

## DINAS A SIR ABERTAWE

### HYSBYSIAD O GYFARFOD

Fe'ch gwahoddir i gyfarfod

### PWYLLGOR CYNLLUNIO

**Lleoliad:** Siambr y Cyngor, Neuadd y Ddinas, Abertawe

**Dyddiad:** Dydd Mawrth, 2 Awst 2016

**Amser:** 2.00 pm

**Cadeirydd:** Cyngorydd Paul Lloyd

#### **Aelodaeth:**

Cyngorwyr: P M Black, A C S Colburn, D W Cole, A M Cook, M H Jones,  
E T Kirchner, I M Richard, P B Smith, M Thomas, D W W Thomas a/ac T M White

Mae croeso i chi ddefnyddio'r Gymraeg. Os dymunwch ddefnyddio'r Gymraeg, rhowch wybod i ni erbyn canol dydd ar y diwrnod gwaith cyn y cyfarfod.

### AGENDA

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.**
- 2 Datgeliadau o fuddiannau personol a rhagfarnol.**  
[www.abertawe.gov.uk/DatgeliadauBuddiannau](http://www.abertawe.gov.uk/DatgeliadauBuddiannau)
- 3 Cofnodion:** **1 - 3**  
Cymeradwyo a llofnodi cofnodion y cyfarfodydd blaenorol fel cofnod cywir.
- 4 Eitemau i'w gohirio / tynnu'n ôl.**
- 5 Penderfynu ar Geisiadau Cynllunio o dan Ddeddf Cynllunio Gwlad a Thref 1990.** **4 - 153**
- 6 GCC 617 - Campws Townhill, Prifysgol Cymru y Drindod Dewi Sant, Heol Pantycelyn, Townhill.** **154 - 163**
- 7 Cadw Coed ar Safleoedd Datblygu.** **164 - 194**

**Cyfarfod Nesaf:** Dydd Mawrth, 6 Medi 2016 ar 2.00 pm



**Huw Evans, Pennaeth Gwasanaethau Democraidd**  
**Dydd Mawrth, 26 Gorffennaf 2016**

**Cyswllt: Gwasanaethau Democraidd - 636923**

# Agenda Item 3

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE PLANNING COMMITTEE

HELD AT THE COUNCIL CHAMBER, GUILDHALL, SWANSEA ON  
TUESDAY, 5 JULY 2016 AT 2.00 PM

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

**Councillor(s)**

P M Black  
A M Cook  
T M White

**Councillor(s)**

A C S Colburn  
M Thomas

**Councillor(s)**

D W Cole  
D W W Thomas

**Also Present: (Local Ward Member)**

Councillor B Hopkins

**Apologies for Absence**

Councillor(s): M H Jones, E T Kirchner, I M Richard and P B Smith

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

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

Councillor T M White – Minute No. 16 – Planning Application 2016/0517 – Personal – as Ward Member.

13 **MINUTES.**

**RESOLVED** that the Minutes of the Planning Committee held on 7 June 2016 be approved as a correct record.

14 **ITEMS FOR DEFERRAL / WITHDRAWAL.**

None.

15 **APPLICATION TO REGISTER LAND AT TIRMYNYDD ROAD, THREE CROSSES AS A TOWN OR VILLAGE GREEN.**

The Head of Legal & Democratic Services presented a “for information” report which outlined the details of an application made to register land at Tirmynydd Road, Three Crosses.

The background to the application was outlined and the fact that an Inspector has been appointed and decided that a non statutory inquiry should be held.

A further report will be presented to Committee outlining the Inspector’s recommendations following the inquiry.

16 **DETERMINATION OF PLANNING APPLICATIONS UNDER THE TOWN & COUNTRY PLANNING ACT 1990.**

The Head of Economic Regeneration and Planning presented a series of planning applications.

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

**RESOLVED** that:

**(1)** the undermentioned planning applications **BE APPROVED** subject to the conditions in the report and/or indicated below:

**#(Item 2) Planning Application.2005/2644 – Land off Fairwood Terrace, Gowerton, Swansea**

Report updated as follows:  
2 late letters of objection reported.

A visual presentation was provided.

Condition 10 amended to read as follows:

Before Plots 1-3 are brought into beneficial use, the footway fronting Fairwood Terrace illustrated on the drawings hereby approved, shall be fully provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority before development works commence on site. The submitted details of the footway works shall include details for the provision of Traffic Regulation Orders to protect the junction of Fairwood Terrace with the lane to the west of the site.

**#(Item 3) Planning Application.2016/0921 – Plot PD, PL & PN, Land south of Fabian Way and East of River Tawe**

Report updated as follows:  
Late e mail of objection reported.

Mr E Jones (agent) addressed the committee.

A visual presentation was provided.

**(2)** the undermentioned planning application **BE REFUSED** for the reasons indicated below:

**#(Item 1) Planning Application.2016/0517 – Block A, St Davids, New Cut Road, Swansea**

A visual presentation was provided.

Mr W Chung (objector) addressed the Committee.

Councillor B Hopkins (Local Member) addressed the Committee and spoke against the application.

Reasons

1.The siting of the refuse store has an unacceptable impact on the residential amenity of the neighbouring occupiers having regard to its relationship to the adjacent residential properties and its adverse harmful impact on environmental pollution contrary to Swansea Unitary Development Policies EV2 and EV40.

2.The refuse store structure by reason of its design, appearance and location within the street scene has a detrimental visual impact on the character of the area contrary to Swansea Development Plan Policies EV2 and EV4.

The meeting ended at 2.47 pm

**CHAIR**

# Agenda Item 5

CITY AND COUNTY OF SWANSEA  
DINAS A SIR ABERTAWE

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

DATE: 2<sup>ND</sup> AUGUST 2016

<b>Bay Area</b> Team Leader Liam Jones - 635735	<b>Area 1</b> Team Leader: Ian Davies - 635714	<b>Area 2</b> Team Leader: Chris Healey - 637424
Castle Mayals Oystermouth St Thomas Sketty Uplands West Cross	Bonymaen Clydach Cwmbwrla Gorseinon Landore Llangyfelach Llansamlet Mawr Morrison Mynyddbach Penderry Penllergaer Penyrheol Pontarddulais Townhill	Bishopston Cockett Dunvant Fairwood Gower Gowerton Killay North Killay South Kingsbridge Lower Loughor Newton Penclawdd Pennard Upper Loughor

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

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



## TWO STAGE VOTING

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

The first vote is taken on the officer recommendation.

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

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

Where the officer recommendation is for “refusal” and Members resolve not to accept this recommendation, appropriate conditions should then be debated and confirmed by means of a second vote. For reasons of probity, Member should also confirm reasons for approval which should also be lawful in planning terms. Officers will advise accordingly but will recommend deferral if more time is required to consider what conditions/obligations are required or if he/she considers a site visit should be held. If the application departs from the adopted development plan it (other than a number of policies listed on pages 77 and 78 of the Constitution) will need to be reported to Council and this report will include any appropriate conditions/obligations.

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

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

## CONTENTS

ITEM	APP. NO.	SITE LOCATION	OFFICER REC.
1	2015/2506	Land at Heol Pentre Bach Gorseinon Swansea SA4 4ZA <b>Residential development for the construction of 41 units with associated access and landscaping works</b>	APPROVE
2	2016/1268	Former Century Works at Frederick Place Llansamlet Swansea <b>Retention and completion of side extension and alterations to roof</b>	APPROVE
3	2014/1872	Land opposite Makro, Beaufort Reach, Swansea <b>Construction of 10 units for Class B1 and B2 use</b>	APPROVE
4	2016/0919	Lidl UK Gmbh Trallwn Road Llansamlet Swansea SA7 9WL <b>Variation of condition 13 of planning permission 2015/2119 granted 14th December 2015 to open between 0800-2200 on Bank Holidays</b>	APPROVE
5	2016/0971	The Bungalow Parkmill SA3 2EJ <b>Replacement dwelling (Amendment to Planning Permission 2015/2308 granted 17th March 2016)</b>	APPROVE
6	2016/1051	Channel View, Three Crosses, Swansea SA4 3UR <b>Replacement detached dwelling</b>	APPROVE
7	2016/0408	15-20 Castle Street Swansea SA1 1JF <b>Change of use, conversion of existing first and second floors and erection of two new floors to create 44 live/work units (Class C3/B1) and associated works</b>	APPROVE
8	2016/0873	8 Alexandra Terrace Brynmill Swansea SA2 0DU <b>Change of use from residential (Class C3) to HMO for up to six people (Class C4)</b>	APPROVE

ITEM	APP. NO.	SITE LOCATION	OFFICER REC.
9	2016/0983	28 Rhyddings Park Road Brynmill Swansea SA2 0AQ <b>Change of use from residential (Class C3) to HMO for 4 people (Class C4)</b>	APPROVE
10	2016/1114	26 Marlborough Road Brynmill Swansea SA2 0EA <b>Change of use from residential (Class C3) to 5 bedroom HMO (Class C4)</b>	APPROVE



**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 1

APPLICATION NO.

2015/2506

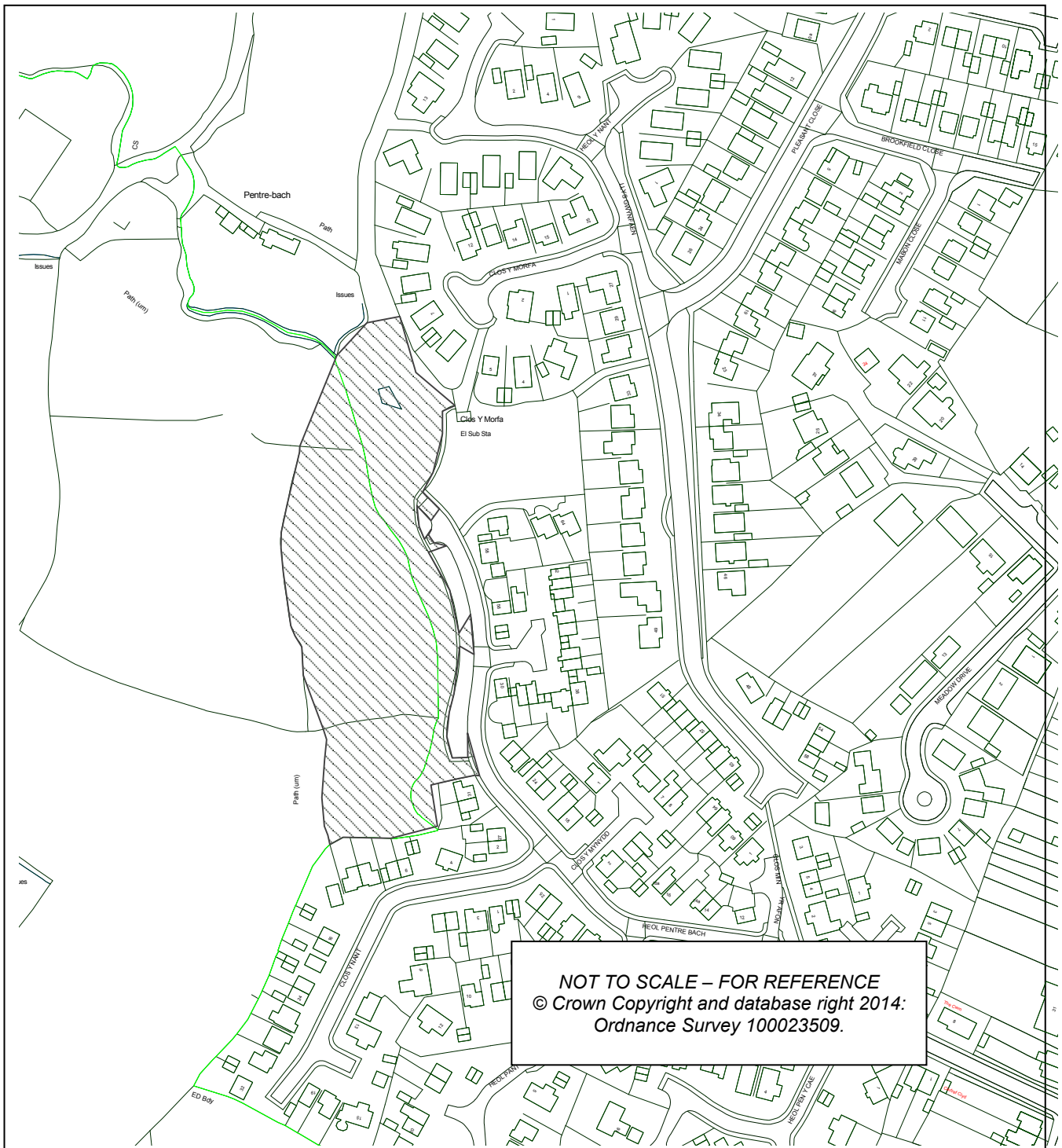
WARD:

Penyrheol

**Location:** Land at Heol Pentre Bach Gorseinon Swansea SA4 4ZA

**Proposal:** Residential development for the construction of 41 units with associated access and landscaping works

**Applicant:** Elan Homes



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
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Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
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Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
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Policy EV22	The countryside throughout the County will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value through: i) The control of development, and ii) Practical management and improvement measures. (City & County of Swansea Unitary Development Plan 2008)
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Policy EV23	Within green wedges development will only be permitted if it maintains the openness and character of the green wedge and does not contribute to the coalescence of settlements or adversely affect the setting of the urban area. (City & County of Swansea Unitary Development Plan 2008)
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Policy EV30	Protection and improved management of woodlands, trees and hedgerows which are important for their visual amenity, historic environment, natural heritage, and/or recreation value will be encouraged. (City & County of Swansea Unitary Development Plan 2008)
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Policy EV33	Planning permission will normally only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. (City & County of Swansea Unitary Development Plan 2008)
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Policy EV34	Development proposals that may impact upon the water environment will only be permitted where it can be demonstrated that they would not pose a significant risk to the quality and or quantity of controlled waters. (City & County of Swansea Unitary Development Plan 2008)
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Policy EV35	Development that would have an adverse impact on the water environment due to: i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or, ii) A reduction in the quality of surface water run-off. Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008)
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## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)	APPLICATION NO.	2015/2506
Policy EV38	Development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated to the satisfaction of the Council, that measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment. (City & County of Swansea Unitary Development Plan 2008)	
Policy EV40	Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)	
Policy HC3	Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)	
Policy HC17	The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)	
Policy AS2	Accessibility - Criteria for assessing design and layout of new development. (City & County of Swansea Unitary Development Plan 2008)	
Policy AS5	Accessibility - Assessment of pedestrian and cyclist access in new development. (City & County of Swansea Unitary Development Plan 2008)	
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)	

### SITE HISTORY

App No.	Proposal
2005/0678	Residential development (outline) Decision: Withdrawn Decision Date: 31/05/2005
2015/1670	PRE APP Residential development Decision: Negative Response Decision Date: 18/09/2015
LV/94/0254/03	RESIDENTIAL DEVELOPMENT Decision: *HRND - Refusal of Non-Determination Decision Date: 23/03/1995

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

LV/90/0449/03 SUBSTITUTION OF PLOTS 102-105 AND 138

Decision: \*HGPCU - GRANT PERMISSION UNCONDITIONAL

Decision Date: 13/09/1990

### Background

**This application is being reported to Planning Committee as it is a departure from the Unitary Development Plan currently in force.** Councillor Cole also requested the application be reported to Planning Committee.

Since the application was submitted, the City and County of Swansea Deposit Local Development Plan was presented to Council on 16 June and endorsed for a public consultation. The public consultation will run from 27 June to 31 August 2016.

The application has subsequently been amended to reduce the number of units from 43 to 41 following concerns over the impact of the proposals on trees. A Tree Preservation Order has also been placed on a group of Oak trees along the western boundary of the site.

An appeal was submitted to the Planning Inspectorate for the residential development on the application site and the adjoining land in 1994 following Lliw Valley's failure to determine the application within the prescribed timeframe (ref: LV/94/0254/03). The site contained 3.4Ha of land for a residential development of 67 dwellings.

The Inspector considered the main issues to be whether the proposals conflicted with the local planning policies which aimed to protect the open countryside, whether the proposals were premature with regards to the emerging local plan for the area, whether the proposal would set a precedent for future development and whether the proposal would have a satisfactory means of access for emergency vehicles. On these matters, the Inspector concluded that the development amounted to development within the countryside and government policy was that the countryside should be safeguarded for its own sake. Further to this, whilst not particularly prominent, the proposed development would spoil views outwards over the appeal site. The Inspector went on to state that the proposals represented encroachment and would not extend the urban boundary in a logical manner and the existing boundary to the built up area was clearly defined. The Inspector stated that allowing the development would be likely to frustrate the objective of utilising previously developed land within the urban boundary and could be said to be premature.

The subsequent outline application submitted in 2005 utilised a smaller section of land and proposed 39 dwellings on the indicative plan submitted with the application. This application raised similar concerns to the previous application with residents referring to the previous appeal decision and the similarities between the two applications. The application was subject to significant local objection. The application was written up with a recommendation for refusal and the applicant subsequently withdrew the application prior to the Committee meeting.

The current application site is similar in area to the 2005 application site and has an area of approximately 1.23Ha. A Screening Opinion was carried out in accordance with Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

It was considered that this proposal, by virtue of its nature and location, would not have a significant environmental impact. It was therefore determined that an Environmental Impact Assessment was not required to be submitted with this application.

### Neighbour comments:

The development was advertised in the Press on 13<sup>th</sup> January 2016, on site with four site notices, and 17 no. properties were consulted individually.

16 letters of objection have been received in response to this application which have been summarised below:

- Over development of site and of Queensgate Village, loss of village feel
- Safety fears for pedestrians and existing local residents due to increase in traffic – the road is already narrow and hazardous due to on street parking and surrounding roads cannot cope (such as Frampton Road)
- Visibility at junctions is already obscured and will be made worse with three extra turn offs
- Entrance to Heol Pentre Bach already busy and partially obstructed AM & PM. Junction is blind due to parked cars on Frampton road, this will only be made worse
- Increase in pollution – noise, light and traffic (on site and Gorseinon in general)
- Number of vehicles is likely to be higher than predicted
- Concerns over data used in the transport statement
- Bus services to the site are infrequent
- It is not clear from the plans I have seen of the site whether the existing mature trees and shrubs that immediate lie to the rear of my property will remain undisturbed, a large oak tree in particular – disturbance will affect stability of wall
- Trees provide habitat for biodiversity and screen the development
- Extra strain on local services including schools and emergency services – doctors at full capacity
- Public footpaths and rights of way potentially blocked/ obscured – area is a popular dog walking route
- Dwr Cymru previously objected to development on this site
- Concerns over drainage – the new development would increase the amount of surface run off while reducing the natural soak off areas
- Site is marshy
- Flood assessment should be provided
- Loss of outlook/ view and resultant devaluation of property
- Overbearing impact on the existing estate
- Dwellings should match the existing dwellings on site – no render or render at first floor level only
- Application submitted and refused on site every five years – what has changed?
- Land is green wedge in the open countryside – brownfield land should be developed
- Concern about whether exploratory bore holes have been drilled on site
- Loughor Estuary is a SSSI – there should be a buffer zone around the protected area
- Corridor for low flying aircraft between the estuary and the residential estate – new houses may move possible flights line into the Estuary and impact on wildlife
- No mention is made of S106 – community clawback
- Disruption, noise and disturbance during construction phase

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

- Traffic calming measures cause multiple toxins responsible for 50,000 deaths annually
- Vehicles parked on pavements means people on mobility scooters have to go on to the carriageway
- Development will affect quality of live for all residents – agree with previous objections.

One local resident has written in to support the application and these comments are summarised below:

- Positives outweigh most of the small negatives
- Not enough 4 bedrooms properties for young families – need for housing in the area
- More people means more money being spent in the local area
- Residents stating that countryside views will be lost forget that they themselves are in a new development that impacted on views of those people living on Frampton Road.

### Consultation Responses

#### **Highways:**

##### “1 Introduction

- 1.1 This proposal is for the construction of up to 43 dwellings on undeveloped land fronting Heol Pentrebach in Penyrheol. The site is to be accessed from three locations along the site frontage and is supported by a Transport Statement that assesses the sites accessibility and traffic impact.

##### 2 Traffic Generation

- 2.1 Traffic movements have been quantified with reference to national data for housing developments and indicate that the likely movements would be 6 in and 18 out in the am peak and 16 in and 8 out in the pm peak. This equates to 24 two-way movements or just 0.45 movements per minute in each peak hour which is not considered a high volume. The number of predicted movements is too small to have any adverse effect on the operation of any junctions and the surrounding highway network.

##### 3 Accessibility

- 3.1 The site is well served by footways and there are public rights of way to the north and west of the site. There are no dedicated cycle facilities in the immediate area and all cyclists have to use existing roads. There are bus stops within 500m and 650m with approximately 8 services per hour, therefore adequate bus provision is available.

##### 4 Site Layout

- 4.1 All roads within the development are indicated to adoptable standards and are acceptable to serve the development. A combination of standard cul-de-sac provision is indicated together with some shared surface roads and links to the adjacent public rights of way are also shown.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

4.2 Each plot is provided with parking in accordance with adopted standards and road widths are in accordance with adopted guidance.

### 5 Highway Safety

5.1 Some local concern has been raised about the additional traffic and difficulties currently experienced due to on street parking in the area. The predicted traffic generation is relatively low and unlikely to result in any congestion issues. Parking is provided within each plot and therefore is acceptable and in accordance with adopted standards.

5.2 There are general concerns regarding the speed of traffic along Frampton Road in the vicinity of the junction with Pentrebach Road. A recent planning application opposite the site was granted consent and required to provide some form of traffic calming which would also cover the Pentrebach Road junction and therefore the same requirement should be imposed on this application. Whichever site develops first will be required to secure appropriate traffic calming.

### 6 Conclusions and Recommendation

6.1 The assessment of traffic impact indicates that the site is capable of supporting the number of dwellings proposed and the indicated layout is acceptable.

