road network have been constructed to base course level and provided with street lighting in accordance with details to be submitted to and approved by the Local Planning Authority.
Reason: To ensure that the development is provided with satisfactory vehicular access in the interests of public safety.
- 10 No part of the development hereby approved shall be occupied until a Travel Plan for the development has been submitted to and approved by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved scheme.
Reason: In the interests of sustainability and to reduce reliance on the car as a mode of transport.
- 11 Unless otherwise agreed by the Local Planning Authority, prior to the commencement of development a scheme shall be submitted to and approved by the Local Planning Authority to provide that all habitable rooms achieve an internal noise level of 37dBA Leq 16 hour during the day and 35 dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with acoustically treated active ventilation units. No habitable room shall be occupied until the approved sound insulation and ventilation measures have been installed in that room.
Reason: To ensure acceptable living conditions for future residents having regard to the existing and proposed noise environment experienced at the site.
- 12 Unless otherwise agreed by the Local Planning Authority, no development (which shall exclude site clearance, demolition, ground investigation and site preparation works) approved by this planning permission shall be commenced until a phased scheme, comprising three progressively more detailed reports, detailing measures to be undertaken in order to investigate the presence of land contamination, including relevant gas and vapour related risks, at the proposed site shall be submitted to and approved by the Local Planning Authority.

The Phase 1 desktop study should include a Conceptual Method for the initial site investigation which must include a risk assessment relating to the potential effects on groundwater and surface water as a result of the works. Where the site investigation indicates the presence of such contamination, including the presence of relevant gas/vapour, a Method Statement shall indicate the extent of the contamination and the measures to be undertaken in order to remediate the contamination identified, including measures to minimise the impact on ground and surface waters. The reports shall be submitted individually. The provision of the Phase 2 (Method Statement) detailed report and Phase 3 remediation strategy/validation report will be required only where the contents of the previous [Phase 1 desk top study] report indicates to the Local Planning Authority that the next phase of investigation/remediation is required.

Reason: To ensure that the site contamination is satisfactorily remediated in the interests of public safety and amenity.

- 13 Prior to the occupation of any residential unit, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include 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 also include any plan (a "long term monitoring and maintenance plan") for longer-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 demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- 14 Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

- 15 If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise 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, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To protect the water environment. Given the size / complexity and history of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

- 16 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
Reason: To protect the water environment.
- 17 A detailed scheme for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with the approved scheme.
Reason: In the interests of the ecology and amenity of the area.
- 18 No development shall take place until a waste management plan for the control, management, storage and disposal of excavated material has been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure sustainability principles are adopted during the development.
- 19 The development hereby approved shall not be occupied until a scheme for the comprehensive and integrated foul water, surface water and land drainage for the site has been implemented in accordance with details to be submitted to and approved by the Local Planning Authority.
Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment or the existing public sewerage system.
- 20 No infiltration of surface water drainage into the ground is permitted other than with the written approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.
Reason: To prevent pollution of the water environment.
- 21 No built development approved by this permission shall take place within the area defined as zone C1 / C2 on the Welsh Assembly Government's development advice map (DAM), referred to under TAN15: Development and Flood Risk (July 2004). Development shall only take place on those areas currently above 16.5 m AOD.
Reason: To reduce the risk of flooding to the proposed development and future occupants.
- 22 No development approved by this permission shall be commenced until a Construction Method Statement detailing all necessary pollution prevention measures for the construction phase of the development is submitted to and approved in writing by the Local Planning Authority.
Reason: In order to prevent pollution.
- 23 No development shall take place within the area indicated (i.e. the area of archaeological interest) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
Reason: To safeguard this area of archaeological interest.

- 24 The proposed development shall facilitate the provision of a pedestrian link along the southern boundary of the site linking the existing path along the River Tawe to Morfa Road.
Reason: In order to facilitate pedestrian access to the walkway along the River Tawe.

BACKGROUND PAPERS

Local Government Act 1972 (Section 100) (As Amended)

The following documents were used in the preparation of this report:

Application file, together with the files and documents referred to in the background information section of the appended Development Control Committee report.

Appendices:

APPENDIX A – Plan

APPENDIX B – Committee Report

APPENDIX C – Applicant's Letter

Agenda Item 5

Report of the Head of Economic Regeneration & Planning

Development Management and Control Committee

4 December 2014

PROPOSALS FOR THE ENHANCEMENT OF EXISTING POWER GENERATION FACILITIES AT TATA'S PORT TALBOT STEELWORKS

WRITTEN REPRESENTATION

Purpose:	To seek delegated powers to submit written representation to the Planning Inspectorate Examining Authority on behalf of the City and County of Swansea and to deal with the procedural aspects of the examination process.
Policy Framework:	National Policy Statements, Planning Policy Wales and the adopted City & County of Swansea Unitary Development Plan.
Reason for Decision:	To provide a response to the Planning Inspectorate Examining Authority on the impacts of the proposals for the enhancement of existing power generation facilities at Tata's Port Talbot Steelworks and to allow full engagement within the examination process.
Consultation:	Legal Services, Technical Services, Pollution Control, Sustainable Development, Culture, Tourism, Economic Regeneration, Economic Development and Nature and Conservation.
Recommendation(s):	<p>It is recommended:</p> <ol style="list-style-type: none">1. That delegated powers be granted to the Head of Economic Regeneration and Planning to submit written representation relating to the impacts of the proposed development on the City and County of Swansea to the Examining Authority of the Planning Inspectorate in accordance with the timetable for the examination process.2. Delegated powers be given to the Head of Economic Regeneration and Planning to formally contribute to a Statement of Common Ground to be submitted to the Examining Authority of the Planning Inspectorate in accordance with the timetable for the examination process.

<p>3. Delegated powers be given to the Head of Economic Regeneration and Planning to formally respond to the Examining Authority's Inspector questions in accordance with the timetable for the examination process during the course of the examination and also to make comment on the submissions of other parties, including the applicant.</p> <p>4. Delegated powers be given to the Head of Economic Regeneration and Planning to formally represent the views of the City & County of Swansea in any topic specific hearing and subsequent requirements in accordance with the timetable for the examination process during the course of the examination.</p>	
Report Author:	Richard Jones
Finance Officer:	Not applicable
Legal Officer:	Not applicable

1.0 Introduction

- 1.1 Members will recall that an information report was presented to this Committee in March this year to advise Members that Tata Steel UK Limited (Tata Steel) had formally consulted this Council in respect of its pre-application proposals for internal power generation enhancement at its site in Port Talbot. The report appended the response of the Head of Economic Regeneration and Planning, which was not to provide a formal position on the proposals but largely seeks to ensure that the appropriate information is provided at examination stage to allow an informed response to be made to the Planning Inspectorate in due course.
- 1.2 As explained in the aforementioned report, as the proposed development comprises an electricity generating station with a capacity of more than 50MW, it constitutes a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008. An application must therefore be made to the Planning Inspectorate for permission under a development consent order (DCO) from the Secretary of State for Energy and Climate Change.
- 1.3 This application has now been made to the Planning Inspectorate and was accepted for examination on the 2nd September 2014.

2.0 The Proposed Scheme

- 2.1 The application is for the enhancement of existing power generation facilities (hereafter described as the 'proposed development') at Tata's Port Talbot Steelworks.