I recommend no highway objection subject to the following;

- i. Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Local Planning Authority.
- ii. No building works shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established].
- iii. The site shall not be brought into beneficial use until such time as speed reduction measures at the junction have been completed in accordance with details to be agreed.
- iv. All internal roads must be constructed to adoptable standards.

Note: The Developer must contact the Highway Management Group , The City and County of Swansea , Penllergaer Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Senior Engineer (Development) , e-mails to mark.jones@swansea.gov.uk , tel. no. 01792 636091.”

### Highways (following reduction of units):

“No further comments.”

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

### **Pollution Control:**

"I have no objection to this application but would like to make the following comments and attach the following conditions please: -

Land:

Unforeseen Contamination

- If, during the course of development, contamination not previously identified is found to be present at the site no further development [unless previously agreed in writing with the Local Planning Authority] shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a detailed strategy for dealing with said contamination.

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

The site investigation report submitted with the application refers to further assessment at location TP7 due to the presence of asbestos and potential ACM's; I would agree with this statement and require the information to be submitted. Also, reference is made to further assessments of the 'Overgrown Northern Part of the Site' which has not been investigated fully; again I would require the outcome of the assessment to be submitted.

Construction:

Construction Site Management Plan

- Prior to the commencement of demolition/construction works on the application site (including all access roads) a Construction Pollution Management Plan (CPMP) shall be submitted to and approved in writing by the LPA. The CPMP is to include the following:
  - a) Construction programme and timetable
  - b) Detailed site plans to include indications of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas etc
  - c) Traffic scheme (access and egress) in respect of all demolition/construction related vehicles;
  - d) An assessment of construction traffic generation and management in so far as public roads are affected, including provisions to keep all public roads free from mud and silt;
  - e) Proposed working hours;
  - f) Principal Contractor details, which will include a nominated contact for complaints;
  - g) Details of all on site lighting (including mitigation measures) having regard to best practicable means (BPM);
  - h) Details of on site dust mitigation measures having regard to BPM;
  - i) Details of on site noise mitigation measures having regard to BPM;
  - j) Details of waste management arrangements (including any proposed crushing/screening operations); and
  - k) Notification of whether a Control of Pollution Act 1974 (Section 61) Notice is to be served by Principle Contractor on Local Authority.



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

### INFORMATIVES

#### 1 Construction Noise

The following restrictions should be applied to all works of demolition/ construction carried out on the development site All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays. The Local Authority has the power to impose the specified hours by service of an enforcement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

#### 2 Smoke/ Burning of materials

No burning of any material to be undertaken on site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

#### 3 Dust Control:

During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

#### 4 Lighting

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

#### **Drainage:**

"We have reviewed the submitted application and based on the document entitled Flood Risk Assessment & Drainage Strategy ref 7444/FRA/JRV/2, dated 14 April 2016 recommend that the following is appended to any permissions given.

#### Condition

1. No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved unless otherwise agreed in writing 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 and to minimise surface water run-off.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

**Condition**

2. The development shall not discharge to the adjacent watercourse at any rate greater than 7.5l/s.

**Reason.**

To prevent increased runoff to the local watercourse network and increased flood risk.

**Informatives.**

Any onsite watercourses identified must remain open and undisturbed and wherever possible habitats enhanced through the use of SuDS mitigation measures acting in combination with the natural environment. Please be aware that the Authority's prior written consent under the Land Drainage Act 1991 (as amended) is required for any works that have the potential to affect the flow in any watercourses, ditch or stream."

**Urban Design Officer:**

"The proposal provides active frontage onto the street (Heol Pentre Bach) and the open space. In order to face houses onto the open space, plots 37-43 back onto the street and whilst this isn't ideal it ensures a positive frontage onto the open space and the rear gardens are secured by robust brick walls. The entrances to the site are well defined by corner turning houses and the vistas into the site are closed by focal buildings.

The site is laid out as 3 cul-de-sacs and whilst the adopted residential Design Guide discourages this approach in favour of connected streets it is considered acceptable on this occasion given the shallow depth of the site and the short distance in terms of connectivity.

The proposed slate colour concrete tile with predominantly red brick walls and some accent render areas are fine for the suburban location. There is a lack of robust brick screen walls in some locations and this should be addressed by condition.

It is for you as case officer to assess the amenity relationships.

Approval is recommended with the standard conditions, plus a boundary wall condition as follows:

Notwithstanding the plans submitted, the garden boundaries to the following plots must be brick screen walls:

- 9 (south and west)
- 10 (north west corner)
- 11 (west side)
- 14 (west side)
- 15 (south side)
- 23 (west side)
- 37/38 (north side)."

**Urban Design Officer (following reduction of units):**

"No further comments."

**Housing:**

We will require a 30% affordable housing contribution on this site. This should be split between 60% intermediate units at 70% of ACG or OMV (whichever is lower at the point of transfer) and 40% social rented at 42% ACG or OMV (whichever is lower at the point of transfer) – all to be disposed of via a RSL.

The social rented units should be 2 and 3 bedroom houses, with 1 x 4 bedroom unit, and the intermediate should be 2 and 3 bedrooms, (there is also a high need for bungalows so this could be one of the 2 bedroom units). All the units must be DQR compliant and should pepper potted throughout the development.

**Strategic Planning**

“The site is outside the adopted Unitary Development Plan (UDP) settlement boundary and is designated as EV20/21 - Development in the Countryside; and EV23 - Green Wedge. As such the proposed development represents a departure to existing development plan policy, which presumes against residential development at such locations.

The emerging Local Development Plan (LDP), whilst still at Pre-Deposit stage, is of relevance to the determination of the proposal. The LDP Preferred Strategy identifies opportunities for appropriate greenfield releases on the edge of the settlement boundary at Gorseinon and Loughor on a small scale where these would constitute appropriate rounding off. The site in question was identified under Candidate Site Reference UL002 as one these potential allocations in the and was as one of the sites recommended for inclusion in the Deposit Local Development Plan (LDP) due to be published for consultation in May/June 2016. The site was attributed with a provisional capacity for 40 residential units.

The housing land supply currently stands at 3.0 years (2015 JHLAS), which is less than the 5 years required under national planning policy. The Council has demonstrated its commitment to increasing the available housing land supply through publication of the *Developer Guidance – Planning Applications for Non-Householder Residential Development*.

This guidance sets out that the Council will take a positive approach to the negotiation and preparation of appropriate planning applications for non-householder residential development on sites recommended for allocation in the emerging LDP. Where such cases represent a departure from the adopted UDP, the Council will prioritise identified strategic sites to ensure the high numbers attributed to them can be delivered and because these sites are most capable of delivering the widest social/economic benefits to contribute towards achievement of the LDP strategy and sustainability. The guidance states that the Council will also prioritise sites identified for the particular purpose of delivering majority proportions of affordable housing. The application site does not fall into either of the aforementioned categories, and is instead a proposed ‘non-strategic’ housing site. The guidance sets out that lower priority will be afforded to any such non-Strategic site recommended for LDP allocation beyond adopted UDP settlement boundaries, because they:

- are less likely to deliver associated wider community facilities and highway improvements
- will deliver fewer units than larger strategic sites

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- could divert the attention and resources of a developer away from delivering units and infrastructure on Strategic Sites; and
- would require multiple releases to redress the shortfall

However, the guidance also notes that the Council will take an evidenced approach and consider the merits of any planning application with full regard to the particular circumstances and planning issues. It states there may be circumstances when a small scale site could provide a contribution to housing numbers that would not otherwise be secured by other strategic sites. The Guidance states that such departure applications will need to demonstrate that the proposed development:

1. is in-line with the emerging LDP
2. will deliver a meaningful and early contribution to meeting housing supply before adoption of the LDP and will not divert the attention and resources of a developer away from delivering units and infrastructure on Strategic Sites
3. is sustainable, viable and will deliver any necessary social/economic benefits such as community facilities and highways improvements to make the development acceptable

The principle of allowing the development has been assessed under these three points below.

### Site Assessment

1. As noted, the site has been agreed by Members as a suitable housing allocation for the Deposit LDP for a very similar number of units. The Preferred Strategy seeks to ensure such allocations secure a settlement rounding off. This is particularly relevant at this location in that a Candidate Site proposal was made proposing a large (12 hectare) residential development further west, at land known as 'Whitley Fach' (Candidate Site UL008). Following detailed assessment the Council has resolved not to allocate a strategic site at this location and land further west of the application site will therefore be designated as open countryside beyond the settlement boundary in the forthcoming Deposit LDP. Given these circumstances, it is vital that the layout of this site does not facilitate the potential for further expansion to the west of the application site at 'Whitley Fach', and instead secures a rounding off and re-enforced defensible boundary through its design.

In this respect it is noted with concern that the applicant proposes to remove a large section of the existing vegetative western boundary screening to facilitate a storm drain (nos. 15-17); and that properties at the south west (nos. 3-8) and in the north west (nos. 32-36) of the site appear to have no natural screening or the vegetation is proposed to be removed. There also appears a lack of re-planting required to deliver a suitably robust boundary and screen.

Land around the estuary has been identified as the Lower Loughor Valley and Estuary Special Landscape Area (SLA) demonstrating its outstanding quality visual, sensory and habitat landscapes that make it a landscape of significant local importance. Emerging LDP policy will seek to ensure no significant adverse effect on the features and characteristics for which the SLAs have been designated.

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The effects of the proposal on the sensitive landscape area beyond and the importance therefore of delivering a strong permanent western boundary is clearly of key significance to determining the suitability of the proposal. It is also requested that the street/mews highway details are configured to exclude the opportunity for the proposed estate road to be extended at a later date or utilised by increased volumes of traffic.

In summary, in relation to site appraisal, the proposal does represent an opportunity to round off the settlement in an appropriate manner (meeting the in-principle provisions of the LDP Preferred Strategy), however further amended details of the site layout and works to be undertaken to maintain and enhance the boundary are considered necessary to satisfy this element, and to ensure the scheme does not facilitate future encroachment of development to the west.

2. The proposal has potential to deliver housing land supply before LDP adoption. There appear to be no major constraints which might delay the site's commencement and I understand that the developer, Elan Homes, maintains that it can demonstrate, with evidence, that the development economics of the scheme enable it to come forward immediately and that the company has a track record of building out sites in the vicinity soon after planning permission. It is noted that the Planning Statement states that they have a firm intention to proceed with development in the shorter term and that Elan Homes are a smaller house builder who do not currently have involvement in any of the LDP Strategic Sites. However the Statement submitted is considered insufficiently detailed in terms of evidencing this position and the developer must submit a clear economic and viability case to illustrate that the site should be categorised as an 'exception' site in this regard.

Subject to further evidence being received, and in the event that planning permission is recommended, an appropriate condition should be placed on the planning permission restricting it to a time period leading up to LDP adoption.

It is significant that the large scale 'Whitley Fach' proposal submitted to the Council as an LDP 'Candidate Site' for consideration has been assessed in detail and is considered unsuitable for development, and therefore there is no alternative strategic site to the application site at this location. The application therefore represents a non-strategic scale alternative site that does not compete with a strategic scheme being progressed in the vicinity.

3. A full planning application has been submitted in-line with the Developer Guidance. Based on the stakeholder consultation responses it will be necessary to ensure the development delivers any infrastructure / community improvements necessary to make the development acceptable and that this will not affect the viability and prompt deliverability of the site. It is positive that the Planning Statement notes that the developer intends to deliver 30% of the site as affordable housing units.

### Conclusion

The proposed development is a departure to the extant UDP. Notwithstanding this it has potential to accord with the provisions of the recently approved Guidance Note on Non Householder Residential Development in respect of departure applications, subject to further detailed information being provided as described above.

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The Guidance sets out that it would be inappropriate to determine prior to public consultation on the LDP Deposit being concluded as there may need to be focussed changes made to the Deposit arising from the consultation ahead of the Plan being submitted to Welsh Government as sound.

Any permission granted should be time restricted to ensure development takes place promptly and that the site contributes to the land supply before LDP adoption.”

**Education**

Proposed residential development comprising now of 43 dwellings: 4 x 1 bed flats, and 39 x 2/3/4 bed dwellings.

The catchment area for this development is Upper Loughor, and the catchment schools are:

	Catchment schools	Number of unfilled places Date Sept. 2015	%	Number of unfilled places Date Sept. 2022	%
English Medium Primary	Tre Uchaf Primary	41	19.9	42	20.39
English Medium Secondary	Penyrheol Comprehensive	63	6.46	87	8.92
Welsh Medium Primary	YGG Pontybrenin	14	2.95	-51	-10.76
Welsh Medium Secondary	YG Y Gwyr	105	11.16	-327	-34.75

SPG Pupil Generation (39 Dwellings)

Recommendation:

Primary:

- English Medium: there is currently enough capacity within the existing English Medium School in this developments catchment. The overall impact of the Local Development Plan will take this school over its capacity.
- Welsh Medium: the Welsh Medium catchment school is projected to be over-capacity and there are a large number of developments that have successfully obtained planning applications that will further exacerbate the situation, without the impact of the LDP.

Secondary

- English Medium: whilst there is currently capacity at Penyrheol Comprehensive school, the surplus capacity is operating at below 10%, which is the percentage Welsh Government deem to be sufficient to allow flexibility for the school to operate sufficiently and effectively. The existing commitments (excluding the combined impact of the LDP) will create significant pressures and a shortfall in accommodation for Penyrheol Comprehensive School.

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- Welsh Medium: the Welsh Medium secondary school is projected to be over-capacity and there are a large number of developments that have successfully obtained planning applications that will further exacerbate the situation, without the impact of the LDP.

Requested contribution:

Providing the information above, the request for contributions from this development is:

- Primary: £23,700 plus inflation (18.9% of £125,397) towards additional year 5/6 accommodation at YGG Pontybrenin.
- Secondary: £135,976 plus inflation towards replacement of Science demountable at Penyrheol Comprehensive School.”

### **Ecology:**

“The development will have a negative effect on the ecology of the site, this impact can be minimised by following the guidance indicated in section 5 of the Reptile Survey (Wyg December 2015) and section 5 of the Extended Phase 1 Survey (Wyg December 2015). A condition should be added to any permission we give to ensure that this guidance is followed. Habitat mitigation should include enhancement of retained habitats and the planting of ecologically friendly landscape planting.

Some areas of the site are likely to contain reptiles; in order to protect them the mitigation described in section 5 of the reptile survey must be followed. The stream adjacent to the site is suitable for occasional use by otters this habitat and the adjacent strip of habitat should not be disturbed by the development. Any scrub on the site may contain nesting birds; scrub should only be cleared outside the bird nesting season (March to September). The boundary trees should be retained.”

### **Natural Resources Wales:**

“We would not object to the above application, however we wish to make the following comments.

### **FLOOD RISK**

The application site is located within Zone A, as defined by the development advice maps referred to under TAN 15 Development and Flood Risk (July 2004). We have no knowledge of flooding at this location, but there is an ordinary watercourse adjacent to the site and therefore any flood risk associated with this should be assessed by yourselves, as the Lead Local Flood Authority.

### **ECOLOGY AND PROTECTED SPECIES**

We note the submission of the document entitled; ‘*Land at Heol Pentre Bach, Gorseinon: Extended Phase 1 Habitat Survey Report*’, dated December 2015, by WYG Limited. Along with the document entitled; ‘*Land at Heol Pentre Bach, Gorseinon: Bat Activity Survey Report*’, dated December 2015 by WYG Ltd. Section 4.3.3 of the Extended Phase 1 Habitat Survey Report states that no buildings are present on site, but a number of semi-mature and mature trees are present.

We welcome the recommendations in Section 5.3.3, that further bat surveys are carried out on trees which are proposed to be lost and that have the potential to support roosting bats.

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We advise that trees are surveyed and assessed in accordance with '*Bat Surveys; Good Practice Guidelines 2nd Edition*' published by the Bat Conservation Trust 2012, and that the results used to inform the planning application. We recommend you seek the advice of your Authority's Planning Ecologist to determine the surveys required to inform the planning application.

If any survey undertaken finds that bats are present at the site and you require further advice, then please feel free to contact us again.

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. We recommend that you seek further advice from your Authority's Planning Ecologist in relation to these species and habitats.

### PROTECTED SITES

We note that the site is located approximately 170m from the boundary of the Carmarthen Bay and Estuaries SAC and the Burry Inlet and Loughor Estuary SSSI. A watercourse on the northern boundary of the site also appears to provide a direct hydrological link between the site and the SAC/SSSI.

We consider it unlikely that the on-site works would have a significant adverse effect on the SAC/SSSI, providing appropriate pollution prevention and construction management plans are in place.

There is also a requirement to assess any potential impacts under the Conservation of Habitats and Species Regulations 2010. Regulation 61 of the Regulations, requires the competent authority to undertake a test of the likely significant effects of the proposal on the SAC.

If it cannot be demonstrated that there will not be a significant effect, either alone or in combination with other plans and projects, you are required to undertake an appropriate assessment of the implications of the proposed scheme for the SAC in view of its conservation objectives, before granting planning permission.

### POLLUTION PREVENTION & WASTE MANAGEMENT

The biggest risk in relation to pollution, occurs during construction and we would remind the applicant/developer that the responsibility for preventing pollution rests with those in control on the site. Works should therefore be carefully planned, so that contaminated water cannot run uncontrolled into any watercourses (including ditches).

As best practice, we would advise the developer to produce a site specific construction management plan / pollution prevention plan, with particular reference given to the protection of the surrounding land & water environments. For detailed pollution prevention guidance we would refer the applicant/developer to the Environment Agency's Pollution Prevention Guidance available from their website:

We would also recommend that a Site Waste Management Plan (SWMP) is produced. Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money. Guidance for SWMPs are available from the DEFRA website:



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“We acknowledge that a SWMP may be something best undertaken by the contractor employed to undertake the project. Furthermore, we note that these documents are often ‘live’ and as such may be best undertaken post permission.”

### **Arboricultural Officer:**

“Recommendation: Acceptable subject to condition

#### Condition 1

No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence on site until an updated Tree Protection Plan and arboricultural method statement, in accordance with BS5837:2012 Trees in relation to design, demolition and construction-Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the specification and positioning of temporary tree protective fencing and ground protection where required. Other details shall include: areas for storage, access facilitation pruning requirements, mixing areas and parking areas. The approved tree protection measures shall be installed prior to any site activity commencing and maintained until the area is to be landscaped. No development or other operations shall take place other than in complete accordance with the Tree Protection Plan, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that reasonable measures are taken to safeguard trees in the interests of local amenity in accordance with Policy EV30

#### Comments:

The revision of the scheme has moved the houses further away from the category A oak trees on the western boundary. This will have reduced further pressure on these trees and future pruning will be controlled by means of a Tree Preservation Order served on 12/07/16.

The routing of the storm drain appears to be sympathetic to the retained trees and is an improvement on previous drawings. The submitted tree protection plan now does not relate to the new layout and an update is required.

In the event of the proposals being approved could you please condition the above to ensure the important trees are afforded suitable protection?”

### **Public Rights of Way Officer:**

- The footpath that runs to the West of the site (LC45) is very wet. The Countryside Access Team would not want any more water drained onto this land as it will compound the problems on the right of way.
- The tree line on the Western side of the site should be retained due to the amount of water that the trees will utilise.
- Footpath LC46 runs down the Western side of the development. It looks as if the entrance road apron to houses 27 – 43 may encroach over this. The end of the footpath is denoted by the footpath sign, which has had a dog bin attached to it. The Countryside Access Team can accept a couple of metres of the path being under the concrete apron as opposed to tarmac. The sign post with dog bin on it must be replaced at the boundary of the newly adopted highway once the apron has been completed.

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- It looks from the plans as if a small walkway is going to link the development to footpath LC46 in the North West. If this is so, the Countryside Access Team would look for footpath LC46 to have works completed on it through planning gain to include some clearance, levelling and surfacing in the form of tarmacking.
- Other footpaths in the area may be affected by the development, specifically LC18, which is on route to the sewage treatment plant. The developer should be aware that if they need to work on public rights of way, or dig them up, they should contact the Countryside Access Team to discuss.
- It appears the actual route the storm drain / ditch would cut across the footpath. If so, this would need to be a culvert to allow people to walk across the top of it uninterrupted. We'd be happy with the culverted area being 2 to 2.5 metres wide.
- If the drain is continuing for a significant distance from the development I'd expect there to be no effect on the path at either end.
- Footpath improvements would involve a digger scrape of vegetation off the path to make a wider more convenient walking surface for the local populace. In terms of surfacing, we'd be looking for the improved path to be surfaced with type 1 to dust to 1200mm wide to a depth of 100mm. I haven't measured the path's exact length, but would estimate it at no more than 200m.
- 2 of the stiles should be replaced with kissing gates as this improves the access for walkers.

### **Dwr Cymru Welsh Water:**

"We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

### **SEWERAGE**

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

The proposed development site is crossed by a 375mm & 150mm combined sewer overflow pipe with their approximate position being marked on the attached Statutory Public Sewer Record. Their position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewers.

Reason: To protect the integrity of the public (sewer/sewers) and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

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### SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

### WATER SUPPLY

Dwr Cymru Welsh Water has no objection to the proposed development.”

### **Glamorgan Gwent Archaeological Trust:**

An archaeological desk based assessment prepared by Archaeology Wales and submitted in support of the application has identified the potential for any development here to impact on post-medieval archaeology; notably the remains of a small farmstead known as Pen Y Cae. The assessment indicated that there was a need to record the upstanding remains of Pen Y Cae prior to work commencing on site and for an archaeological watching brief to be maintained during groundworks associated with the development. This is a recommendation with which we concur. We therefore recommend that two conditions are attached to any consent granted. The first to ensure that the necessary building recording work is carried out in a suitable manner. We envisage that this work be undertaken to Level 2 as detailed in the 2016 Historic England guide to understanding historic buildings. We therefore suggest that a condition worded in a manner similar to model condition 73 given in Welsh Government Circular 016/2014 is attached to any consent that is granted in response to the current application. This condition is worded:-

No works to which this consent relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Reason: As the building is of architectural and cultural significance the specified records are required to mitigate impact.

We also recommend that a note should be attached to the planning consent explaining that:

The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), “Standard and Guidance for Building Recording” (and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.

We also recommend that a second condition requiring an archaeological watching brief to be conducted during the groundworks for the development should be attached to any planning consent granted in respect to the current application. This should include all ground breaking activities including works for foundations and for the provision of services. This recommendation is made following the guidance given in Planning Policy Wales 2016 (Edition 8) Section 6.5.3 with additional advice being provided in Welsh Office Circular 60/96, section 22. It is suggested that the condition should be worded in a manner similar to model condition 22 given in Welsh Government Circular 016/2014 No development or site clearance shall commence until the local planning authority have been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted.

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No work shall commence until the local planning authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the local planning authority within two months of the archaeological fieldwork being completed.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

We again recommend that a note should be attached to the planning consent explaining that:

The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), “Standard and Guidance for an Archaeological Watching Brief” ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa) ) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro) ) or an accredited Member.

### **Japanese Knotweed Officer:**

Have been consulted on this application but no response has been received to date.

### **Coal Authority:**

“The Coal Authority is a non-departmental public body sponsored by the Department of Energy and Climate Change. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Material Consideration

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

Appropriate mining information for the proposed development site has been obtained on behalf of the applicant has been used to inform a Site Investigation Report (November 2015, prepared by Intégral Géotechnique (Wales) Limited), which accompanies this planning application.

The Site Investigation Report correctly identifies that the application site has been subject to past coal mining activity. In addition to the mining of deep coal seams, The Coal Authority records indicate that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past.

The Site Investigation Report has been informed by an appropriate range of sources of information including a Coal Authority Mining Report, an Envirocheck Report, historical OS mapping, and BGS geological mapping. The Report indicates that on the basis of a desk-based review of mining and geological data, shallow coal mine workings were identified as potentially posing a risk to stability at the site.

The Site Investigation Report goes on to detail the results of subsequent intrusive investigations carried out at the site, which comprised the excavation of eight trial pits and the drilling of six rotary boreholes.

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These investigations only encountered one coal seam of any note at the southern end of the site which was found to be 0.5m thick and at depth of in excess of 25m. No coal was encountered where records suggest the outcropping coal seam should be present.

On the basis of the above, the Report is able to conclude that the risk from unrecorded shallow mining is very low and that precautions against shallow mining subsidence are not required.

The Coal Authority Recommendation to the LPA

The Coal Authority is satisfied with the broad conclusions of the Site Investigation Report, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority does not object to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application.”

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

“I am pleased generally with the site layout. The parking is within curtilage and/or overlooked. There is parking to the rear of plots 37-42 but it is overlooked by the properties at plots 33-36.

Pedestrian routes must be designed to ensure that they are visually open, direct, overlooked, lit and well used. They should not undermine the defensible space of neighbourhoods. Routes for pedestrians, cyclists and vehicles should not ideally be segregated from one another or provide access to rear gardens as is the case with the footpath that runs to the rear of plots 3-8. Such paths have been proven to generate crime.

Ideally this path would be designed out. I realise that as it is an existing path this may not be an option. If it is to remain rear gardens adjacent to this path should also be protected by fencing at least 2 metres in height. Paths ideally should be direct, have no hiding areas, be 3 metres wide and lit.

Entry onto the estate should be restricted to the designated routes.”

Other general comments were provided with regards to lighting, boundary identification, landscaping and planting, side and rear parking, vehicle parking, garden sheds, bin stores, security lighting, drainpipes, public utilities, blank walls, door security, window security, intruder alarm system, identification of properties and garages.

### **Llwchwr Town Council:**

No objection.

### **Gorseinon Council:**

“Members noted that this was within the Llwwchwr Town Council area, and whilst the site was being considered for the LDP it was currently in the open countryside.

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The access to the site was via the Queensgate development and there were ongoing problems where the site exits on to Frampton Road, which would be exacerbated by the additional 43 dwellings proposed. If approved, a Section 106 agreement would be needed to improve the junction. The housing mix was also criticised as not including any affordable homes. Members also felt the current brownfield sites in the area should be developed before greenfield sites are released.”

### Site Location

The application site covers an area of approximately 1.23 hectares and lies to the west of Heol Pentre Bach where it terminates. The site comprises the whole of one field and smaller parts of three other fields. A landscaped strip separates the site from Heol Pentre Bach with a turning head located at the northern end of the road. Clos Y Morfa adjoins the northern end of the site with a pedestrian footpath running between the two roads, adjacent to an area of public open space. Dwellings on Heol Y Nant wrap around the southern boundary of the site. Heol Pentre Bach is accessed off Frampton Road which links Penyrheol and Loughor.

The site is currently agricultural land that rises gently from east to west and slopes down towards the north with a mature hedge atop a bank running along the western site boundary. The site is predominantly grass land with sporadic trees/ hedges throughout. Two public footpaths (Nos 45 and 46) run adjacent to the site. The site has good access to a number of public footpaths that extend into the surrounding countryside and link it to the nearby Loughor Estuary foreshore. The character of the nearby residential areas is typical of the type of relatively modern suburban streets with various cul-de-sacs stretching off the main spine road, comprising of predominantly two storey detached and semi-detached properties.

### Description of Development

This is a full application for planning permission for 41 dwellings comprising a mix of 1, 2, 3 and 4 bed dwellings and associated access and landscaping works. Two units have been removed to reduce the impact of the proposals on trees along the western boundary.

The proposed layout comprises an extension to the end of this road to provide a new access into the development along with 2 new accesses off Heol Pentre Bach with the turning head also utilised to access two garages located within the development. The development would consist of 3 cul-de-sacs each with a private drive(s) to serve several of the dwellings.

12 different house types are proposed as part of the development which would comprise detached, semi-detached and terraced properties. The dwellings would be two-storey finished either in brick or brick and render. The proposed development allows for 12 of the proposed units to be affordable (approximately 29%). The mix of affordable units comprises 4 x no. 1-bed flats, 3 x no. 2-bed houses, 4 x no. 3-bed houses and 1 x 4 bed house.

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The application has been submitted along with an Extended Phase 1 Habitat Survey Report, Reptile Survey, Bat Activity Survey, a Transport Statement, Landscape Character and Visual Impact Assessment, Site Investigation Report, Tree Condition and Valuation Survey, a Flood Consequences Assessment and Drainage Strategy, an Archaeological Desk Based Assessment and a Welsh Language Impact Statement.

### APPRAISAL

This is a full planning application for 41 dwellings comprising a mix of 1, 2, 3 and 4 bed dwellings and associated works including access and landscaping at Heol Pentre Bach. The application site covers an area of approximately 1.23 hectares and lies at the northern end and to the west of Heol Pentre Bach. The site is currently pasture land enclosed with trees and is located outside of the Urban Boundary within a Green Wedge.

### **Main Issues**

The main issues to consider in the determination of this application relate to the acceptability of the principle of the development, the design/ visual impact of the proposals, impact on neighbouring amenity, highway safety, ecology, drainage and water quality issues, having regard to the prevailing provisions of the relevant UDP Policies and National Policy guidance. There are considered to be no additional issues arising from the provisions of the Human Rights Act.

### **Principle of the Development**

The application site is located within a green wedge, outside of the Urban Boundary as defined in the Adopted Unitary Development Plan. Local residents have stated that the proposal is contrary to policy EV23 and various applications have been submitted, refused and dismissed on appeal on this site over the last 20 years. Policies EV18 and EV20 are not considered applicable as this is not a rural exception site proposed for affordable housing to meet an identified need and the proposal is not for persons primarily employed in agriculture, forestry or an appropriate rural use. The key policies are therefore Policy EV23, EV1 (which requires good design, including relationship to existing development patterns) and EV2 (which gives preference to the use of previously developed land over greenfield sites and requires regard to be had to its surroundings) along with guidance contained with Planning Policy Wales (8<sup>th</sup> Edition) and the accompanying Technical Advice Notes. Policy EV 20 seeks to control development in the countryside in order to conserve and enhance its value.

Both National and development plan policy aims to safeguard the openness of green wedge land, and Unitary Development Plan Policy EV23 states that development will only be permitted within a green wedge if it maintains the openness and character of the land and does not contribute to the coalescence of settlements or adversely affect the setting of the urban area.

Policy EV23 goes onto state that appropriate development within the green wedge comprises the following:

- (i) Justified development in association with agriculture or forestry;
- (ii) Essential facilities for outdoor sport and recreation or cemetery use;
- (iii) Limited extension, alteration or replacement of existing dwellings;

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- (iv) Small scale farm diversification;
- (v) The re-use of existing permanent/substantial buildings;
- (vi) Affordable housing for local needs under Policy EV18;
- (vii) Other uses of land and forms of development that maintain the openness of the green wedge and do not conflict with the purpose of including land within it.

The character of the area is dependent to a large part on the balance between the built environment and open space. The site presents a sizable area of open space abutting the access road, surrounded by existing landscaping that adds significantly to the rural character of the area which is considered to form the urban fringe. The proposal would not maintain the openness of the green wedge in this location.

It is clear from the outset that the proposed residential development of this site falls outside the definition of appropriate development as defined in UDP Policy EV23 and within the PPW definition of inappropriate development. Paragraph 4.8.14 of PPW states that when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. Local planning authorities should attach substantial weight to any harmful impact which a development would have on a Green Belt or green wedge. It also says that planning permission should not be granted for inappropriate development **except** in very exceptional circumstances where other considerations clearly outweigh the harm that would be caused to the green wedge.

As a starting point, it is considered that the development of 41 dwellings in this location, with associated access, would, in principle result in an unjustified form of urbanising development that would have a harmful impact on the character and openness of the green wedge contrary to UDP Policies. Substantial weight should be placed on this.

With regards to the two previous applications, the first application (submitted in 1994) resulted in an appeal against non-determination and the second application for a smaller parcel of land was withdrawn prior to determination. At appeal, the Inspector concluded that the development amounted to development within the countryside and government policy was that the countryside should be safeguarded for its own sake. Further to this, whilst not particularly prominent, the proposed development would spoil views outwards over the appeal site. The Inspector went on to state that the proposals represented encroachment and would not extend the urban boundary in a logical manner and the existing boundary to the built up area is clearly defined. The Inspector stated that allowing the development would be likely to frustrate the objective of utilising previously developed land within the urban boundary and could be said to be premature. The second application was withdrawn before a decision was made.

Whilst this appeal decision is a material consideration in the determination of this application, it is materially different to the current application in that the site was significantly larger and included land to the west of the site and the decision was made over 20 years ago when the local/ national policy context was different.

Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.



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In this instance, the applicant argues that the application site is proposed as an allocated site for residential development within the Local Development Plan and the Council do not currently have a 5 year housing land supply which constitutes the exceptional circumstances required by Planning Policy Wales.

The Draft Local Development Plan was endorsed for a public consultation on 16<sup>th</sup> June and is currently out for public consultation. The site is allocated within the emerging LDP for housing for approximately 40 dwellings.

Para 2.8.1 of PPW states that the weight to be attached to an emerging LDP (or revision) when determining planning applications will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector delivers the binding report.

The Strategic Planning Officer has advised that the LDP Preferred Strategy identifies opportunities for appropriate greenfield releases on the edge of the settlement boundary at Gorseinon and Loughor on a small scale where these would constitute appropriate rounding off. It is also clear that the LDP would be reliant on greenfield land to meet the housing targets identified. The site has been reduced from that previously considered at appeal and represents an appropriate opportunity to round off the settlement in an appropriate manner providing the existing field boundary is respected.

The proposal has potential to deliver housing land supply before LDP adoption. There appear to be no major constraints which might delay the site's commencement, the developer, Elan Homes, has demonstrated that the development economics of the scheme enable it to come forward immediately and that the company has a track record of building out sites in the vicinity soon after planning permission. It is noted that the Planning Statement states that they have a firm intention to proceed with development in the shorter term and that Elan Homes are a smaller house builder who do not currently have involvement in any of the LDP Strategic Sites. It should also be noted that the proposal represents a non-strategic scale alternative site that does not compete with a strategic scheme being progressed in the vicinity.

In the event that planning permission is recommended, an appropriate condition should be placed on the planning permission restricting it to a time period leading up to LDP adoption.

As clarified in a recent appeal decision (Ref: APP/K6920/A/15/3137884) by the Inspector (the PINS Director of Wales), the LDP Manual states that the deposit plan 'should be considered by the LPA as the version it intends to submit for examination and, later, to adopt'. The Council has resolved to place the emerging Plan on deposit and must, therefore, consider the emerging Plan and the allocations contained within it to be sound. In this regard, some weight (albeit limited) is to be given to the allocation within the emerging plan.

Turning now to the matter of housing land supply, the most recent Joint Housing Land Availability Study (September 2015) concluded that there is only a 3 years supply of housing land available in Swansea, substantially less than the 5 years supply prescribed in national policy. PPW states that Local Planning Authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing, and TAN1 (Joint Housing Land Availability Studies) advises that, where a housing land supply shortage exists, the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies.

In conjunction with its preparations for the emerging LDP, the Council has produced a Guidance Note, Planning Applications for Non-householder Residential Development, which aims to provide a clear strategy to address the housing land shortfall and includes advice to prospective developers on how the planning authority intends to deal with planning applications for sites not currently allocated within the UDP. The main principle is to bring forward several strategic sites recommended for allocation in the emerging LDP. However, at the current time, no applications have been submitted on strategic sites and therefore these sites would not make any significant impact on the housing shortfall for several years. In the meantime, it is appropriate to give considerable weight to the need to increase supply when dealing with planning applications.

The current proposal complies with many national and development plan policies, particularly many elements of sustainability due to the location of the site just outside the settlement boundary and the availability of public transport nearby. Its main conflict is in respect of the matters in the first main issue above, i.e. harm to the openness and character of the green wedge and the open countryside. However, notwithstanding these conflicts, it is considered the need to increase housing supply to warrant considerable weight in the short term.

The issue regarding the policy conflict and the weight to be given to the material considerations in this respect must be weighed in the planning balance along with all of the other issues that are considered further below before determining whether the principle is considered acceptable.

### **Design/ Visual Impact/ Layout**

The layout has been designed with two new cul-de-sacs accessed off Heol Pentre Bach and the turning head at the end of the road extended to provide for a new turning head and a private parking court for residents of the northern half of the development. The site layout has been amended so that the plots 35-40 front onto the open space and public walkway between Heol Pentre Bach and Clos Y Morfa. Whilst the parking for these properties is at the rear, the parking is overlooked from several properties and the rear gardens are secured by robust brick walls. The Urban Design Officer has advised that entrances to the site are well defined by corner turning houses and the vistas into the site are closed by focal buildings.

Whilst the adopted residential Design Guide discourages the approach of cul-de-sacs in favour of connected streets it is considered acceptable on this occasion given the shallow depth of the site and the short distance in terms of connectivity.

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A resident has written in to state that the dwellings should match the existing dwellings on site with no render or render at first floor level. The resident stated that previous phases have not tied in with earlier developments. The proposed slate colour concrete tile with predominantly red brick walls and some accent render areas are considered acceptable for the suburban location given that there are examples of render in the area. The design of the dwellings is considered appropriate to this area and respect the scale and design of the existing vernacular. However, the Urban Design Officer has advised that there is a lack of robust brick screen walls in some locations and this should be addressed by condition. When the amendment was submitted, the applicant amended the boundary treatments on several properties but was unable to amend others due to a drainage easement, but has sought to screen them with planting. This is considered acceptable.

The Police Designing Out Crime Officer does not object to the proposals and is generally supportive of the layout as the parking areas/ public spaces are overlooked. He did raise concern with regards to an existing footpath at the rear of units 3-8 but this runs along the whole of the site boundary and is an existing public right of way.

Local residents have raised concerns with regards to the loss of outlook/ view as a result of this development along with the resultant devaluation of property. Devaluation of property has been given limited weight in the determination of this application. A Landscape Character & Visual Impact Assessment (LCVIA) has been prepared by White Young Green in support of this application. The Report states that the landscape fabric of the site contributes to the character of the landscape context of the site. Whilst the proposed development would maintain the existing mature vegetation along the northern and western site boundary and this would be supplemented with additional planting, the existing area of pasture and mature trees within the site boundary would be lost. Proposed planting would offer biodiversity enhancements where shrubs replace agricultural pasture.

In the long term the overall impact on the landscape amenity of local residents would be adverse. For those properties adjacent to the eastern boundary of the site there would be a moderate adverse impact as a result of a change in their outlook, although this would in part be mitigated by the filtering effect of existing vegetation and the establishment of proposed vegetation. In the long term there would be no change to the landscape amenity of footpath users in the wider area due to separation distance and/or intervening features. Landscape character is partly derived from the vegetation pattern of the site, which includes the site boundary vegetation. The proposed development retains and supplements this vegetation which would be a small-scale change but beneficial in terms of its contribution to the vegetation pattern. In the long-term the proposed development would become integrated into its landscape setting. The potential initial adverse impacts on landscape amenity would reduce for all receptors, including those with most adverse change near the eastern boundary of the site.

Given that this site is allocated within the Deposit Local Development Plan for 40 dwellings, the Council have acknowledged that the character of the site itself would change as a result of the development of this site. It is appreciated that the proposals would have a moderate adverse impact on the properties directly opposite the site to the east, which amounts to approximately 4 properties (of which 1 has no windows on the side elevation facing the site) although other properties adjoining the site would be impacted upon.

Planning guidance indicates that there is no protection for private views and the LVIA concludes that impact would be partly mitigated by the retention of existing vegetation at the front of the site and within this context, whilst there would be an impact, it is not considered significant enough to warrant refusal on this issue. As the resident who supports the application has pointed out, the Queensgate development itself is relatively new and this development impacted on the views of those existing residents beforehand who themselves enjoyed views of the Estuary.

Overall, the resultant development would be similar to other recently constructed developments within the locality. It is therefore considered that the detailed design and layout of this proposal is acceptable, in terms of its impact on the character of the area.

### **Neighbouring/ Residential Amenity**

The proposed development is located to the east of dwellings on Heol Pentre Bach, to the north of properties on Heol Y Nant and south of properties in Clos Y Morfa. The issues of the visual impact and loss of outlook/ devaluation has been considered above. Comments have been received that the proposals would have an overbearing impact on the existing estate, would result in the loss of the village feel and pollution (noise, light and traffic) would increase both within the site and Gorseinon in general.

In terms of separation distances, officers raised concerns with regards to the relationship of some of the new plots to the existing buildings and sought amendments to the site layout and sections through the site to indicate the relationship between these properties. As a result, the siting of plots 1, 3 and 35-36 were amended to ensure that sufficient space was provided between dwellings with 15m provided between the rear elevation of existing buildings and the side elevation of proposed buildings. The distance between the side elevations of plots 37 and 38 (which have secondary windows at first floor level serving habitable rooms) is 18m but given that this is at an angle with planting in between, this relationship is considered acceptable in this instance on balance and these windows would have obscure glazing installed as they are secondary windows. Within the site, the dwellings achieve the minimum distances recommended within the Residential Design Guide. It is therefore considered that the proposals would not have an overbearing impact on the existing development and there are no concerns regarding a significant reduction of privacy for these bungalows.

In terms of general noise/ disturbance/ light pollution, it is not considered that there would be a significant increase over and above the present situation given that the site is surrounded by existing residential development. Concerns have been raised regarding increased traffic pollution but the Pollution Control Officer has not objected to the proposals on these grounds. As such, it is not considered that the proposed residential use of this site would have an adverse impact on the amenity of existing neighbouring uses.

Finally, residents have commented over disruption, noise and disturbance during the construction phase. Given the proximity of nearby dwellings and the issues involved with the construction of the development on nearby residents, it is considered appropriate to attach a condition requiring the submission of a Construction Pollution Management Plan for the proposed development in line with the request of the Pollution Control Officer.

### **Highway Safety/ Parking/ Public footpaths**

Residents have raised several concerns with regards to transport and highway safety issues. Comments have been received with regards to safety fears for pedestrians/ scooter users and existing local residents due to an increase in traffic, concerns the road is already narrow and hazardous due to on street parking and surrounding roads cannot cope, visibility at junctions and queries over the content of the transport statement.

The Transport Assessment states Heol Pentre Bach is single carriageway and is subject to a 30 mph speed limit with no white lining present. The latest available recorded Personal Injury Accident (PIA) data was obtained for the Frampton Road corridor and the junction with Heol Pentre Bach. It is thought that there are local concerns regarding the safety at this junction. The accident data covered a five year period from the 1st January 2010 and concluded that there was one record of a personal injury accident during the period that resulted in 2 casualties with a fatal severity (the police report indicates that it was caused by driver error). There were five other incidents during the period (4 of which were slight). However, traffic calming is proposed at the junction of Frampton Road and Pentre Bach Road given concerns from local residents and the Highways department on previous applications.

The site is highly accessible by a variety of transport modes, including walking, cycling and public transport and is surrounded by a network of safe attractive and convenient walking and cycling routes in the local area. A number of key local amenities and Gorseinon town centre are all located within 2km of the site. A number of bus services operate in the vicinity of the site, providing services to Llanelli and Swansea.

The TRICS database has been interrogated to provide an appropriate per dwelling trip rate for the proposed residential development (based on 44 dwellings). The development proposal would generate 24 two-way vehicle trips in the AM peak and 24 two-way vehicle trips in the PM peak. This would result in one extra vehicle every two minutes in the AM Peak, and PM peak respectively. This level of effect would not change the character or performance of the local highway network. The development proposal would generate 68 two-way multi-modal trips in the AM peak and 61 two-way multi-modal trips in the PM peak.

The Highways Officer has raised no issues with regards to the content of the Transport Assessment which have been quantified with reference to national data for housing developments. The Officer has advised that the number of predicted movements is too small to have any adverse effect on the operation of any junctions and the surrounding highway network. All roads within the development are indicated to adoptable standards and are acceptable to serve the development. A combination of standard cul-de-sac provision is indicated together with some shared surface roads and links to the adjacent public rights of way are also shown. Each plot is provided with parking in accordance with adopted standards and road widths are in accordance with adopted guidance.