- 2.2 This Application for development consent is for the installation of up to two new boilers (nominally 164 Mega Watt thermal (MWth) each) and associated new steam turbine sets with a gross capacity of up to 150 Mega Watt electrical (MWe), which would be connected to the existing process gases (i.e. blast furnace gas, etc) distribution network in order to receive these gases through new pipe work, all to be located within the Order Limits. The proposed development also includes the 66kV electrical connection to the grid (a cable route of around 2.8km in length) and extensions to the existing on-site utility connections (water, nitrogen, natural gas and compressed air).
- 2.3 The proposed development would result in the total on-site power generation capacity at the Port Talbot site increasing up to a maximum of 245 MWe.
- 2.4 The current total on-site power generation capacity of the Port Talbot site is 115.7 MWe. This capacity provides electrical power and process steam to the production processes on-site. However the majority of this existing power generation equipment dates back to the 1950's and is becoming increasingly unreliable and inefficient due to its age. Combined with the variable cycle of process gas production, this results in an average power generation of 75 MWe. Combined with the grid import of 50MWe, this meets current site demand of 125 MWe.
- 2.5 It is stated that energy represents a large proportion of steel manufacturing costs. The iron and steel making process also generates by-product gases which, if not utilised or recycled by the site, are burnt through the flare stacks. The current minimum operational flare is approximately 1 Petajoule (PJ). In order to remain competitive within the market place, the Applicant has embarked on a series of improvement measures, of which energy efficiency is one.
- 2.6 It is advised that the Applicant has an ambition to increase production to 4.7 million tonnes of iron per annum at the Port Talbot site. Once production increases to this level, and in the absence of the proposed development and/or any other energy efficiency improvements, the amount of process gas being flared would increase to approximately 7 PJ per annum. With on-going tactical improvements and capital projects, the flare could be reduced by 2.2 PJ to 4.8 PJ per annum and therefore deliver a reduction in reliance on imported fuel (natural gas).
- 2.7 As noted, the existing power generation facilities contain equipment dating back to the 1950s and do not have sufficient capacity to convert the available process gases associated with the current and increased iron production.
- 2.8 In terms of demand for electricity, at 4.7 million tonnes of iron per annum the site would require approximately 140 MWe, but the total average site capacity, without the proposed development, would remain the same (at 75 MWe), resulting in electrical imports increasing to 65 MWe from 50 MWe.

- 2.9 In order to improve efficiency and increase generation, the Applicant proposes to enhance the total on-site power generation by installing up to two new boilers (nominally 164 MWth each) and associated steam turbine sets with a gross capacity of 150 MWe. The proposed development would be housed in a new building and would be connected to the existing blast furnace gas distribution network in order to receive fuel gases through new pipe work.
- 2.10 The enhancement of the existing on-site power generation through the development of new facilities will allow the existing inefficient facilities to be decommissioned as part of the proposed development. It is proposed that the decommissioned facilities would be retained in situ on site but would not be operational.
- 2.11 The total on-site power generation capacity, inclusive of the proposed development, would be increased up to a maximum of 245 MWe. This would result in an average power generation of approximately 130 MWe (due to the variable cycle of process gas production on-site). This would result in a reduction of grid import to 10 MWe (a decrease of 55Mwe). The estimated amount of process gases being flared would significantly reduce by 4.3 PJ to approximately 0.5 PJ per annum.
- 2.12 The Applicant therefore states that the proposed development would have a number of net benefits including:
- Air quality improvements through the reduction in flared process gases;
 - Saving of up to approximately 400,000 tonnes per annum of CO₂ compared to grid generators (based on generation from coal fired stations);
 - Reduced on-site electricity imports (to 10Mwe on average);
 - Increased operational efficiency and reliability of on-site power and steam production; and
 - Increased economic efficiency through cost reduction to protect the longterm future of steelmaking in South Wales.
- 2.13 In summary, the submission is that the increase in total on-site power generation capacity as a result of the proposed development would reduce the requirement for electricity imports and hence significantly reduce the site's cost base and improve its environmental performance through reduction in flaring of process gases.
- 2.14 In physical terms, the proposed development comprises the following major components and ancillary buildings:
- up to two steam boilers and their associated stacks (maximum 80m in height), annexe bay and boiler house;
 - a turbine hall housing turbine sets and associated condensers;
 - cooling tower units;
 - an electrical switchgear station building;
 - a condensate storage tank and additional condensate polishing units;
 - water treatment plant and chemical dosing system skids;

- administration, workshop, pump house, gas booster house, control buildings and ancillary infrastructure;
- the extension of existing pipe work connections (for water, nitrogen, process gases, natural gas and compressed air) from the existing on site utilities pipe work infrastructure to the generating station;
- a 66kV electrical connection up to 2.8km in length to connect the generating station to the existing on-site substations on the southeast of the site;
- modifications to the two existing on-site substations to accept the electrical connection including the installation of new 66kV bays at each substation;
- security infrastructure, including perimeter fencing and site lighting infrastructure;
- connections to the existing internal road layout for the provision of site vehicular access(es), roads, pedestrian network, parking and cycle storage;
- temporary construction compounds; and
- connection to site drainage systems.