Some local concern has been raised about the additional traffic and difficulties currently experienced due to on street parking in the area. The predicted traffic generation is relatively low and unlikely to result in any congestion issues. However, the Officer has advised that there are general concerns regarding the speed of traffic along Frampton Road in the vicinity of the junction with Heol Pentre Bach.

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A recent planning application opposite the site was granted consent and required to provide some form of traffic calming which would also cover the Heol Pentre Bach junction. The same requirement should be imposed on this application. The Highways Officers does not object to the application subject to conditions which would be attached to any grant of consent.

In terms of public footpaths, comments have been received raising concerns that routes would be blocked. The PROW Officer has advised that several footpaths are located within the vicinity and would be affected as a result of the development and the path has poor drainage currently. The Officer has requested works to improve footpath LC46 to include clearance, levelling and surfacing. A scheme for these works would be attached as a condition of any consent granted. The proposed drainage ditch may require a culvert to ensure that access is uninterrupted across the top but drainage details are considered in the section below. As a result of the proposals, the existing footpath sign would need to be replaced and this would also be resolved via condition. Finally, the Officer has advised that two existing stiles should also be replaced with kissing gates to improve access for all users of the adjacent footpaths and this would be included within a S106 agreement attached to any consent granted.

The proposals are therefore considered acceptable in terms of access, highway safety and parking.

### **Ecology/ Trees**

The Extended Phase 1 Habitat Survey resulted in the requirement for further bat and reptile surveys which have subsequently been submitted. Based on the presence of suitable habitat and the high mobility of badgers it is possible badgers may use the site in the future for refuge, foraging and possibly sett building. It is recommended an update badger survey be undertaken within a month prior to construction commencing, to identify if any active setts are present and to assess if these will be impacted by development proposals. It is recommended that any removal of habitat suitable for breeding birds (trees and dense scrub) is completed outside the bird breeding season (considered to be March to September inclusive, although it can vary depending on weather conditions and species present). No reptiles were recorded during the presence/ likely absence surveys. However due to the timing of the surveys, at the end of the reptile season, it is considered possible very low numbers of common reptiles, including slow worm and common lizard, could be present. A precautionary clearance methodology is proposed including careful staged strimming of suitable habitat, long grass and scrub areas, to approximately 100 mm to encourage reptiles to move towards the suitable habitat in the wider landscape.

Residents have commented that Loughor Estuary is a SSSI and there should be a buffer zone around the protected area. Natural Resources Wales do not object to the application and have advised that the recommendations in Section 5.3.3, that further bat surveys are carried out on trees which are proposed to be lost and that have the potential to support roosting bats, should be followed. NRW note that the site is located approximately 170m from the boundary of the Carmarthen Bay and Estuaries SAC and the Burry Inlet and Loughor Estuary SSSI. A watercourse on the northern boundary of the site also appears to provide a direct hydrological link between the site and the SAC/SSSI. However, they consider it unlikely that the on-site works would have a significant adverse effect on the SAC/SSSI, providing appropriate pollution prevention and construction management plans are in place.

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The Council's Ecologist has advised that whilst the development would have an impact on the ecology of the site, this impact would be minimised by following the guidance indicated in section 5 of the Reptile Survey (WYG December 2015) and section 5 of the Extended Phase 1 Survey (WYG December 2015). Habitat mitigation should include enhancement of retained habitats and the planting of ecologically friendly landscape planting. The Ecologist has concluded that as the proposed development is entirely residential, the likely impacts on the protected site features include disturbance through noise and illumination and contaminated water running off the site. The development site falls on a slight eastward slope falling away from the Burry Inlet SAC; there are a series of hedges between the site and the SAC. Because of the geography and distance between the sites noise and light disturbance would not affect the SAC. Drainage issues are covered by the existing Habitats Regulation Assessment dated 5th March (David Tyldesley & Associates). It can be concluded that the development would not have a significant effect on the features of the Burry Inlet SAC. Further to this, the development is 1.5 km from the Burry Inlet SPA and Ramsar sites; this includes a large block of land with residential development which would act a significant buffer. This distance is sufficient to prevent disturbance of the bird features of the protected site. It is concluded that the development would not adversely affect the features of the Bury Inlet SPA or Ramsar sites.

Residents have commented that it is not clear what trees would be removed and the trees provide a habitat for biodiversity and screen the development. The Tree Survey identified that the area surveyed contains 37 individual trees or groups of trees of varying age, from young to over mature trees. Overall most trees are considered to have some amenity value, particularly if maintenance recommendations are undertaken. A total of 7 no. high quality and value (Category A) have been identified within the area surveyed. These are all large mature oaks typical of farmland field boundaries. A total of 9 individual trees and 5 groups of trees of moderate quality and value category (category B) were identified within or near the footprint of the buildings at the proposed development. A total of 7 individual trees and 9 groups of trees were assigned to the low quality and value category (category C). The scheme would require the removal of 11 individually surveyed trees, nine groups of trees and shrubs, and part of a further one group of trees. Of the individual trees to be removed, one is a tree of high quality (A category) and seven are trees of moderate quality (B category). Four of the groups to be removed, or partly removed, are groups of moderate quality. There is no evidence that the removal of trees would affect land stability within the area.

The Arboricultural Officer originally objected to the proposals over concerns on the relationship of trees along the boundary and the proximity to the new dwellings and requested an Arboricultural Impact Assessment was provided with the submission. The Officer also raised concerns with regards to the drainage easement to the west of the site and its impact on trees. The current design requires the loss of trees internal to the site which is inevitable if the site is developed and the Arboricultural Officer has not raised concern with regards to the loss of these trees.

Officers discussed these concerns with the applicant and it was suggested that two plots be removed to enable the plots along the western boundary to be relocated further away from the trees by approximately 5 metres. An amended layout to this effect was subsequently submitted and the Arboricultural Officer advised that the revision of the scheme has moved the houses further away from the category A oak trees on the western boundary.

This would reduce further pressure on these trees and future pruning would be controlled by means of a Tree Preservation Order made during the course of the application. The routing of the storm drain appears to be sympathetic to the retained trees and is an improvement on previous drawings, but a condition requiring further details as part of the drainage scheme is considered reasonable and necessary. As the submitted tree protection plan now does not relate to the new layout, an update would be required by condition along with an arboricultural method statement.

### **Contaminated Land**

A Site Investigation has been prepared by Integral Geotechnique. The site was tested for ground contamination as part of the process, where it was established that trigger levels for pollutants were below guidelines for residential gardens with in-situ soils classified as inert. No contamination sources were found in the groundwater with no ground gas risk.

The Council's Pollution Control Officer has reviewed the site investigation report accompanying the application and has no objections provided that further assessment at the "Overgrown northern part of the site" and location TP7 is undertaken (due to the presence of asbestos and potential Asbestos Containing Materials). A condition to this effect would be attached to any grant of consent. The Officer has also requested a condition regarding unforeseen contamination and a Construction Site Management Plan. NRW has no adverse comments subject to the inclusion of a condition regarding a Pollution Management Plan which has already been covered above in the residential amenity section. The Officer has raised no concerns with regards to traffic/ transport pollution in general as a result of this development. Therefore, the approach recommended by the Council's Pollution Control Officer is considered appropriate for this development.

The Coal Authority is satisfied with the broad conclusions of the Site Investigation Report, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, the Coal Authority does not object to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues.

### **Affordable Housing**

The applicant has proposed 12 units of Affordable Housing within this development, split between the northern and southern sections of the site (4 x 1 bed, 3 x 2 bed, 4 x 3 bed and 1 x 4 bedrooms). This equates to 29% provision on site. The Council's Affordable Housing Officer has advised that this should be split between 60% intermediate units at 70% of ACG or OMV (whichever is lower at the point of transfer) and 42% social rented at 42% ACG or OMV (whichever is lower at the point of transfer) – all to be disposed of via a RSL.

The social rented units should be 2 and 3 bedroom houses, with 1 x 4 bedroom unit, and the intermediate should be 2 and 3 bedrooms. All the units must be DQR compliant and should be pepper potted throughout the development. On the basis of the submitted information, the proposals are considered acceptable and these requirements would be secured via a S106 agreement.



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### Education

The Education Officer advised that the proposal would generate pupils from 39 dwellings; however the scheme has subsequently been reduced by two properties. The Officer has advised that there is currently enough capacity within the existing English Medium Primary school and the Welsh Medium Secondary school but requested contributions towards the Welsh Primary and English Secondary schools. The applicant queried the amount requested and asked for further clarification on the proposed projections.

From an Education perspective, it is appreciated that future projections indicate that there could be significant issues in the catchment schools up to 2022. Allied to this, they have different legislative requirements in terms of unfilled spaces and the capacity required within schools. However, the CIL Regulations tests identified in the legislation clarify that contributions have to be reasonable and necessary for planning purposes to meet the requisite tests.

In addition, given that the development is relatively small in nature (and could be built within a year) and would be time limited in terms of commencement, it is considered fair and reasonable to base the proposals on current projections rather than future projections.

The following pupil generation has therefore been calculated (following the amendment):

Pupil generation:

	Pupil Numbers	English	Welsh
Primary	11	9	2
Secondary	8	6	2

When considering existing capacity and proposed commitments, it is apparent that there is a shortfall of 2 spaces at English Medium Secondary level and a shortfall of 2 spaces at Welsh Medium Primary Level based on the figures provided by Education and considering existing commitments.

Therefore, in line with the Council's Planning Obligations SPG, it is proposed that a contribution of 31,696 would be required towards Penyrheol Comprehensive School and £20,744 towards YGG Pontybrenin.

### Archaeology

The Archaeological Assessment assessed the potential impact of the proposed development on the archaeological resource, and examined designated sites and landscapes within an agreed search area of 1km around the proposed development site, and undesignated sites within an agreed search area of 0.5km. It concludes that given the topography of the area as well as the adjacent housing estates, no Scheduled Ancient Monuments (none within the search area), Listed Buildings (7 within 1km) or their settings would be indirectly (visually) affected by or have any visual relationship with the development. Two local sites of archaeological interest have been identified within the proposed development area, namely a former quarry (HPB01) and farmstead/cottage (HPB02). The general archaeological potential for this proposed development is considered to be low. However, due to the presence of these two identified archaeological sites (HPB01 & HPB02) it is recommended that mitigation may be required to further record their remains during development works on the site.

In the first instance it is suggested that more detailed survey and recording of the surviving above-ground remains of Pen-y-Cae be undertaken once tree-cover has been removed from the site. Subsequently, it is recommended that an archaeological watching brief, with contingencies, is conducted on any intrusive ground works within the proposed development area in order to record any below-ground archaeological remains that may be disturbed during development of the site.

The Glamorgan Gwent Archaeological Trust agree with the assessment and advise that two conditions should be attached to any grant of consent, one requiring historic building recording and one requiring a watching brief during the course of works.

### **Drainage/ Flooding**

Residents have commented that the site is marshy, DWCC has previously objected to development on this site, the development would increase run off whilst reducing natural percolation and a flood assessment should be undertaken.

The flood consequences and drainage assessment states that with the advent of the residential development which took place in the locality during the early 1990's, the adjoining watercourse along the eastern boundary has been culverted to allow development to take place. This runs for the length of the site to a chamber near the head of the Heol Pentre Bach road but located within the site. A short run of 900 mm pipe brings the line onto another chamber which receives flow from the 150 mm pipe exiting at the end of a hydro-brake chamber located at the extreme end of Heol Pentre Bach. Upstream of this is a 600 mm storage pipe located within Heol Pentre Bach. This 900 mm culvert would be diverted at the southern end of the site and routed to the western perimeter where it would either be an open watercourse or a culvert depending upon topographic levels.

The site is located within Zone A as indicated on the Welsh Government Development Advice Maps. The Flood Consequences Assessment concludes that the site is at little or no risk of fluvial or tidal / coastal flooding. The FCA concludes that there is a low risk of this site flooding considering all the sources required by WG planning guidance on flooding. NRW has no knowledge of flooding on this site.

Percolation tests showed the ground to be impermeable for this site and as such infiltration systems including soakaways would not be appropriate. The attenuation tank would be designed with a capacity of approximately 250 m<sup>3</sup>. This would be split between Q30 (climate change) storage being part of the adopted system as oversized concrete pipes within the roads and the remainder of storage being private tanks consisting of geocell units wrapped in impermeable membranes. The private tanks would be sited within accessible, non-adopted road and drive areas and be maintained by a management company on behalf of Elan Homes.

The existing foul drainage in the locality consists of a separate gravity fed pumping station which pumps via rising mains to Llys Gwynfaen Road from where it eventually ends up at Llannant WWTW. DCWW have confirmed that there is sufficient capacity within the existing drains and pumping station as well as the receiving waste water treatment works at Llannant, which lies some 500-600m north of the site.

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The Council's Drainage Officer does not object to the proposals on the proviso that a condition is attached requiring full drainage details to be agreed prior to the commencement of development and provided run-off to the adjacent watercourse does not exceed 7.5l/s. Dwr Cymru Welsh Water has not objected to the planning application.

The City and County of Swansea as Local Planning Authority has followed the precautionary approach advised by its statutory advisor NRW towards all development that drains into CBEEMs, and carried out the following habitat assessment.

### Burry Inlet Habitat Regulations Assessment

#### Introduction

The City and County of Swansea, as the competent authority, is required under Regulation 61(1) of the Conservation and Habitats and Species Regulations 2010 (known as the 'Habitat Regulations') to undertake a Habitat Regulations Assessment of any project likely to have an effect on a European site, or candidate/ proposed European site, either alone or in combination with other plans or projects, that is not necessary to the management of the site for nature conservation.

In this instance, the European sites potentially affected are the Carmarthen Bay and Estuaries European Marine Site (CBEEMs), the Carmarthen Bay Special Protection Area (SPA) and the Burry Inlet SPA and Ramsar site. Before deciding to give permission the LPA must therefore first consider whether this development is likely to have a significant effect on the CBEEMs either alone or in combination with other plans or projects in the same catchment area.

Following an investigation of likely significant effects on the CBEEMs features water quality was identified as the only factor that might have an effect as discussed below.

#### Water Quality

With regard to the water quality issues in the Burry Inlet and Loughor Estuary, the City and County of Swansea has followed the statutory advice of their statutory advisor, and has commissioned a preliminary assessment under the above Regulations which is limited to the assessment of potential wastewater effects only.

This assessment notes that as part of their review of consents (RoC) under Regulation 63 the former Environment Agency (now NRW) undertook a detailed Habitats Regulations Assessment in relation to the effects of their consented activities. Consent modifications were identified to enable the Environment Agency to conclude no adverse effect on the integrity of the CBEEMs in respect of their consents operating at their maximum consented limits.

As the consents in question have already been subject to a full assessment (alone and in combination) under the provisions of the Habitat Regulations, there is no need for the City and County of Swansea to undertake a further assessment where development can be accommodated within the post RoC discharge consent limits.

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The overarching Statement of Water Quality identified two areas of concern where development could potentially affect water quality in the estuary. The first point of concern related to the hydraulic load on the existing combined sewerage systems. The discharge of surface water to the combined system is the main cause of the problem and the MoU has addressed this by stipulating that no surface water from new developments shall discharge to the combined sewer. The second concern relates to nutrient loading on the Estuary. Certain nutrients are removed from the sewage by appropriate treatment at the WWTW but it has been determined that WWTW effluent discharges contain the highest percentage of phosphates when compared with other nutrient sources.

The removal of any surface water from the combined system would be greatly beneficial in that its removal would result in fewer CSO spills, reducing bacterial and nutrient impact on the controlled waters. The removal of surface water from combined sewers generally would reduce the volume of flow (even within developments) such that storage facilities at the pumping stations would more efficiently cater for more frequent storm events or greater population equivalence.

It is the opinion of the authority that this development can be accommodated within the post RoC discharge consent limits, and will not be likely to have a significant effect either alone or in-combination on the Carmarthen Bay and Estuaries SAC, the Carmarthen Bay SPA, or the Burry Inlet SPA and Ramsar. Such effects can be excluded on the basis of the objective information available through the Environment Agency review.

#### Other possible effects on CBEEMs features

In addition, it is considered that there are no other potential adverse effects from this development proposal, either alone or in combination with other plans or projects on the above protected European sites.

On this basis, there is no requirement to make an appropriate assessment of the implications of the proposed development in accordance with Regulation 61(1).

The former Countryside Council for Wales, as statutory advisor to the Council on the requirements of the Habitats Regulations, has confirmed that they are content with the above approach.

The LPA has therefore satisfied its obligations as the 'competent authority' under the Habitats Directive and associated Habitats Regulations. This is in line with the requirements of National Planning Policy guidance and Policy EV25 of the Unitary Development Plan.

#### Conclusion

In conclusion, DCWW have not objected to this scheme, and the Council's HRA which has been adopted for all development in the Gowerton WwTW drainage network area runs up until the end of 2017. The HRA has been agreed with NRW and concludes that 'It is the opinion of the Authority that this development can be accommodated within the post Review of Consents (RoC) discharge consent limits, and would not be likely to have a significant effect either alone or in-combination on the Carmarthen Bay and Estuaries SAC, the Carmarthen Bay SPA, or the Burry Inlet Spa and Ramsar.

Such effects can be excluded on the basis of the objective information available through the 2010 Environment Agency review.

In summary, there are no known hydraulic capacity or new water quality issues to address and there is no justification to refuse this proposal for outline planning permission on these grounds. Subject to further control by conditions, it is considered that the drainage arrangements for this scheme are acceptable and can meet the overarching aims of sustainable development in this area, and satisfy the provisions of Policies EV33, EV34 and EV35.

### **Welsh Language**

The Welsh Language Impact Assessment indicates that at the time of the 2011 Census, 20.3% of the residents of the Upper Loughor Ward could read, write or speak Welsh and 18.1% of residents in the adjoining ward (Penyrheol) could read, write or speak Welsh. The percentage at a County level is 13.8% (21.31% nationally). Based on the census figures of residents per household, it is anticipated that 101 new residents would be created as a result of this development. Upper Loughor is also identified as a Language Sensitive Area in the LDP. Based on similar developments within the locality, it is apparent that approximately 80% of people moving to the estate would come from the surrounding area (SA4 postcode) which equates to 15 people out of the anticipated 101 new residents that could read, write or speak Welsh which is considered to have a neutral impact.

Information in recent Joint Housing Land Availability Studies points to a substantial reduction in house building in Swansea over the last decade. As a result, rather than encouraging in-migration, this trend may result in Welsh speakers leaving the area. Given that a new development as proposed is likely to draw largely from local first time buyers and those wishing to upgrade but remain in the area, the percentage of 'local buyers' given by previous market research may be a minimum and in fact likely to be greater, which would in turn increase the number of Welsh speaking households on the development and decrease the number of non-Welsh speaking households anticipated. Numerically, based on the findings outlined in this study, the number of Welsh speakers in the area is likely to increase by some 20 residents, due particularly to the volume of buyers/occupiers coming from within the North Swansea area. As a result, the development is unlikely to lead to a loss in Welsh speaking households. The mix of units, which has been based on a local market assessment (and includes 12 affordable units), would ensure that the dwellings do not favour/ discriminate against one particular age group. The housing mix would help cater for people of different ages and economic status, with different lifestyles and levels of independence.

Due to the nature of the scheme (residential), it is not considered that the proposals would lead to greater economic diversity resulting in in-migration of non-Welsh speakers or increased competition for Welsh speaking businesses. The price structure of the houses have been based on an assessment of local market need and are comparable with average 3 and 4 bed houses within Swansea. It is therefore considered unlikely that the development would force the local Welsh speaking community to leave the area. The proposed development would generate 11 children of primary school age, 8 children of secondary school age and 2 students of post-16 age. As a result of the limited number of pupils generated by the development, it is considered unlikely that the proposal would alter the balance between Welsh speaking and non-Welsh speaking students.

The overall assessment equates to 4 positive scores, no negative score and 14 neutral scores which equates to the proposal scoring +4 on the PWL scoring system, and result in a positive impact on the Welsh language. However, mitigation in the form of promoting the proximity of Welsh speaking schools in advertising literature, strong advertising within the local area and bilingual sales to be made available on request and this would be included as an advice note to any permission granted.

### **Other issues**

One resident has stated that there is a corridor of low flying aircraft between the estuary and residential area and the new estate may move flights into the estuary and thus impact on wildlife. However, the development is in between two existing parcels of development and there is no evidence that this development would impact on flight paths so this issue has been given limited weight. Comments have been received about S106/ community clawback and this proposal would be subject to a S106 agreement should it be recommended for approval. Finally, there is no evidence of insufficient utility and local service infrastructure capacity within the area, a contribution would be provided towards education and this issue has not arisen through the LDP candidate site assessment.

### **Planning Balance**

Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The proposed residential development of this site falls outside the definition of appropriate development as defined in UDP Policy EV23 and is within the PPW definition of inappropriate development. Paragraph 4.8.14 of PPW states that when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. It also says that planning permission should not be granted for inappropriate development except in very exceptional circumstances where other considerations clearly outweigh the harm that would be caused to the green wedge.

In this instance, the applicant argues that the application site is proposed as an allocated site for residential development within the Local Development Plan and the Council do not currently have a 5 year housing land supply, both of which weigh in favour of the application.

The housing land supply currently stands at 3.0 years (2015 JHLAS), which is less than the 5 years required under national planning policy. The Council has demonstrated its commitment to increasing the available housing land supply through publication of the *Developer Guidance – Planning Applications for Non-Householder Residential Development*.

This guidance sets out that the Council will take a positive approach to the negotiation and preparation of appropriate planning applications for non-householder residential development on sites recommended for allocation in the emerging LDP.

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Where such cases represent a departure from the adopted UDP, the Council will prioritise identified strategic sites to ensure the high numbers attributed to them can be delivered and because these sites are most capable of delivering the widest social/economic benefits to contribute towards achievement of the LDP strategy and sustainability. The guidance states that the Council will also prioritise sites identified for the particular purpose of delivering majority proportions of affordable housing. The application site does not fall into either of the aforementioned categories, and is instead a proposed 'non-strategic' housing site.

However, the guidance also notes that the Council will take an evidenced approach and consider the merits of any planning application with full regard to the particular circumstances and planning issues. It states there may be circumstances when a small scale site could provide a contribution to housing numbers that would not otherwise be secured by other strategic sites.

In this instance, it is considered that the proposal is in line with the Deposit LDP, the proposal would provide a meaningful early contribution towards meeting the housing supply before adoption of the LDP (provided a condition to commence development within 1 year is attached) and as a small-medium provider, it would not divert attention/resources away from a strategic site. It should also be noted that the proposal would provide a contribution towards affordable housing and education and is considered sustainable and viable.

The Deposit Local Development Plan was endorsed for a public consultation on 16<sup>th</sup> June and is currently out for public consultation. The site is allocated within the emerging LDP for housing for approximately 40 dwellings. Further to this, it is noted that the Council cannot meet its future housing land supply needs without allocating greenfield sites.

The current proposal complies with many national and development plan policies, particularly many elements of sustainability due to the location of the site just outside the settlement boundary, the availability of public transport nearby and the provision of affordable housing on site and it is considered the need to increase housing supply to warrant considerable weight in the short term.

The planning balance in this respect is therefore finely balanced.

National Planning Policy states that there should be exceptional circumstances to justify a proposal within a green wedge. In this instance, the LDP (whilst of limited weight) acknowledges that that greenfield land would be required to meet future housing targets and is it unlikely that this approach would change significantly due to the housing requirements for the plan period. Further to this, the site is located within an allocated site within the Deposit LDP which weighs in the sites favour, along with the consideration that the proposal represents a natural rounding off of this settlement boundary. The Council do not have a 5 year land supply and the applicant has stated that they would be committed to implementing the development prior to the adoption of the LDP (which could be secured via condition) and this issue should be given considerable weight given that this is a meaningful contribution and it is likely increasing pressure would be placed on greenfield sites in the future that are not allocated within the LDP. The proposal would also provide a contribution towards affordable housing on site.

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When assessing all of these issues, it is considered that the clear benefits of the development marginally outweigh the policy breach of restricting development within a green wedge, and constitute very exceptional circumstances providing that a condition is attached requiring the development to be implemented within one year of permission being granted to ensure the prompt delivery of much needed housing.

### Planning Obligations:

The Planning Obligations associated with this development include:

- Provision of 12 affordable housing units on site to DQR (29% of the development – of which 60% intermediate units at 70% of ACG or OMV (whichever is lower at the point of transfer) and 40% social rented at 42% ACG or OMV (whichever is lower at the point of transfer) – all to be disposed of via a RSL)
- £52,440 contribution towards Education (£31,696 would be required towards Penyrheol Comprehensive School and £20,744 towards YGG Pontybrenin)
- £750 contribution to replace two existing stiles with kissing gates
- £1,064 contribution towards ongoing management and monitoring fees (2% of obligation)

In 2010 the Community Infrastructure Levy Regulations (2010) came into effect. Reg 122 of these regulations sets out limitations on the use of planning obligations. It sets out three tests that planning obligations need to meet. It states that planning obligations may only constitute a reason for granting planning permission if the obligation is:

- a) Necessary to make the development acceptable in planning terms; (the obligations of the Section 106 Agreement are necessary to ensure that an adequate sum is provided towards Education, provide affordable housing on site and to improve accessibility for pedestrians to/ from the development.)
- b) Directly related to the development; (the obligations of the Section 106 Agreement are directly related to the development.)

and

- c) Fairly and reasonably related in scale and kind to the development. (The obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure a contribution towards education, improvements to the local PROWs and the provision of affordable housing.)

Whilst the proposals are located outside of the settlement boundary, within a Green Wedge, the development is considered acceptable on balance when considering all material considerations. It is therefore concluded that the application should be approved subject to the following conditions and the completion of a S106 agreement.

**That the application be APPROVED, subject to the conditions indicated below and the applicant entering into a Section 106 Planning Obligation in respect of the contributions listed above.**



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- 
- 1 The development hereby permitted shall begin not later than one year from the date of this decision.

Reason: To ensure the development is commenced in a short timeframe to enable the delivery of dwellings to help meet the identified shortfall and to comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
  
  - 2 The development shall be carried out in accordance with the following approved plans and documents:

HBP-LP-001 REV. A (Site Location Plan), HPB-CS-002 REV C (Site Cross Sections Proposed), HPB-SS-001 REV. D (Proposed Street Scenes), HPB-G-P/HAR-01 REV. C (The Hartland - Plots 35/36), HPB-G-P/HAR-02 REV. B (The Hartland - Plots 39/40), HPB-G-P/HAY-01 REV. B (The Hayfield), HPB-G-P/RIP-01 REV. A (The Ripley - Type 1), HPB-G-P/RIP-02 REV. A (The Ripley - Type 2), HPB-G-P/GLO-01 REV. B (The Glossop - Type 1), HPB-G-P/GLO-02 REV. B (The Glossop - Type 2), HPB-G-P/SHE-01 REV. B (The Sheldon), HPB-G-P/BER-01 REV. A (The Berkshire), HPB-G-P/BELV-01 REV. B (The Belvoir), HPB-G-P/SOU-01 REV. A (The Southwold), HPB-G-P/BRAM-01 REV. B (The Brampton), BT-BRN/01 REV. B (The Brandon), BT-BUN/01 REV. A (The Bunbury - Type 1), BT-BUN/02 REV. A (The Bunbury - Type 2), HPB-G-P/OAKSP-01 REV. C (Oakham Special), HPB-G-P/OAKSP-02 REV. D (Oakham Special) and HPB-G-P/GAR-01 REV. B (Garages) received on 14th July 2016; and HPB-PL-001 REV. M (Planning Layout), HPB-PL-002 REV. H (Planning Layout B&W) and HPB-LL-001 REV. J (Landscaping Layout) received on 15th July 2016.

Reason: To define the extent of the permission granted.
  
  - 3 No development shall take place until the developer has notified the Local Planning Authority of the initiation of development. Such notification shall be in accordance with the form set out in Schedule 5A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or any order revoking or re-enacting that order.

Reason: To comply with the requirements of Section 71ZB(1) of the Town and Country Planning Act 1990 (as amended).
  
  - 4 No development shall take place until the developer has displayed a site notice in accordance with the form set out in Schedule 5B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or any order revoking or re-enacting that order. The site notice shall be displayed at all times when development is being carried out.

Reason: To comply with the requirements of Section 71ZB (2) of the Town and Country Planning Act 1990 (as amended).
  
  - 5 No development shall take place 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 to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of works on the archaeological resource.

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- 6 No development shall commence until the local planning authority have been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence until the local planning authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the local planning authority within two months of the archaeological fieldwork being completed.

Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.

- 7 No development shall take place in the area identified as 'heavily overgrown area' on Figure 2b of the Site Investigation Report (11625/PB/15) until a site investigation of the nature and extent of contamination in this area has been carried out. The results of the site investigation shall be made available to the local planning authority before any development begins on this area. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the area to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins on this area of land.

Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the first beneficial occupation of the development permitted.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 8 Prior to the commencement of development, a Construction Pollution Management Plan (CPMP) shall be submitted to and approved in writing by the Local Planning Authority. The CPMP shall be implemented in accordance with the approved details and is to include the following as a minimum:

- a) Construction programme and timetable;
- b) Detailed site plans to include details of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas for site operatives and visitors etc;
- c) Traffic scheme (access and egress) in respect of all construction related vehicles including the loading and unloading of plant and materials;
- d) An assessment of construction traffic generation and management in so far as public roads are affected, including provisions to keep all public roads free from mud and silt;

- Continued -

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- 8
- e) Proposed working hours;
  - f) Principal Contractor details, which will include a nominated contact for complaints;
  - g) Details of all on site lighting (including mitigation measures) having regards to best practicable means (BPM) and avoidance of statutory nuisance impacts;
  - h) Details of on-site dust mitigation measures having regard to BPM;
  - i) Details of on-site noise mitigation measures having regard to BPM;
  - j) Details of waste management arrangements (including any crushing/ screening operations);
  - k) Identification of surrounding watercourses and potential pollution pathways from the construction site to those watercourses;
  - m) How each of these watercourses and pathways will be protected from site run off during construction;
  - n) Notification of whether a Control of Pollution Act 1974 (Section 61) Notice is to be served by Principle Contractor on the Local Authority.

Reason: To protect residential amenity and the environment during the construction phase.

- 9
- Prior to the commencement of development, samples of all external finishes for the development shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 10
- Prior to the commencement of development, and notwithstanding the details submitted to date, a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with shall be submitted to, and approved in writing, by the Local Planning Authority. The scheme shall include the proposed point of connection with the public foul sewerage system and this location shall first be determined by a hydraulic modelling assessment to demonstrate that it is adequate to receive the foul sewage generated by the development without detriment to the existing sewerage system, public amenity or harm to the environment. The scheme shall include details of the impact of the works on the trees running along the western boundary and shall be informed by an Arboricultural Impact Assessment. Thereafter development shall be carried out in accordance with the approved details, and the development shall not be beneficially occupied before it is served by the approved foul water, surface water, land drainage systems and the systems shall be retained in perpetuity.

Reason: To ensure that effective drainage facilities are provided for the proposed development, and that no harm occurs to trees, the environment, public amenity or the existing public sewerage system.

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- 11 Prior to the commencement of development, a scheme for the ownership and maintenance of the surface water system shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be constructed and completed in accordance with the approved details at such time(s) as may be specified in the approved scheme.  
Reason: To ensure the satisfactory long-term operation of the surface water management scheme to prevent the increased risk of flooding to the development itself and surrounding third parties.
- 12 The works hereby approved shall be undertaken in accordance with the recommendations contained within section 5 of the Extended Phase 1 Habitat Survey Report prepared by WYG dated December 2015.  
Reason: To ensure ecological mitigation is provided in accordance with best practice during the course of the works.
- 13 The works hereby approved shall be undertaken in accordance with the recommendations contained within Section 5 of the Reptile Presence/ Likely Absence Survey Report prepared by WYG dated December 2015.  
Reason: To ensure a precautionary approach is undertaken to protect reptiles during the course of development.
- 14 Prior to the first beneficial occupation of any dwelling hereby permitted, the highways and footpaths located within the residential development shall be constructed to base course level and prior to the occupation of the final dwelling laid out to an adoptable standard, in accordance with full engineering details which shall first be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the phasing of the highways and footpath construction. The development shall thereafter be completed in accordance with the approved details.  
Reason: In the interests of highway safety.
- 15 Prior to the first beneficial occupation of any dwelling on the residential site hereby permitted, full details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been incorporated.  
Reason: In the interests of highway safety and to ensure that the highways within the development are provided at an appropriate time and maintained thereafter.
- 16 The dwellings hereby permitted shall not be brought into beneficial use until such time as speed reduction measures at the junction of Heol Pentre Bach and Frampton Road have been completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.

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- 17 Notwithstanding the details submitted with this application, full planting details of the infill native species to be planted along the western boundary shall be submitted to and approved in writing prior to the first beneficial occupation of any dwelling hereby permitted. The approved details will thereafter form part of the approved landscaping details for the residential site.  
Reason: To ensure full details of indigenous planting is provided along the site boundary to mitigate trees lost as a result of the proposal.
- 18 All planting and grass seeding or turfing comprised in the approved details of landscaping for the residential site shall be carried out in the first planting and seeding seasons following the first beneficial occupation of any dwelling or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.  
Reason: To safeguard landscape and amenity interests.
- 19 Prior to the first beneficial occupation of any of the dwellings hereby permitted, a scheme for improvements to public footpath LC46 between the tarmac path adjacent to the existing pumping station and Pentrebach Farm to include details of surfacing and width along its length, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details prior to the first beneficial occupation of any of the dwellings hereby permitted.  
Reason: To ensure access to the surrounding area is improved given increase usage and to encourage walking.
- 20 The first floor windows in the side (north) elevations of the proposed dwellings located on Plots 35 and 36, as indicated on Drawing No: HPB-PL-001 Rev. M shall be obscure glazed and unopenable below a height of 1.7m from internal floor level, and shall be retained as such at all times.  
Reason: To ensure there is no overlooking into the rear of No. 6 Clos y Morfa.
- 21 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. Within 2 months of the written notice being received by the Local Planning Authority, an investigation and risk assessment must be undertaken in accordance with the requirements of the latest guidance, and where remediation is necessary a remediation scheme must be prepared which sets out a timetable for the work, which is subject to the approval in writing of the Local Planning Authority. The approved remediation scheme shall be undertaken in accordance with the approved timetable of works. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the first beneficial occupation of the development permitted on that particular site.  
Reason: To ensure that risks from unknown land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

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22 The development shall not discharge to the local watercourse network at any rate greater than 7.5 litres per second.

Reason: To prevent surface water flooding occurring both onsite and adjacent third parties.

23 No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence on site until an updated Tree Protection Plan and arboricultural method statement, in accordance with BS5837:2012 Trees in relation to design, demolition and construction-Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the specification and positioning of temporary tree protective fencing and ground protection where required. Other details shall include: areas for storage, access facilitation pruning requirements, mixing areas and parking areas. The approved tree protection measures shall be installed prior to any site activity commencing and maintained until the area is to be landscaped. No development or other operations shall take place other than in complete accordance with the Tree Protection Plan.

Reason: To ensure that reasonable measures are taken to safeguard trees in the interests of local amenity.

### INFORMATIVES

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

EV1, EV2, EV22, EV23, EV30, EV33, EV34, EV35, EV38, EV40, HC3, HC17, AS2, AS5 and AS6.

2 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2010. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (01792 634960).

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

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

Care should be taken when working on buildings particularly during the bird nesting season March-August. Any scrub on site could contain nesting birds and scrub should only be cleared outside of the bird nesting season.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 1 (CONT'D)

APPLICATION NO.

2015/2506

- 4 The Highways Officer has advised that prior to any works commencing on the site, a Construction Traffic Management Plan should be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times.

The Developer must contact the Highway Management Group, The City and County of Swansea, The Guildhall, Swansea SA1 4PE before carrying out any work. Please contact the Senior Engineer (Development), e-mails to mark.jones@swansea.gov.uk, tel. no. 01792 636091.

- 5 The Pollution Control Officer has advised the following:

1 Construction Noise

The following restrictions should be applied to all works of demolition/ construction carried out on the development site All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays. The Local Authority has the power to impose the specified hours by service of an enforcement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

2 Smoke/ Burning of materials

No burning of any material to be undertaken on site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

3 Dust Control:

During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

4 Lighting

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

- 6 The Council's Drainage Officer has advised that any onsite watercourses identified must remain open and undisturbed and wherever possible habitats enhanced through the use of SuDS mitigation measures acting in combination with the natural environment. Please be aware that the Authority's prior written consent under the Land Drainage Act 1991 (as amended) is required for any works that have the potential to affect the flow in any watercourses, ditch or stream.

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ITEM 1 (CONT'D)

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- 7 Dwr Cymru Welsh Water have advised that the proposed development site is crossed by a 375mm & 150mm combined sewer overflow pipe with their approximate position being marked on the attached Statutory Public Sewer Record. Their position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewers.
- 8 GGAT have advised that:  
The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), "Standard and Guidance for Building Recording" ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.  
  
The archaeological work must be undertaken to the Chartered Institute for Archaeologists (CIfA), "Standard and Guidance for an Archaeological Watching Brief" ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.
- 9 The applicant is advised to considered Police Designing Out Crime Officer's comments in full which are available on the planning application page of the Council's website.
- 10 The Footpaths Officer has advised that the plans show the storm drain/ ditch cutting across the public right of way along the western boundary. If so, this would need to be a culvert to allow people to walk across the top of it uninterrupted.
-



**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 2

APPLICATION NO.

2016/1268

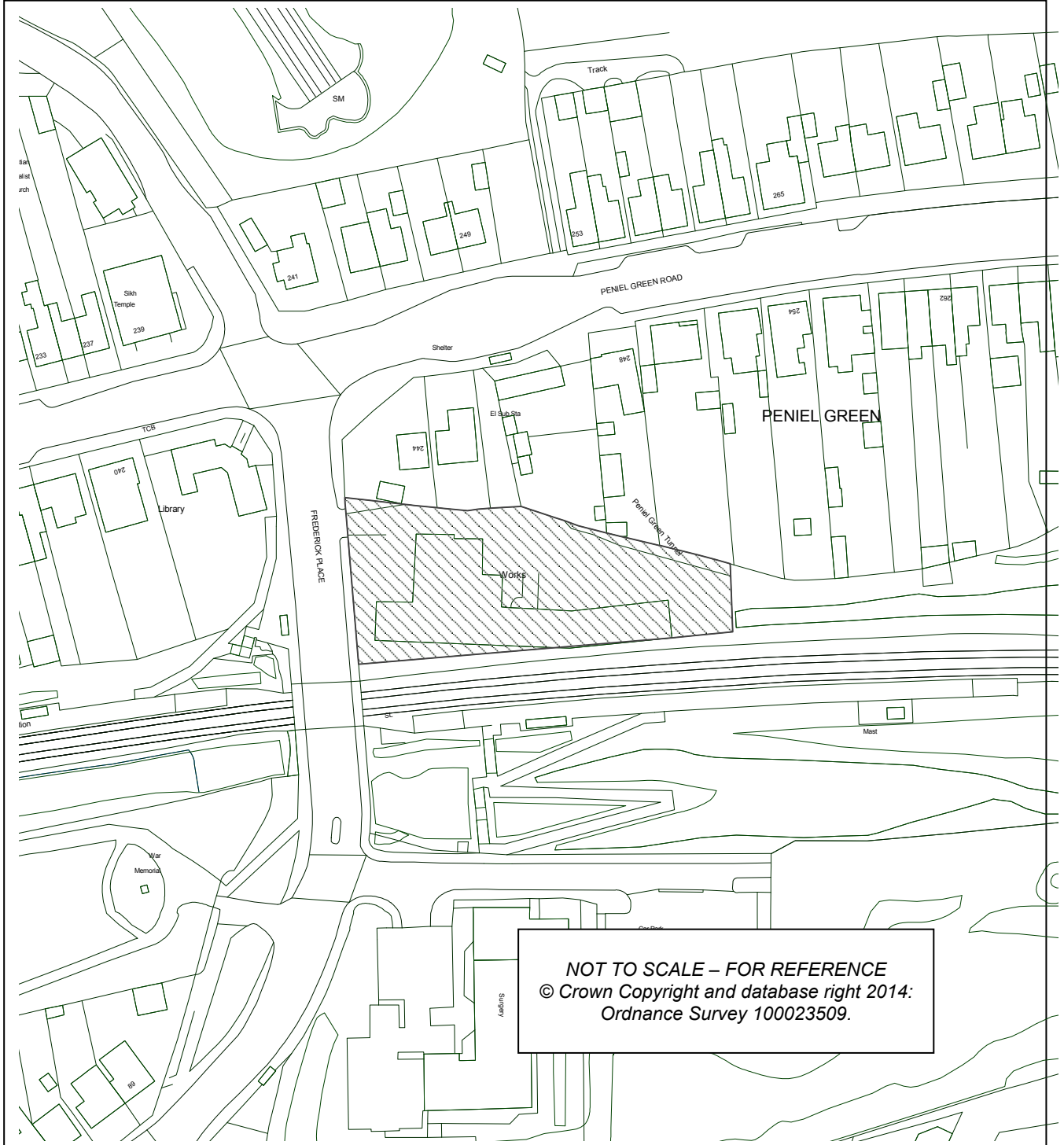
WARD:

Llansamlet

**Location: Former Century Works at Frederick Place Llansamlet Swansea**

**Proposal: Retention and completion of side extension and alterations to roof**

**Applicant: Lakeside Window System Ltd**



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 2 (CONT'D)

APPLICATION NO.

2016/1268

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV40	Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)
Policy EC3	Improvement and enhancement of the established industrial and commercial areas will be encouraged where appropriate through building enhancement, environmental improvement, infrastructure works, development opportunities and targeted business support. (City & County of Swansea Unitary Development Plan 2008)
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
2015/0915	Single storey side extension and alterations to roof Decision: Grant Permission Conditional Decision Date: 20/10/2015
2002/1685	Retention of mixed use falling within Classes B1 and B8 of the Town and Country Planning (Use Classes Order 1987) Decision: Grant Permission Unconditional Decision Date: 03/03/2003
98/0156	Change of use from storage and distribution (Class B8) to manufacturing of control panels, printed circuit board design and fault diagnosis (Class B1) Decision: Appeal Allowed Decision Date: 12/10/1998
2006/0796	Retention and completion of engineering works to form car parking area, and retention of 2.05m high block wall. Decision: Grant Permission Conditional Decision Date: 08/08/2006

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 2 (CONT'D)

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2007/1490 Two storey side extension incorporating integral car port  
Decision: Grant Permission Conditional  
Decision Date: 04/09/2007

### Background

This application is being reported to Planning Committee following a call-in request from Councillor Penny Matthews and it has met the objection threshold.

Planning permission was granted for a two storey side extension and roof alterations at the premises on 19<sup>th</sup> October 2015 (ref: 2015/0915).

The applicant subsequently commenced the development prior to discharging the relevant conditions and constructed a larger extension on the same footprint as that previously approved. Several residents contacted the Council which resulted in an enforcement investigation and subsequently the submission of this retrospective application.

### Neighbour Comments

The development was advertised on site with two site notices on the 4<sup>th</sup> June 2016. 6 adjacent residents were also consulted individually.

A PETITION SIGNED BY 31 residents has been submitted along with 4 INDIVIDUAL LETTERS from residents. The petition can be summarised as follows:

- Considerable amount of asbestos on site – need assurance it has been handled properly and disposed of correctly
- Building constructed disregards planning rules – building much larger than that permitted
- New windows which look directly into neighbours gardens and bedrooms
- Owner has not complied with Party Wall Act which requires builders to discuss proposals with neighbours
- Enforcement Officers advised applicant to stop works but they didn't
- Coal Board originally refused application due to shallow mine workings – area is High Risk
- Network Rail has objected to the development
- Traffic associated with the glazing business will pose a risk for road users – exacerbated by suppliers, potential buyers and waste disposal firms.