2.15 The following table provides the physical dimensions of the above components:

Summary of Project Description Components for Single Phased Build (Option 1)	
Item	Indicative & Maximum Dimensions
Stack(s)	Up to two stacks, both at 80m high
Cooling Tower Units	Up to 22m high x 160m long x 16m wide
Turbine Hall	Up to 25m high x 55m long x 65m wide
Boiler House	Up to 35m high (at apex) x 60m long x 65m wide
Electrical Connection	66kV cables, approximately 2.8km in length to be run underground, off existing above ground infrastructure, on a cable bridge or a combination of both
Switchgear Station Building	Up to 35m long x 55m wide

2.16 There is the potential for a two phase construction approach. Option 1 would involve the full and complete construction of the proposed development. Option 2 would involve half the proposed development (one stack, one boiler and associated turbine sets) being installed (Phase 1) with all foundation and engineering being undertaken in that Phase. Phase 2 of Option 2 would involve the second and complete installation of the second stack, boiler and associated turbine sets. Phase 2 could occur up to 10 years after Phase 1.

2.17 As Members will be aware, the Port Talbot steelworks is located wholly within the County Borough of Neath Port Talbot and extends to a total of 1005.5 hectares, which comprises all of the major components of the steelworks, together with the ancillary structures/buildings. The application site extends to an area of approximately 23 hectares within the within the northern part steelworks site adjacent to the existing power generation facilities.

3.0 The Planning Process

- 3.1 As stated above, an application for the proposed development has been accepted for examination by the Planning Inspectorate.
- 3.2 As no part of the proposed development falls within the City & County of Swansea, it has been necessary to formally register this Council as an interested party for involvement in the examination.
- 3.3 The application at present is currently at what is known as the pre-examination stage which concludes on the 9th December 2014 with the Preliminary Meeting (PM). As this Council is now registered as an interested party, it has been invited to attend the PM, the purpose of which is to give interested parties the opportunity to make representations to the Planning Inspectorate about how the application should be examined. The Preliminary Meeting will concern itself only with the procedure for examining the application, including, setting the timetable for making more detailed written representations. It will not concern itself with the merits of the application.
- 3.4 The examination process formally commences the day after the PM (10th December). The Planning Inspectorate has six months to carry out the examination and must prepare a report on the application to the Secretary of State, including a recommendation, within 3 months of the close of the examination. The Secretary of State then has a further 3 months to make the decision on whether to grant or refuse development consent. Once a decision has been issued by the Secretary of State, there is a six week period in which the decision may be challenged in the High Court. This process of legal challenge is known as Judicial Review.
- 3.5 A draft timetable for the examination process has already been prepared for the PM, but Deadline 1 has already been fixed for the 15th January 2015 for the submission of written representation by interested parties.
- 3.6 Unfortunately this deadline falls between the dates for this Committee in December 2014 and February 2015.
- 3.7 This report therefore seeks delegated powers be granted to the Head of Economic Regeneration and Planning to submit written representation relating to the impacts of the proposed development on the City and County of Swansea to the Examining Authority of the Planning Inspectorate in accordance with the timetable for the examination.
- 3.8 Potential positive, negative and neutral impacts identified at this stage affecting the City & County of Swansea are:
- Socio economic impacts;
 - Landscape and visual impacts;
 - Ecological impacts; and
 - Air quality impacts.

3.9 This report also seeks delegated powers be granted to the Head of Economic Regeneration and Planning to formally contribute to a Statement of Common Ground, respond to any questions raised by the Examining Authority and to represent, if necessary, the views of the City & County of Swansea in any topic specific hearing during the course of the examination.