The letters submitted by residents living at the rear of site can be summarised as follows:

- Work has already started on site yet the forms state that they have not – why did the applicant build and then apply for retrospective permission?
- Proposal is now overbearing and has resulted in a loss of privacy with security lighting and would devalue property
- Lack of contact with local community
- Proposal looks out of place and will have a detrimental impact on area
- Too close to properties on Peniel Green Road
- Noise levels will increase
- There will be an increase in traffic as the structure has doubled in size resulting in a bigger and busier business

ITEM 2 (CONT'D)

APPLICATION NO.

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- Query whether a traffic survey has been undertaken and what the proposed trip generation is
- Junction with Peniel Green Road is very busy with bus stops, railway station and local facilities nearby that generate pedestrian and vehicular traffic – have these matters been considered?
- Concerns over access to the rear of properties
- Land ownership in dispute with Network Rail
- Concerns over structural integrity/ safety of building
- What is the impact on former mine works and have trial holes been prepared
- Potential fire risk from stored materials
- Concerns over drainage arrangements for the business
- Building blocks light to residents
- Are radon protective measures identified
- Is it appropriate for a manufacturing business to move to what is essentially a residential area?
- Concerns over asbestos and traffic generation reiterated.

### **Consultations**

#### **Highways:**

“This is a resubmission of a previously approved scheme albeit that the roofline has been raised and windows added. The parking layout/ turning area is as previously agreed.

There is an area set aside at the rear for turning for delivery vehicles so access/ egress in a forward gear is achievable.

Access to the site is as existing and there are not expected to be any highway safety issues arising from the continued use of this access point.

I recommend that no highway objections are raised to the proposal subject to the parking layout being laid out in accordance with the approved plans prior to beneficial occupation of the extension, and maintained as such in perpetuity.”

#### **Ecology:**

Please include standard informatives regarding bats and birds which may be utilising the site.

#### **Drainage:**

Please attach a pre-occupation condition requiring drainage details.

#### **Pollution Control:**

No comments to make.

#### **Coal Authority:**

“The Coal Authority is a non-departmental public body sponsored by the Department of Energy and Climate Change. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

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ITEM 2 (CONT'D)

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### The Coal Authority Response: Material Consideration

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically underground coal mining has taken place beneath the site at shallow depth.

It would appear that the current planning application is similar to that previously submitted under planning application 2015/0915 and is accompanied by the same supporting Coal Mining Risk Assessment Report (30 July 2015, produced by Blandford Consulting). This Report recommends that intrusive site investigations should be undertaken in order to assess the risk posed by shallow underground coal mine workings to the proposed development.

You will recall from correspondence in connection with planning application 2015/0915 that intrusive site investigations have actually been undertaken and the results of these investigations incorporated into a Site Investigation Report (11 August 2015, prepared by Blandford Consulting) which was submitted in support of the previous application along with Dr Blandford's further interpretation of the findings of the investigation; that there is no risk of surface subsidence in the event of a collapse of the identified mine workings and no further action is required in this respect.

We presume that the omission of the later documents from the current planning application is an oversight on the part of the applicant and that the later documents will be submitted in support of the application in due course. On this basis, The Coal Authority wishes to make the following recommendation to the LPA:

The Coal Authority is satisfied with the conclusions of the Site Investigation Report as clarified by further correspondence from Dr Blandford; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions, foundation design and gas protection measures may be required as part of any building regulations application."

#### **Network Rail:**

"Whilst there is no objection in principle to this proposal, we do have concerns over the Tunnel below the site therefore, the developer will have to take this into consideration when excavating foundations. This can be controlled by an appropriately worded planning condition.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

#### **TUNNELS**

Network Rail's Engineer is to approve details of any development works within 15m, measure horizontally, from the outside face of the tunnel extrados with special reference to:

- The type and method of construction of foundations
- Any increase/decrease of loading on the tunnel both temporary and permanent.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

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Certified proof that the proposals shall have no detrimental effect upon the tunnel will be necessary.

Any proposal must not interfere with Network Rail's operational railway not jeopardise the structural integrity of the tunnel. The above details should be submitted to the Council and only approved in conjunction with Network Rail. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the tunnel structures nor for any noise or vibration arising from the normal use and/or maintenance of the tunnel. No right of support is given or can be claimed from Network Rails tunnels or railway land.

### EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertakers boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

### FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

### FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

### SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishments guidelines.

### SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

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#### **PLANT, SCAFFOLDING AND CRANES**

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

#### **LIGHTING**

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

#### **SAFETY BARRIER SHORTER**

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

#### **DRAINAGE**

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

#### **GROUND DISTURBANCE**

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

#### **ACCESS POINTS**

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement."

#### **Site Location**

The application site comprises the former Century Works building, accessed off Frederick place in Llansamlet. The site is located at the rear of properties on Peniel Green Road and the railway line with the railway station on the opposite side of the tracks.

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The existing building, although vacant for some time, has been used for various forms of industrial and storage uses and is presently designated as Class B1 and B8 use.

### **Description of Development**

Full planning permission is sought for the retention and completion of the side extension and alterations to the roof at the side of the former Century Works, Frederick Place, Llansamlet.

The proposed side extension, located to the rear of the existing store and adjacent to the existing rear manufacturing wing, measures 19.5m wide by 10.2m deep (the same footprint as previously approved), with a pitched roof to a height of 8m with 6m eaves. As per the previous application, a small area in between the existing building would also be infilled. The previous approval was for a monopitch roof to 6.15m sloping to eaves at a height of 5m.

Four new windows openings have been created on the courtyard side elevation at a height of 4.5m, although windows have not been placed in these. One new window opening has also been created on the front elevation. The plans indicate that these are proposed to be obscurely glazed.

It is also proposed to remove the existing asbestos and slate pitched roof serving part of the rear manufacturing wing (adjacent to the railway track) and replacing it with a pitched roof at a height of approximately 6.5m (1.2m taller than the section of roof being removed).

### **Policy Issues**

The primary issues for consideration in the consideration of this application relate to the impact of the proposal on visual and residential amenity, noise pollution and highway safety, having regard to Policies EV1, EV40, AS6 and EC3 of the City and County of Swansea Unitary Development Plan 2008 (UDP).

### **Visual Amenity**

Several residents have raised concerns with regards to the visual impact of the proposal, with specific concerns over its increase scale and its impact on the character of the area. In terms of increased scale, it should be noted that the building has increased in height by approximately 1.85m. One resident has queried whether it is appropriate for a business to be located in a residential area, however it should be noted that the application is for an extension to an existing commercial building and is not introducing a new use into this area.

The existing structure comprises a render finish with slate roof fronting Frederick Place with a long rear wing with render finish with a part slate part asbestos sheeting roof, adjacent to the railway track. The existing building is in a poor state of repair having been vacant for some time. The extension that is being constructed is marginally taller than the tallest building currently on site (by 0.8m) and is visible from various public vantage points included Frederick Place at the entrance to the site and from the bridge over the railway and from the steps leading down to the railway platform.



Whilst the scale of the building is taller than that previously approved, it is not considered out of keeping with the scale or character of the existing buildings located on site. The alteration to the roof from the previously approved monopitch roof to a pitched roof is considered an improvement in design terms and in keeping with the existing structures. The proposed use of matching materials is considered to further mitigate the impact on visual amenity. Furthermore, sited within an area of mixed industrial, commercial and residential properties, the proposed side extension is not considered to be out of keeping with or dominant within the streetscene. The location of additional windows, whilst irregular on the courtyard elevation is not overly prominent and does not significantly impact on the visual appearance of the building. It should be noted that the footprint of the building is the same as that previously approved.

Whilst it is acknowledged that the proposals would increase the ridge height of the rear wing approximately 1.2m above the existing ridge height, sited adjacent to the railway, with an existing structure with a higher ridge height shielding the raised roof somewhat from vantage points on Frederick Place, the proposed replacement roof is not considered to give rise to an adverse impact on visual amenity.

The proposed development is therefore considered to be visually acceptable and would not have a detrimental impact on the visual amenity of the property or the streetscene in general.

### **Residential Amenity**

Residents have raised concerns with regards to the impact of the proposal on residential amenity given the increased scale of the building with issues including loss of light and overbearing impact. Residents also raised concerns about noise.

Whilst it is acknowledged that the proposed extension would be sited closer to the rear of the properties along Peniel Green Road than the existing rear wing of the application property, it should be noted that the actual siting is in the same location as that previously approved. The building has increased in height by 1.85m when compared with the previous approval, but is located 18metres away from the nearest residential property. The extension would be located 8.5 metres away from the nearest residential boundary. Within this context, it is considered that there is adequate distance between the building and nearest properties to ensure that the proposal would not have an overbearing impact on neighbouring amenity or result in a significant loss of light.

The amended proposal has introduced 4 new windows at a high level that could in theory result in overlooking from within the extension subject of this application. No internal works are proposed as part of this application, but the applicant could install a mezzanine in the future without requiring consent or could be utilising apparatus at a high level that enabled overlooking. The applicant has indicated that obscure glazing is proposed in these windows to ensure there is no overlooking and a condition to this effect would be attached to any grant of consent.

The section of the rear wing which is subject to the proposed raised roof height is located adjacent to the railway track and is only marginally taller than the proposed extension which is sited between the rear manufacturing wing and the nearest properties on Peniel Green Road.

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Therefore it is not considered that the raised roof level would give rise to any adverse overbearing impact, overshadowing or overlooking in relation to residential amenity.

Pollution Control requested further information on the proposed siting and use of machinery and hours of operation as part of the previous application. Following the submission of that information, they did not object to the proposals. The Officer has subsequently visited the applicant's existing premises and has no issues with regards to the proposal. It must also be considered that this is an existing site with a lawful use for light industrial/ storage purposes and this would be the fallback position. Any issues that were to arise as a result of noise could be investigated further under Public Health legislation.

### **Access and Highway Safety**

A resident has queried whether a traffic survey has been submitted as the junction with Peniel Green Road is very busy. In addition, there are other community facilities that generate pedestrian and vehicular traffic and these should be considered. The building would be bigger meaning an increase in traffic.

The previous application did not raise any concerns with regards to access/ highway safety and it should be reiterated that the footprint of the building would not increase over and above that previously approved. The Highways Officer did not object previously provided that the car parking spaces were increased in size as they have been as part of this application with regards to the front of the site. One small section at the rear is undersized but a condition requiring amended details for this section would be attached to any consent as a minor alteration would enable the spaces to be provided.

There is an area set aside at the rear for turning for delivery vehicles so access/ egress in a forward gear is achievable. The Highways Officer has also advised that access to the site is as existing and there are not expected to be any highway safety issues arising from the continued use of this access point. Whilst residents have raised concerns about access to the site and traffic in general, this application is not a change of use and seeks consent for the extension. The existing building appears to have a lawful use for B1/ B8 purposes.

### **Coal Mining**

Residents have raised concerns with regards to past coal mining activity. However, the Coal Authority is satisfied with the conclusions of the Site Investigation Report as clarified by further correspondence from Dr Blandford; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority therefore has no objection to the proposed development. However, further more detailed considerations of ground conditions, foundation design and gas protection measures may be required as part of any building regulations application.

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### Other Issues

The Council's Ecologist has not objected to the proposals but has requested that informatives are attached. Similarly, despite suggestions to the contrary by residents, Network Rail has not objected to the proposal. They have advised that foundation design may be an issue but this would be controlled via Building Regulations.

Residents have raised concerns with regards to the applicant disregarding planning legislation and building the extension without the benefit of permission. Whilst the applicant has clearly gone beyond the scope of their previous permission, and did not stop when they were advised to do so, this was completely at their own risk. Planning legislation enables an applicant to make a retrospective application and the applicant has sought to regularise the breach of control through the submission of this application.

It is noted that the applicant did not formally discharge the condition regarding drainage prior to commencing on site and a new condition to this effect along with a timeframe for implementation would be attached to any grant of consent. The Drainage Officer has no objections to this approach.

Concerns over asbestos in the roof and its disposal would be covered by separate legislation as would whether radon protection measures. Residents have also commented about the Party Wall Act but again, this is controlled by separate legislation. The applicant does not have to discuss a proposal with the local community, but residents were consulted as part of the application process. The extension itself would not restrict access to the rear of properties on Peniel Green Road and any right of access to these properties would be subject to separate legislation. The extension would be subject to Building Regulations approval which would ensure it is structurally sound. Finally, the potential fire risk from stored materials and the devaluation of properties have also been given limited weight in the determination of this application as there is no evidence of either (let alone that this extension itself would result in a fire hazard or devalue properties). It should also be noted that the planning system is not intended to protect the private interests of one person against the activities of another.

### Conclusions

In conclusion, and having regard to all material considerations including the Human Rights Act, the proposal is considered to represent an acceptable form of development which complies with Policies EV1, EV40, AS6 and EC3 of the City and County of Swansea Unitary Development Plan 2008.

### RECOMMENDATION

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

- 1 The development shall be carried out in accordance with the following approved plans and documents: Proposed Layout, Front Parking Area, Rear Parking and Turning Area, Proposed Ground Floor Extension, Proposed Front Elevation, Proposed Rear Elevation, Proposed Side Station and Proposed and Proposed Side Courtyard and Proposed Side Railway received on 23rd June 2016.

Reason: To define the extent of the permission granted.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 2 (CONT'D)

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- 2 Prior to the first beneficial use of the extension hereby permitted, the top row of windows on the northern elevation (facing the courtyard) shall be fitted with obscure glazing and shall be unopenable, and shall be retained as such at all times.  
Reason: To define the extent of the permission granted.
- 3 The finishes to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building and shall be applied prior to the first beneficial use of the extension.  
Reason: In the interests of visual amenity.
- 4 Notwithstanding the details submitted to date, amended parking details for the south eastern corner of the site to show five parking spaces each measuring 2.6m by 4.8m shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial use of the extension hereby permitted. The parking layout shall thereafter be clearly laid out on the ground in accordance with the approved details prior to the first beneficial use of the extension hereby permitted and retained for parking purposes for the lifetime of the development.  
Reason: To ensure there is adequate parking provision provided on site in the interest of highway safety.
- 5 Prior to the first beneficial use of the extension hereby permitted, full details of a scheme for the comprehensive and integrated drainage of the site showing how surface water and land drainage will be dealt with shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. Details should include the results of soakaway tests carried out in strict accordance with BRE Digest 365 or the equivalent CIRIA document. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved thereafter for the lifetime of the development.  
Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment and to minimise surface water run-off.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, EC3 and AS6.

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2 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2010. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (01792 634960).

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

- Kill, injure or take any wild bird

- Take, damage or destroy the nest of any wild bird while that nest in use or being built

- Take or destroy an egg of any wild bird

Care should be taken when working on buildings particularly during the bird nesting season March-August.

4 STANDING ADVICE - DEVELOPMENT LOW RISK AREA

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

This Standing Advice is valid from 1st January 2015 until 31st December 2016

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

6 The applicant is advised to consider the advice from Network Rail that is included within the Officer's Report.

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ITEM 3

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2014/1872

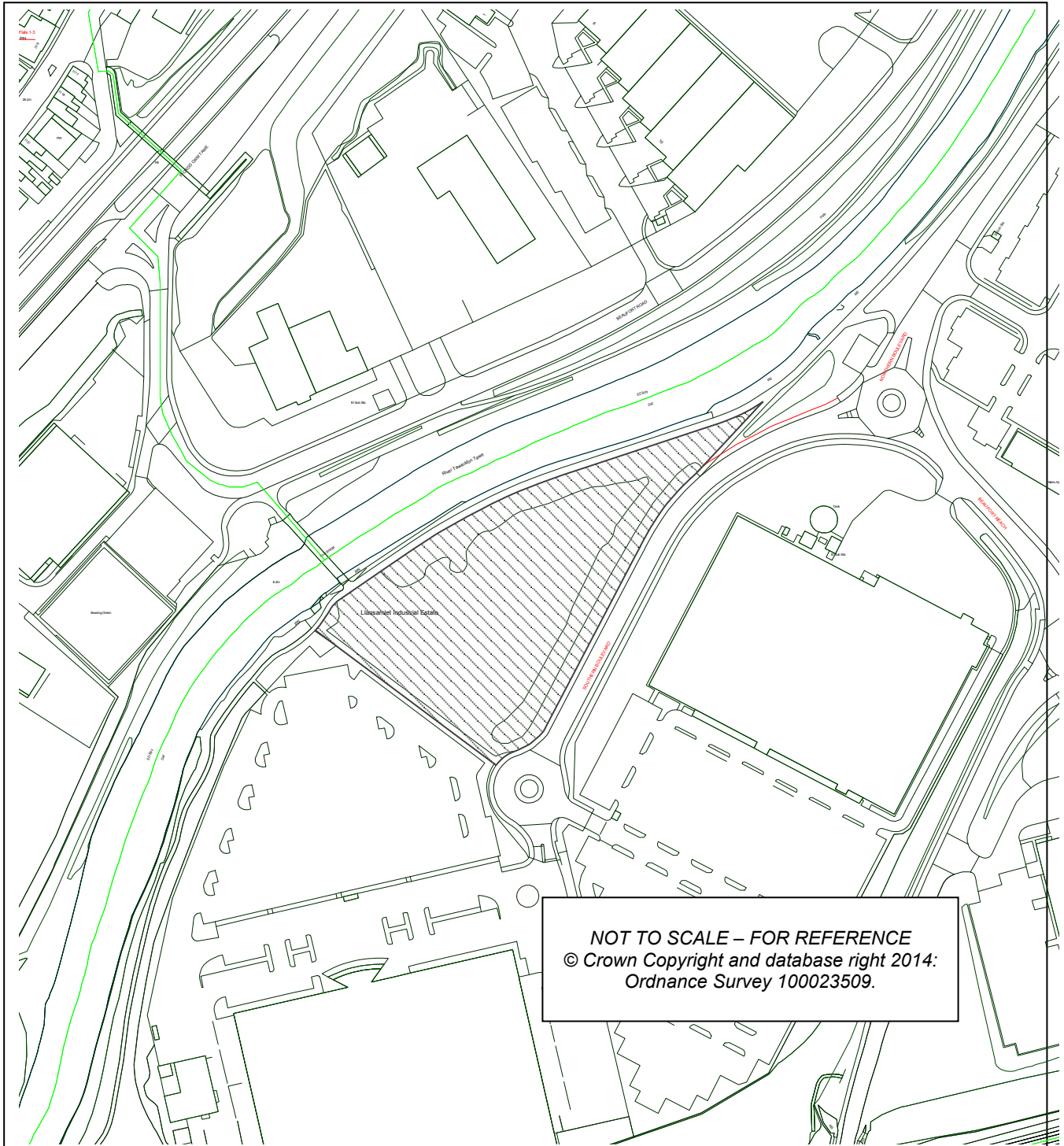
WARD:

Bonymaen

**Location:** Land opposite Makro, Beaufort Reach, Swansea

**Proposal:** Construction of 10 units for Class B1 and B2 use

**Applicant:** Stormbridge Properties Ltd



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

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### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV40	Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)
Policy EV28	Within locally designated areas the natural heritage will be preserved and enhanced wherever possible. (City & County of Swansea Unitary Development Plan 2008)
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)
Policy EC1	Allocation of employment land to meet the needs of the local economy. (City & County of Swansea Unitary Development Plan 2008)
Policy EC3	Improvement and enhancement of the established industrial and commercial areas will be encouraged where appropriate through building enhancement, environmental improvement, infrastructure works, development opportunities and targeted business support. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV33	Planning permission will normally only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. (City & County of Swansea Unitary Development Plan 2008)
Policy EV34	Development proposals that may impact upon the water environment will only be permitted where it can be demonstrated that they would not pose a significant risk to the quality and or quantity of controlled waters. (City & County of Swansea Unitary Development Plan 2008)

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ITEM 3 (CONT'D) APPLICATION NO. 2014/1872

- Policy EV35 Development that would have an adverse impact on the water environment due to:
- i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or,
  - ii) A reduction in the quality of surface water run-off.
- Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008)
- Policy EV36 New development, where considered appropriate, within flood risk areas will only be permitted where developers can demonstrate to the satisfaction of the Council that its location is justified and the consequences associated with flooding are acceptable. (City & County of Swansea Unitary Development Plan 2008)
- Policy EV38 Development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated to the satisfaction of the Council, that measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment. (City & County of Swansea Unitary Development Plan 2008)

### SITE HISTORY

<b>App No.</b>	<b>Proposal</b>
2011/1228	Installation of 2.4 metre high palisade fencing with security gates Decision: Grant Permission Conditional Decision Date: 22/11/2011
2007/0895	Erection of 13 signs to include 8 freestanding directional signs, 1 freestanding information sign and 1 high level sign internal sign within front fascia of building Decision: Grant Advertisement Consent (C) Decision Date: 06/09/2007
99/6095	RETENTION OF INTERNALLY ILLUMINATED FASCIA SIGN AND 2 NO. FREESTANDING PYLON SIGNS Decision: *HGCNC - GRANT CONSENT NO CONDITIONS Decision Date: 17/12/1999
2008/0964	Development of the site for a mix of B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) (Outline) Decision: Grant Permission Conditional Decision Date: 20/08/2008



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2004/1860	Development of site within the following range of (Class B1) business, (Class B2) general industrial, (Class B8) storage and distribution and vehicle showrooms (renewal of outline planning permission 2001/0904 granted on 7th August 2001) Decision: Withdrawn Decision Date: 22/09/2008	
99/0888	ERECTION OF SINGLE STOREY FACILITIES BUILDING, FORMATION OF NEW ACCESS FROM ROUNDABOUT TO SITE, FORMATION OF 466 SPACES CAR PARK AND ENCLOSURE OF SITE WITH PALLISADE FENCING Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 27/07/1999	
A00/6093	ERECTION OF INTERNALLY ILLUMINATED FASCIA SIGN AND 2 FREESTANDING PYLON SIGNS Decision: *HGCC - GRANT CONSENT WITH CONDITIONS Decision Date: 21/12/2000	
2004/1206	Provision of new footway/cycleway bridge (Council Development Regulation 3) Decision: Grant Permission Conditional Decision Date: 16/07/2004	
2005/2165	Installation of 3m pallisade fencing and temporary boarding along part of boundary with a gate Decision: Withdrawn Decision Date: 24/06/2008	
2009/0274	Variation of condition 12 of planning permission 2008/0964 granted 20th August 2008 (any development approved by this permission shall be designed in a way as to allow the free passage of flood water under and around the building in perpetuity) Decision: Approve Conditional (S73) Decision Date: 05/05/2009	
2001/0904	Development of site within the following range of use classes B1 (Business), B2 (General Industrial), B8 (Storage and Distribution) and vehicle showrooms (sui generis) (outline) Decision: Grant Permission Conditional Decision Date: 07/08/2001	
2011/1085	Variation of condition 2 of outline planning permission 2008/0964 granted on 20th August 2008 to extend the period for the submission of reserved matters by a further three years Decision: Approve Conditional (S73) Decision Date: 21/12/2011	

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### APPRAISAL

This application seeks planning permission for the construction of 10 industrial/commercial units with B1 or B2 uses.

The application is being reported to Planning Committee as the floor area exceeds 2,00 square metres (the development threshold).

The application site comprises an irregular shaped parcel of land measuring approximately 1.05 hectares. The site has been cleared and is covered by a hardsurface. Its boundaries are enclosed by a palisade type fence on all sides. The site borders the River Tawe to the north and its associated cycle/foot path, which is separated from the site by a stand of semi-mature trees. To the south is the Beaufort Reach frontage. Aside from the river frontage the site is surrounded by commercial buildings including a large manufacturing unit to the west (Lyte Ladders) and offices to the south (Virgin Media).

In terms of the planning history at the site, outline planning permission has been granted for developments of B1, B2 and B8 uses at the site since 2001. The most recent planning permission at the site (Ref: 2011/1085) is a Section 73 approval comprising a renewal of the outline planning permission granted in 2008 for the following:

'Development of the site for a mix of B1 (Business, B2 (General Industrial) and B8 (Storage and Distribution) (outline)'

This is an extant planning permission and is therefore material to the consideration of this proposal.

### RESPONSE TO CONSULTATIONS

The application was advertised in the press and by site notice. No responses were received to the public consultation.

#### Other consultation responses:

##### Highways

The site benefits from outline consent dating back to application 2008/0964 for mixed use business/general industrial and storage and distribution (outline) hence the principle has already been established.

Notwithstanding that, the current application is for 'full' consent for ten units for B1/B2 uses.

The site is bounded to the north and west by the river and the south and east by an access estate road. The road currently serves a small number of units, namely Virgin Media and Lyte Ladders. The location off a short cul-de-sac was such that speeds were not going to be an issue. Pedestrians are well catered for with footways and a link through to the riverside walk adjacent to the River Tawe. The site is well located in terms of accessibility to cycle networks and bust stops are located on Siemens Way and Neath Road.

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A Transport Statement was submitted with the application which looked at the key transportation issues arising from the proposals.

Each of the proposed units has a floor space of 234 square metres making 2,340 square metres in total of development area. There is parking and road infrastructure included to support these uses. Vehicular and pedestrian access to the site will be utilizing two access points, one off the existing roundabout spur (currently gated) and a new access point towards the northern end of the site.

The roundabout access will require the full construction of a fourth arm junction into the site, the proposed carriageway width of the spine road into the site off the roundabout will be 7.3m with 2.0m wide footways. These works will be required to be undertaken under a Section 278 Agreement with the Highway Authority. The second access will be a priority junction again with a 7.3m access road and 9m kerb radii. Visibility splays are acceptable.

Parking is being provided in accordance with the CCS parking standards for B2 small industrial units (less than 235 square metres). There is also room within the site for articulated lorries to arrive and depart in a forward gear. Cycle parking has also been referenced to encourage non car modes of transport.

The development is expected to generate traffic movements (by using similar TRICS Sites) of 358 movements per 12 hour day with a modal split of 84% vehicle driver. Sites in London and over 5000 square metres have been excluded, as have town centre and edge of town centre categories. This is appropriate for the site.

The traditional morning peak (0800-0900) generates 35 movements, with 20 expected in the afternoon peak (1700-1800). The development peak falls outside of the highway network peaks (at 0900-1000) and even then is only 39 movements. It is therefore considered that the impact on the Highway Network will be minimal.

The area and surrounding roads has been assessed for personal injury accidents and it was seen that in 2010 there was one slight injury, similarly in 2011. In 2012 and 2013 there were none, with two being recorded in 2014. None of these accidents were on the network that directly serves the development site, it is reasonable to conclude therefore that there is no inherent safety issue at the site in terms of access/egress.

In summary it is considered that the proposed development can be accommodated within the existing highway infrastructure (apart from access modifications to facilitate vehicular access into the site). The site is well located in terms of access to walking/cycling and public transport routes.

I recommend that no highway objections are raised to the proposal subject to:

1. Cycle parking to be implemented in accordance with details to be submitted to the LPA for approval. The cycle parking should be spread throughout the site and not be localised.
2. The front boundary wall to be maintained below 1m in the interests of visibility.
3. The new priority access and amendments to the roundabout to facilitate a new fourth arm to be undertaken under a section 278 Agreement with the Highway Authority.

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4. Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Local Planning Authority.

5. I recommend therefore that if consent is granted, that the applicant be required to submit a Travel Plan for approval within 12 months of consent and that the Travel Plan be implemented prior to the beneficial use of the building commencing.

6. Given the proximity to the stadium I suggest that a parking management strategy be conditioned to cover match days where parking problems may be encountered.

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

The Developer must contact the Highway Management Group , The City and County of Swansea , Penllergaer Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Team Leader , tel. no. 01792 636091

### South Wales Police Design Out Crime Officer

Detailed comments in relation to designing out crime within the development.

### Pollution Control

If, during the course of development, contamination not previously identified is found to be present at the site no further development [unless previously agreed in writing with the Local Planning Authority] shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a detailed strategy for dealing with said contamination.

### Planning Ecologist

The site is generally of low ecological value however the site abuts the Tawe Corridor SINC. The river corridor is used by foraging and commuting bats and otters. In order to avoid disturbing these species the line of shrubs to the rear of the site should be retained and there should also be no light spill onto the river corridor. A bird informative should be included.

### Dwr Cymru Welsh Water (DCWW)

Request that conditions and advisory notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

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Natural Resources Wales (NRW)

**We do not object to the above proposal, but wish to make the following comments.**

### **Contaminated Land**

The Design & Access Statement, dated April 2016, states that the site was sold by WDA to the current owners; *'as a cleared and levelled site, free from contamination and suitable for a variety of uses.'*

We recommend that your Authority seeks supporting evidence from the applicant in order to assure yourselves of the above statement. The Design & Access Statement goes on to mention that the *'decontamination and restoration work'*, would have been carried out before 2004, however, we draw to your attention that environmental standards will have been different at that time.

Therefore, if your Authority is satisfied with the information/evidence provided by the applicant in relation to the *'decontamination'* of the site, then you may not wish to add the following conditions. However, we have included them for your consideration.

(See NRW's full response for conditions).

### **Flood Risk**

The document entitled; *'Development Adjacent to Beaufort Reach, Swansea 2014/1872: Flood Risk Assessment'*, dated 2 November 2015, by Blackburn Griffiths Ltd and the appended emails have addressed the matters raised by ourselves in previous correspondence. We consider the FCA to be appropriate for the proposed development. The proposal to compensate for loss of flood storage by amending the landscaping bund is also considered to be feasible and assumptions have been made about potential rate of rise and speed of inundation in order to make reference to all the criteria in Table A1.15 of TAN15.

### **Surface Water Drainage**

We would also ask that if SUDS are to be considered on a site, these should be on a risk based approach. Ultimately the drainage system design is a matter for the Local Authority Drainage Engineers and we advise that they are consulted with regards to these proposals

### **Pollution Prevention & Waste Management**

The biggest risk in relation to pollution, occurs during construction and we would remind the applicant/developer that the responsibility for preventing pollution rests with those in control on the site. Works should therefore be carefully planned, so that contaminated water cannot run uncontrolled into any watercourses (including ditches).

As best practice, we would advise the developer to produce a site specific construction management plan / pollution prevention plan, with particular reference given to the protection of the surrounding land & water environments. For detailed pollution prevention guidance we would refer the applicant/developer to the Environment Agency's Pollution Prevention Guidance available from their website: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg> .

We would also recommend that a Site Waste Management Plan (SWMP) is produced.

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Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money. Guidance for SWMPs are available from the DEFRA website: ([www.defra.gov.uk](http://www.defra.gov.uk)).

### Drainage

We have reviewed the submitted application and subject to positive Natural Resources Wales comments regarding the submitted FCA and agreeing the proposed discharge of 5l/s to the main river, we recommend the following is appended to any permissions given (see detailed drainage comments).

### **MAIN ISSUES**

The main issues for consideration are the impact of the development upon the character and appearance of the area, the impacts on highway safety, the impacts on ecology and the environment, and whether the consequences of flooding at the site are acceptable.

The following City and County of Swansea Unitary Development Plan Policies are relevant to the consideration of this proposal: AS6, EC1(6), EC3, EV1, EV2, EV3, EV28, EV33, EV34, EV35, EV36, EV38 and EV40.

Also relevant is the supplementary planning guidance entitled Swansea Enterprise Park Planning Policies. The document identifies that the site is located within zone D (Mixed Uses) where Use classes B1, B2, B8 and car showrooms are listed as being appropriate uses.

### **Principle of the Development**

The application site is an allocated employment site under EC1(6) where it states that development proposals should have regard to established uses and relevant SPG. The site is regarded as a 'Local Site' for 'predominantly lower order B2, B8 and Sui Generic uses, although there will be instances where B1 offices are appropriate'.

Therefore having regard to EC1 and the planning history of the site, the proposed development is considered to be entirely appropriate, in principle, in land use terms.

### **Visual Amenity**

The development proposes terraces, detached and semi-detached buildings with 10 units in total arranged around two loop roads. Vehicular access to the site is derived from two access points from Beaufort Reach. The plans have been amended to include a larger landscaped buffer between the northernmost unit and the River Tawe, which will soften and screen the appearance of the buildings from the river corridor cycle/footpath.

The units have a simple mono-pitched design, the roofs and walls would be faced in a grey colour coated panel system. Their appearance is simple and utilitarian and within the surrounding commercial and industrial context, the design and layout of the development is considered to be satisfactory.

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The site is enclosed by a high green palisade fence that benefits from planning permission, this is an existing feature of the development site and is proposed to be retained under the development proposals.

In light of the above the development would accord with UDP Policies EV1 and EV2.

### **Residential Amenity**

The nearest residential properties are sited over 200m to the west of the site, on the western side of Neath Road. The site is separated from these properties by a busy dual carriageway and the river. In view of these separation distances, there would be no material residential amenity impacts to the nearest residential properties as a result of this development.

In light of the above the development would accord with UDP Policies EV1, EV2 and EV40.

### **Access and Highway Safety**

Two access points are proposed to the development of Beaufort Reach, one off the existing roundabout spur (currently gated) and a new access point towards the northern end of the site.

The roundabout access will require the full construction of a fourth arm junction into the site, the proposed carriageway width of the spine road into the site off the roundabout will be 7.3m with 2.0m wide footways. The second access will be a priority junction again with a 7.3m access road and 9m kerb radii. The highways officer considers the visibility splays are acceptable for the development and that there is no inherent safety issue at the site in terms access/egress.

Parking is being provided in accordance with adopted standards for B2 small industrial units.

The transport statement provides estimated traffic movements. The traditional morning peak (0800-0900) generates 35 movements, with 20 expected in the afternoon peak (1700-1800). The development peak falls outside of the highway network peaks (at 0900-1000) and even then is only 39 movements. The highways officer therefore considers that the impact on the Highway Network will be minimal and has offered no objection to the proposal subject to the requirements set out in the above highways comments. These matters can be addressed by conditions and infomatives, where necessary.

In light of the above the development would accord with UDP Policy AS6.

### **Ecology**

The Council's planning ecologist considers the site is generally of low ecological value, but notes that the site lies adjacent to the Tawe Corridor SINC. The river corridor is used by foraging and commuting bats and otters and to avoid disturbing these species the line of shrubs to the rear of the site should be retained. The submitted plans indicate a landscape buffer would be retained with the river corridor and the provision of satisfactory landscaping to this area can be controlled by a planning condition.

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Moreover, the Councils ecologist has stressed there should be no light spillage to this area as such a condition will be required to control any lighting which may affect the northern boundary of the site.

Subject to conditions, therefore, the development of the site as proposed would not have significant ecological impact and would accord with UDP Policies EV2 and EV28.

### **Land Contamination**

According to the design and access statement the site has a mixed industrial past particularly smelting non-ferrous metal, dating back to the early nineteenth century. The design and access statement further states that the site was sold by the Welsh Development Agency as a cleared and levelled site, free from contamination.

NRW have recommended that supporting evidence is provided to substantiate these assertions in order to ensure the development of the site would not pose a risk to controlled waters. The applicants have subsequently provided a geo-environmental report for the site which confirms that the site is not heavily contaminated and contains a number of recommendations in terms of site preparation and site development. The information contained within this report is considered to be satisfactory to demonstrate that the site can be developed for the intended use without resulting in any significant impacts on controlled waters. In order to ensure the residual contamination risks identified within the report are mitigated it will be necessary to impose a condition to the effect that the development shall be remediated in accordance with the recommendations of the geo-environmental report. Moreover a verification report will need to be conditioned to demonstrate the remediation measures have been successfully implemented. The pollution control division have offered no objection to the application on land contamination grounds, subject to a condition in relation to unsuspected land contamination.

Subject to conditions therefore, it is considered that the development of the site would not pose an unacceptable risk to controlled waters. The development would therefore accord with UDP Policies EV34 and EV38.

### **Drainage**

The application has been accompanied by a drainage strategy which indicates that the surface water from the site would be discharged at an attenuated rate of 5 litres per second to the River Tawe. Foul water would be discharged to the existing adopted foul water sewer on Beaufort Reach.

The Councils drainage officer has offered no objection to the proposals subject to NRW agreeing to the proposed discharge to the main river. NRW have not objected to the surface water proposals, but instead have indicated that the drainage system design is a matter for the Council's drainage engineers. Therefore it is recommended that a condition is placed on any planning permission granted for the submission of a detailed drainage scheme as advised by the Council's drainage engineers.

In light of the above and subject to conditions, the development would accord with UDP Policy EV35.



### **Flooding**

The application site is located within flood zone C1 of the Welsh Governments Development Advice Map (DAM) referred to in Technical Advice Note 15: 'Development and Flood Risk' (TAN 15). The proposal relates to less vulnerable, within zone C1 TAN15 advises that development can take place subject to the application of the justification test and acceptability of the consequences of flooding.

In terms of the justification test, the application site is an allocated employment site within the UDP. The pre-amble to Chapter 2 of the UDP states that sufficient employment land must be allocated in the UDP to meet the growth needs of the local economy. It is considered the proposed development would therefore contribute to key employment objectives supported by the local authority and would amount to sufficient justification for the development under section 6 of TAN 15.

In terms of the acceptability of the consequences of flooding the application has been accompanied by a flooding consequences assessment which contains flood modelling which demonstrates that the site is flood free in the 1 in 100 year plus climate change event. Flood depths across the site in the order of 0.3 – 0.6m are predicted for the 1 in 1000 year event, with average predictions between 0.35-0.45m. These flood levels are consistent with the criteria outlined in TAN 15. Maximum flow velocity across the site is predicted to lie within the tolerances specified in TAN 15.

The proposed buildings would displace flood waters elsewhere within the catchment with an estimated volume of 60m<sup>3</sup>. In order to mitigate this displacement the applicant proposes to remodel an existing bund on the site along the eastern boundary to accommodate the potential impact of the predicted flood volume during severe events.

In summary, the development is for commercial/industrial units, which are regarded as less vulnerable development. The site is located within flood zone C1 which benefits from flood defences. The FCA indicated the development would flood in an extreme 1 in 1000 year event, but would be flood free in the 1 in 100 year event. Flooding during the extreme event would be within the tolerances specified within TAN 15 in terms of flood depth, rate of rise of flood waters, speed of inundation and velocity of flood waters, therefore the consequences of flooding are considered to be acceptable, subject to the provision of a flood management and evacuation plan and the development being designed to be flood resilient. These matters can be secured by planning conditions.

NRW have raised no objection to the development on the grounds of flood risk and consider that the FCA is appropriate for the proposed development. The consequences of flooding at the site are therefore considered to be acceptable and the development would therefore accord with UDP Policies EV2 and EV36.

### **Conclusion**

The proposed development on this allocated employment site would accord with UDP Policies and is therefore recommended for conditional approval.

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**RECOMMENDATION**

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan, APC11014-02 Rev. A - External Elevations Looking South East and West, APC11014-03 Rev. A - External Elevations Looking North South and West, APC11014-04 Rev. B - Floor Layouts For Units Nos. 2,3,4,5,7&8 and Typical Section, APC11014-05 - Floor Layouts for Units Nos. 1&10, received 4th December 2014. 100 Rev.A - Drainage Schematic, received 28th April 2016. APC11014-01 REV.B - Site Plan Showing Proposed Units and Road Layout, received 21st July 20th 2016.  
Reason: To define the extent of the permission granted.
- 3 No development shall take place until the developer has notified the Local Planning Authority of the initiation of development. Such notification shall be in accordance with the form set out in Schedule 5A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or any order revoking or re-enacting that order.  
Reason: To comply with the requirements of Section 71ZB(1) of the Town and Country Planning Act 1990 (as amended).
- 4 No development shall take place until the developer has displayed a site notice in accordance with the form set out in Schedule 5B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) or any order revoking or re-enacting that order. The site notice shall be displayed at all times when development is being carried out.  
Reason: To comply with the requirements of Section 71ZB(2) of the Town and Country Planning Act 1990 (as amended).
- 5 Notwithstanding the details indicated on the approved plans, no development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include the retention of the existing trees and shrubs along the northern boundary within a minimum corridor width of 4m from the tarmac footpath as indicated on Plan No. APC11014-01 Rev. B. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.  
Reason: In the interests of providing a suitable scheme of landscaping to protect the visual amenity of the area and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value.

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

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

- 7 Notwithstanding the details indicated on the approved plans, no development shall commence until the developer has prepared a strategy for the comprehensive and integrated drainage of the site showing how surface water, foul water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as such thereafter.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

- 8 Prior to the beneficial occupation of the development a flooding management and evacuation plan shall be submitted to and approved in writing the local planning authority. The development shall thereafter be operated at all times in accordance with the approved plan details.

Reason: In order to ensure the flood risk at the site is managed to an acceptable level.

- 9 The ground floor of the buildings hereby approved shall be designed to be resilient to flooding in accordance with details which shall be submitted to and approved in writing by the local planning authority prior to the commencement of any superstructure works. The development shall thereafter be constructed in accordance with the approved details.

Reason: To ensure the construction of the development has regard to its location within a flood zone.

- 10 Prior to the occupation of any building hereby approved, details of lighting schemes for the construction and operational phases of the development shall be submitted to and approved in writing by the local planning authority. The development shall be implemented and thereafter maintained in accordance with the approved details.

Reason: In the interest of ensuring that the development does not have a detrimental impact on the ecology of the area, specifically the woodland corridor on the northern boundary.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 3 (CONT'D)

APPLICATION NO.

2014/1872

- 11 The external finishes for the development shall be as specified on the planning application forms.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 12 The site shall be remediated in accordance with the details and timescales set out in the submitted Geo-Environmental Report dated July 1999. Upon completion of the remedial works or prior to the occupation of the any part of the development, whichever occurs sooner, a verification demonstrating completion of the works set out in the Geo-Environmental Report shall be submitted to and approved in writing by the local planning authority.  
Reason: To demonstrate the development has been satisfactorily remediated.
- 13 If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted to, 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: Given the size/complexity 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.
- 14 Prior to the occupation of any unit hereby approved, cycle parking shall be provided within the development in accordance with adopted cycle parking standards and in accordance with a scheme which shall first be submitted to and approved in writing by the local planning authority. The cycle parking shall thereafter be retained as approved for the duration of the use.  
Reason: In order to promote alternative modes of transportation.
- 15 Prior to the beneficial occupation of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall thereafter be implemented in accordance with the approved details and timescales.  
Reason: In order to encourage sustainable modes of transportation.
- 16 A parking management strategy shall be submitted to and approved in writing prior to the occupation of any building hereby approved. The strategy shall indicate how parking provision at the site would be managed during match days at the Liberty Stadium. The management strategy shall be implemented in accordance with the approved details for the duration of the use hereby approved.  
Reason: To ensure parking provision at the development is appropriately managed during match days, when there is increased parking pressure in this area.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 3 (CONT'D) APPLICATION NO. 2014/1872

- 17 Prior to the commencement of any superstructure works on site, details of the modification of the bund referenced in the flooding consequences assessment and indicated on Plan No. 100 Rev. A shall be submitted to and approved in writing by the local planning authority. The modification of the bund shall be carried out in accordance with the approved details prior to the occupation of any of the units hereby approved and shall be retained in that form for the duration of the use.

Reason: To ensure the development does not result in increased flood risk elsewhere within the flood catchment.

- 18 Prior to the occupation of any unit hereby permitted, the car parking layout as indicated in Drawing No. APC11014-01 Rev. B shall be clearly laid out on the ground and retained as such thereafter for the parking of vehicles for the lifetime of the development.

Reason: To ensure adequate on site car parking provision in the interests of highway safety.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS6, EC1, EC3, EV1, EV2, EV3, EV28, EV33, EV34, EV35, EV36, EV38 and EV40.

- 2 It is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:

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

You are advised that any clearance of trees, shrubs, scrub (including gorse and bramble) or empty buildings should not be undertaken during the bird nesting season, 1st March - 31st August and that such action may result in an offence being committed.