4.0 Financial Implications

4.1 There are no financial implications associated with this report.

5.0 Legal Implications

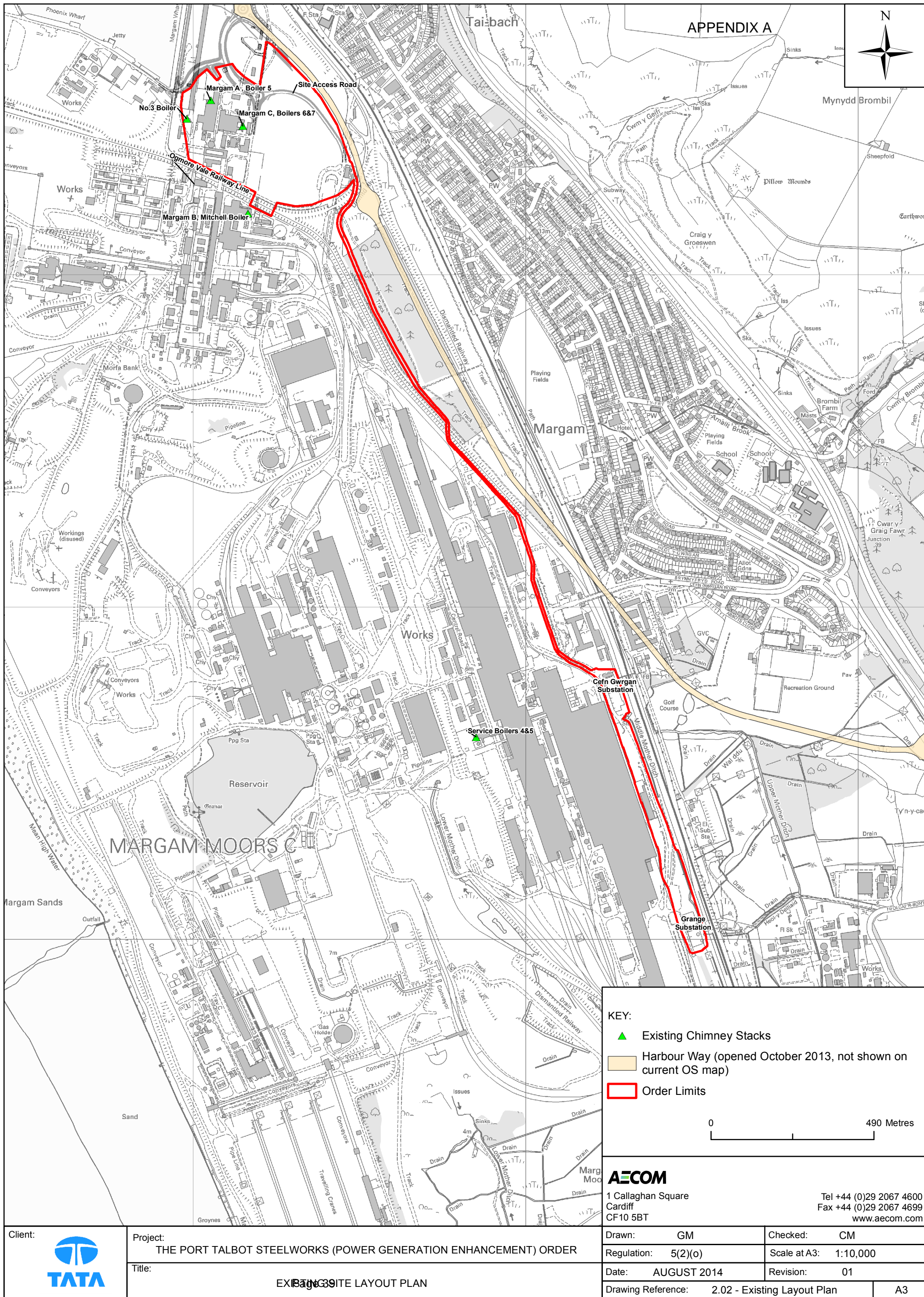
5.1 There are no legal implications associated with this report.

Background Papers: The Planning Act 2008 (as amended), National Policy Statements, Planning Policy Wales, adopted City & County of Swansea Unitary Development Plan and the Tata Steel UK Ltd Preliminary Environmental Report.

Appendices:

Appendix A - Site location plan.

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Client:

Project: THE PORT TALBOT STEELWORKS (POWER GENERATION ENHANCEMENT) ORDER
 Title: EXISTING SITE LAYOUT PLAN

Drawn: GM	Checked: CM
Regulation: 5(2)(o)	Scale at A3: 1:10,000
Date: AUGUST 2014	Revision: 01
Drawing Reference: 2.02 - Existing Layout Plan	A3