- 3 The new priority access and amendments to the roundabout to facilitate a new fourth arm to be undertaken under a section 278 Agreement with the Highway Authority.

- 4 Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Highways Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Highways Authority.

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

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 3 (CONT'D)

APPLICATION NO.

2014/1872

- 6 The Developer must contact the Highway Management Group , The City and County of Swansea , The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Team Leader mark.jones@swansea.gov.uk , tel. no. 01792 636091
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**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 4

APPLICATION NO.

2016/0919

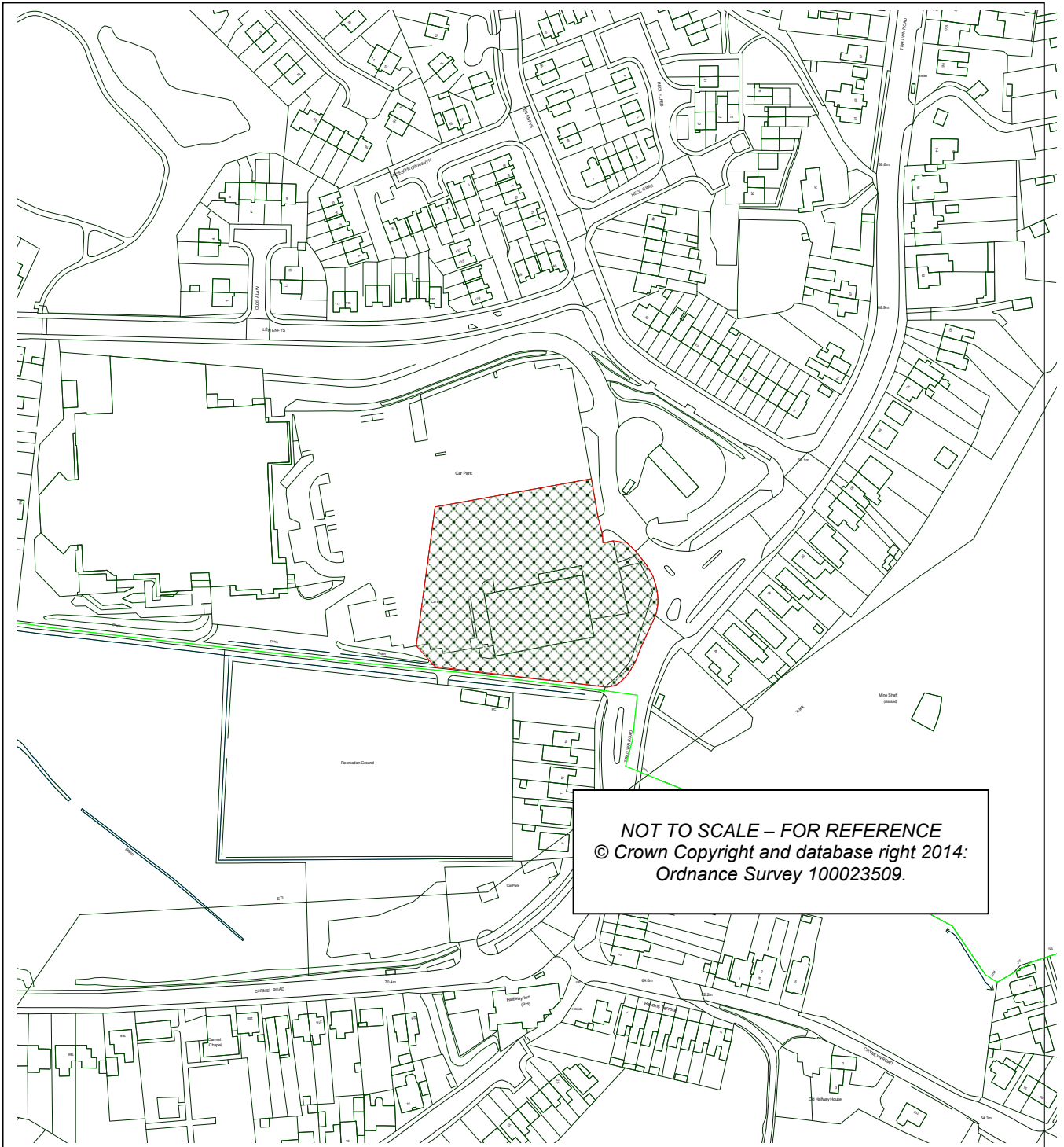
WARD:

Llansamlet

**Location: Lidl UK Gmbh Trallwn Road Llansamlet Swansea SA7 9WL**

**Proposal: Variation of condition 13 of planning permission 2015/2119 granted 14th December 2015 to open between 0800-2200 on Bank Holidays**

**Applicant: Dr Wendy Hurst**



**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 4 (CONT'D)

APPLICATION NO.

2016/0919

**BACKGROUND INFORMATION**

**POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV40	Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

**SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
98/0973	ERECTION OF A SINGLE STOREY RETAIL STORE WITH CAR PARKING AND SERVICING Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 28/09/1998
99/0173	ERECTION OF COVERED BICYCLE STORE Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 15/03/1999
99/0517	FORMATION OF 2 NO. EXTERNAL GARDEN PRODUCT DISPLAY AREAS AND ERECTION OF TWO STOREY HIGH REAR EXTENSION FOR THE DISPLAY AND SALE OF GARDEN PRODUCTS Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 18/06/1999
99/6060	ERECTION OF 3NO EXTERNALLY ILLUMINATED AND 1no INTERNALLY ILLUMINATED SIGNS ON FRONT AND SIDE ELEVATIONS AND 1no NON ILLUMINATED SIGN ON FRONT ELEVATION Decision: *HGCC - GRANT CONSENT WITH CONDITIONS Decision Date: 30/07/1999
2006/2729	Installation of 2.8m palisade fencing Decision: Refuse Decision Date: 14/04/2009



**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 4 (CONT'D)	APPLICATION NO.	2016/0919
2008/2410	Installation of a 12m high streetworks monopole with 3 antennas (overall height 13.4m) and associated equipment cabinet (application for the Prior Approval of the Local Planning Authority) Decision: Prior Approval is Refused Decision Date: 11/02/2009	
2010/1751	One non illuminated wall mounted sign Decision: Refuse Advertisement Consent Decision Date: 19/01/2011	
2011/1380	Construction of new south and east elevations, new roof to whole of building, landscaping works and car parking Decision: Grant Permission Conditional Decision Date: 13/01/2012	
2012/0158	One non-illuminated, free-standing, double-sided advertisement hoarding Decision: Grant Advertisement Consent (C) Decision Date: 20/03/2012	
2015/0070	Demolition of existing food store (1082sqm gross internal floorspace) and construction of a new food store (2130sqm gross internal floorspace) with associated access, parking and servicing arrangements Decision: Grant Permission Conditional Decision Date: 17/08/2015	
2015/1611	Demolition of part of building to the south and north. Construction of new extension to north, new facades to south and east elevations, new roof, landscaping, car parking and associated works Decision: Grant Permission Conditional Decision Date: 19/11/2015	
2015/2119	Demolition of existing food store (1083sqm gross internal floorspace) and construction of a new food store (2471sqm gross internal floorspace) with associated access, parking and landscaping Decision: Grant Permission Conditional Decision Date: 14/12/2015	
2015/2175	Discharge of conditions 2, 3 & 4 of planning permission 2011/1380 granted 13th January 2012 (finishes, landscaping and protected species) Decision: Grant Permission Conditional Decision Date: 18/11/2015	

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 4 (CONT'D)	APPLICATION NO.	2016/0919
2016/0496	Discharge of conditions 3 (Japanese knotweed eradication scheme) 6 (Lighting schemes) & 7 (Construction Pollution Management Plan) of planning permission 2015/2119 granted 14th December 2015 Decision: No Objection Decision Date: 20/07/2016	
2016/0836	Three internally illuminated fascia signs, one internally illuminated totem sign and two wall mounted signs Decision: Grant Advertisement Consent (C) Decision Date: 23/06/2016	
2016/0850	Discharge of conditions 4 (landscaping),5 (Travel Plan),8 (materials),9 (Drainage Scheme),14 (Litter Management),15 (Bat Box details and specification),16 (Site Boundary Details) and 18 (Revised Car Parking Layout) of planning permission 2015/2119 granted 14th December 2015 Decision: No Objection Decision Date: 21/07/2016	

### RESPONSE TO CONSULTATIONS

The application was advertised by a site notice. No responses have been received to the public consultation.

Other consultation responses:

#### Pollution Control Comments

No objection.

#### Highways Observations

No highway objection.

### APPRAISAL

This is an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 13 of planning permission 2015/2119 for the construction of a new food store on Trallwn Road, Llansamlet in order to extend the approved hours of opening.

Condition 13 reads as follows:

*The retail unit hereby permitted shall only be open to customers between the hours of 08:00am and 22:00pm on Mondays - Saturdays; 10:00am to 16:00pm on Sundays and Bank Holidays.*

The proposal seeks to extend the opening hours of the approved store on bank holidays to between 8am and 10pm. All other opening hours will remain unchanged.

The development is currently under construction.

### **Section 73 Procedures**

As a Section 73 application, the only matter which can be considered is the conditions to which the application relates and the permission itself is not a matter for consideration.

However, as the approval of a S73 application would be a new planning permission in its own right, and given that several details have been submitted in order to discharge conditions of the of the original scheme, it is considered necessary and reasonable to update the relevant conditions to reflect this situation for clarity.

### **MAIN ISSUES**

The only issue in this instance is considered to be the impact of the increased opening hours on the living conditions of neighbouring occupiers in terms of potential noise and disturbance.

#### **Residential Amenity**

As noted above the proposal is to extend the hours on bank holidays to between 8am and 10pm, this would bring the opening hours into line with the normal weekday opening hours of the proposed store.

The site is located within a commercial enclave that includes a car wash and car sales to the north and the Range store to the west. There are also residential properties to the south and east of the site. The nearest residential property to the south, No. 19 Trallwn Road, is sited some 25 metres from the proposed store and would be screened from the more noisy parking and service areas by the store building. To the east the nearest residential property, No. 42 Trallwn Road, is sited approximately 35m from the proposed store and is separated from it by Trallwn Road.

In view of the separation distances between the store and the nearest residential properties, and having regard to the approved opening hours of the store during normal weekdays and weekends, it is not considered that the proposed extension of the opening hours on bank holidays would result in any material harm to residential properties by way of noise or disturbance from the activities taking place within and around the store. Moreover, it is noted the Pollution Control Division have not raised any objections to the proposals, which adds further weight to the conclusion that the proposal is acceptable.

#### **Other Matters**

Several applications have been submitted to discharge conditions of the original planning permission for the store. These will be reflected, where necessary, through amended conditions, should this planning application be granted approval.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 4 (CONT'D)

APPLICATION NO.

2016/0919

### Conclusion

The proposal to extend the opening hours is considered to be acceptable and would accord with UDP Policies EV1, EV2 and EV40. It is not considered that the provisions of the Human Right Act would raise any further material planning considerations as such the application is recommended for conditional approval.

### RECOMMENDATION

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

- 1 The development shall be carried out in accordance with the following approved plans and documents: Plan No. 1000 Rev. PL2 - 'Site Location Map Showing Subject Site Outlined In Red' received 16th May 2016 and the plans and documents approved under planning permission 2015/2119.  
Reason: To define the extent of the permission granted.
- 2 The detailed scheme for the eradication of Japanese knotweed shall be implemented in accordance with the scheme submitted under discharge of condition application 2016/0496.  
Reason: In the interests of the ecology and amenity of the area.
- 3 The areas of the landscaping scheme submitted under discharge of condition application 2016/0850 that will be affected by the Japanese knotweed treatment scheme under condition 2 shall be planted in accordance with the submitted scheme in the first planting season following the completion of the Japanese Knotweed eradication scheme. The residual areas shall be planted in accordance with the submitted scheme within the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner and shall be maintained as specified within the submitted scheme. Any trees, shrubs or plant material which are part of the scheme, which die, become seriously damaged or diseased within four years of planting shall be replaced by trees or shrubs of a similar size and species to those originally planted.  
Reason: In order to provide satisfactory landscaping for the development in the interests of visual amenity.
- 4 The development hereby approved shall not to be brought into beneficial use until the travel plan submitted under discharge of condition application 2016/0850 has been implemented in accordance with the approved details.  
Reason: In the interests of promoting sustainable modes of transportation.
- 5 The lighting schemes for the construction phase and the operation phase shall be implemented in accordance with the details submitted under discharge of condition application 2016/0850.  
Reason: To ensure the lighting schemes are not detrimental to the ecology of the area.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 4 (CONT'D)

APPLICATION NO.

2016/0919

- 6 The development shall be constructed in accordance with the Construction Pollution Management Plan and associated details submitted under discharge of condition application 2016/0496.  
Reason: To ensure minimal nuisance impact to surrounding occupiers from construction activities.
- 7 The materials used for the external surfaces of the development shall be in accordance with the details submitted under discharge of condition application 2016/0850. The development shall be retained in accordance with the approved details for the duration of the use.  
Reason: In the interests of visual amenity.
- 8 The drainage scheme submitted under discharge of condition application 2016/0850 shall be completed prior to the construction of any impermeable surfaces draining into the system and shall be retained in accordance with the submitted details for the duration of the use.  
Reason: To ensure the provision of a satisfactory means of surface water disposal and to protect the health and safety of existing residents and to ensure no detriment to the environment.
- 9 The building hereby approved shall only be occupied by a Limited Assortment Discounter retailer.  
Reason: To ensure the development does not have an adverse impact on the vitality and viability of existing shopping centres.
- 10 The gross retail floorspace hereby permitted shall not exceed 1420 square metres of which 284 square metres only may be used for the display and sale of comparison goods.  
Reason: To ensure the development does not have an adverse impact on the vitality and viability of existing shopping centres.
- 11 The retail unit hereby permitted shall not be sub-divided to form more than one retail unit.  
Reason: To ensure the development does not have an adverse impact on the vitality and viability of existing shopping centres.
- 12 The retail unit hereby permitted shall only be open to customers between the hours of 08:00am and 22:00pm on Mondays - Saturdays and bank holidays; 10:00am to 16:00pm on Sundays.  
Reason: In the interests of residential amenity.
- 13 The litter management scheme for the site submitted under discharge of condition application 2016/0850 shall be implemented as submitted for the duration of the use.  
Reason: To ensure reasonable steps are in place to prevent the generation of excessive litter from the site.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 4 (CONT'D)

APPLICATION NO.

2016/0919

- 14 The bat mitigation measures shall be installed in accordance with the details submitted under discharge of condition application 2016/0850 on the completion of the construction of the development or prior to occupation, whichever occurs first, and shall be retained as submitted for the duration of the use.  
Reason: In the interests of providing mitigation for the loss of a tree at the site which has the potential to support roosting bats.
- 15 The means of enclosing the boundaries of the site shall be completed in accordance with details submitted under discharge of condition application 2016/0850 prior to the use commencing and shall be retained as submitted for the duration of the use.  
Reason: In the interests of visual amenity and security.
- 16 The car parking layout and cycle storage shall be completed in accordance with the details submitted under discharge of condition application 2016/0850 and shall thereafter be retained in accordance with the submitted details for the duration of the use.  
Reason: In order to provide a satisfactory parking layout for the development, in the interests of highway safety and sustainability.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV2 and EV40.
- 2 A Limited Assortment Discounter is a retailer as defined in Part 1 of The Groceries Market Investigation (Controlled Land) Order 2010 and for the avoidance of doubt means a Grocery Retailer which sells a significantly more limited range of Groceries than a Large Grocery Retailer at a low price.
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**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 5

APPLICATION NO.

2016/0971

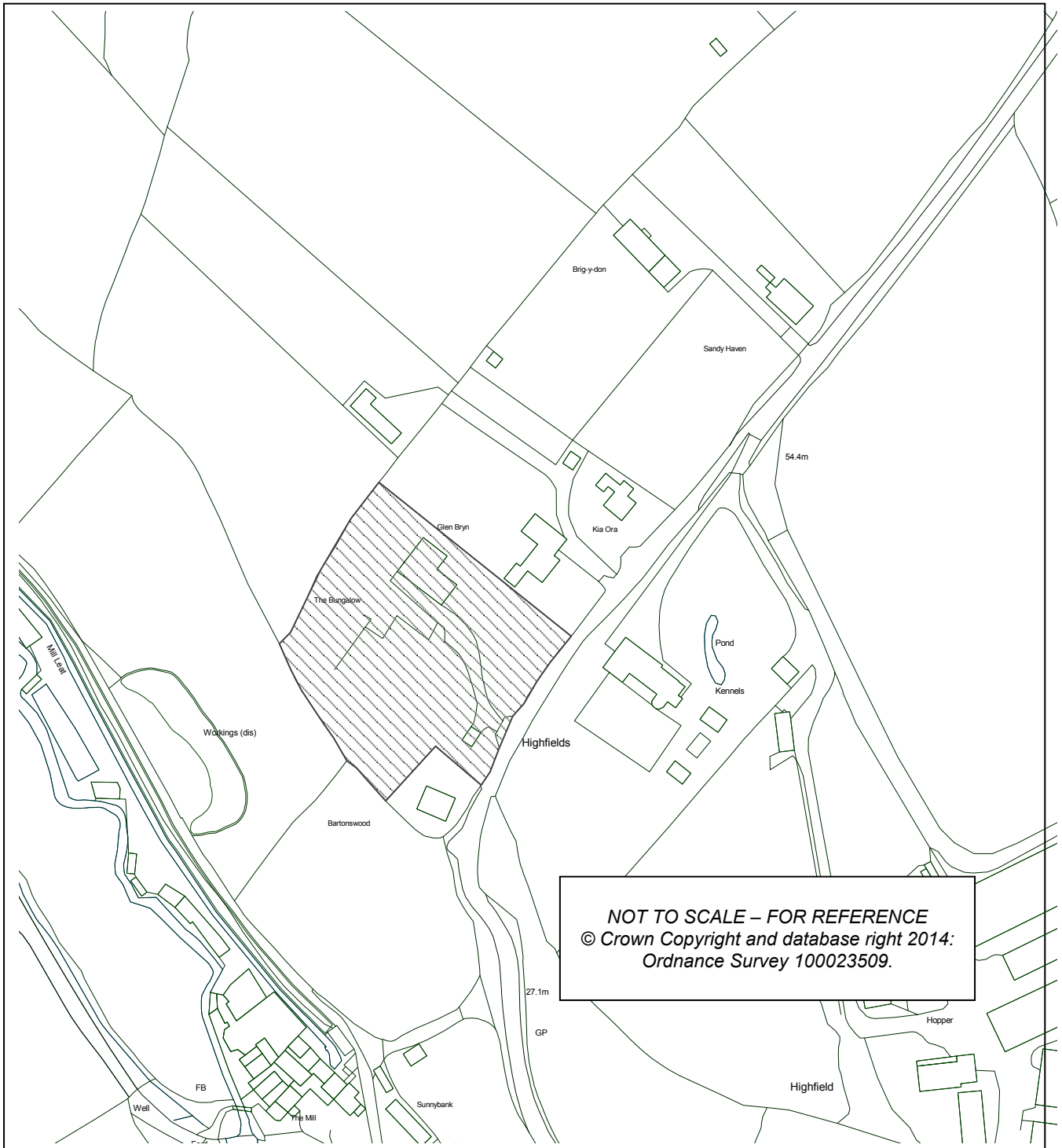
WARD:

Gower

**Location: The Bungalow Parkmill SA3 2EJ**

**Proposal: Replacement dwelling (Amendment to Planning Permission 2015/2308 granted 17th March 2016)**

**Applicant: Mr & Mrs P Thomas**



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 5 (CONT'D)

APPLICATION NO.

2016/0971

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV3	Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)
Policy EV22	The countryside throughout the County will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value through: i) The control of development, and ii) Practical management and improvement measures. (City & County of Swansea Unitary Development Plan 2008)
Policy EV26	Within the Gower AONB, the primary objective is the conservation and enhancement of the area's natural beauty. Development that would have a material adverse effect on the natural beauty, wildlife and cultural heritage of the AONB will not be permitted. (City & County of Swansea Unitary Development Plan 2008)
Policy EV19	Replacement dwellings in the countryside, including residential chalets, will only be permitted where the residential use has not been abandoned, the proposed new dwelling is similar in terms of siting, scale, design and character and compliments the character of the surrounding area. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
2009/0786	Single storey front extension incorporating chimney Decision: Grant Permission Conditional Decision Date: 18/09/2009
2015/2308	Replacement dwelling Decision: Grant Permission Conditional Decision Date: 17/03/2016



**RESPONSE TO CONSULTATIONS**

The application was advertised on site and in the local press as development not in accordance with the Development Plan. ONE LETTER OF OBJECTION received which can be summarised as follows:

- As with the previous application we are concerned about the potential release of toxic asbestos dust during the demolition of the bungalow.
- Again there is no reference in the planning application of the presence of asbestos in the fabric of the existing building.
- We understand that there would need to be measures taken to deal with the removal of asbestos should any works be carried out on the building.
- One buyer pulled out of purchase of the property when they discovered the cost of removing the asbestos.
- We again seek reassurance that when The Bungalow is demolished the appropriate measures are put in place to ensure the safe removal of the asbestos.
- This has not been indicated on this subsequent planning application even though we made written representations and verbal representations at the previous planning meeting.
- As you can understand we are very concerned about the potential for future health problems for ourselves and our neighbours and local livestock if the matter is not dealt with appropriately.

**The Gower Society** - We have inspected the plans for this application and we comment on the following:

1. We cannot readily determine what the differences are between the original Application 2015/2308 that was approved and this later version.
2. Our initial concerns are the potential loss of tree cover and any increased visibility in the landscape when viewed from the South.

Please take the above comments into account when considering this application.

**Illston Community Council** – OBJECT on the grounds that there is very little difference between this and the previous application and the Council's response to the application dated 7<sup>th</sup> January 2106 can well refer to this application.

**APPRAISAL**

Full planning permission is sought for a replacement dwelling house (and detached garage) at The Bungalow, Lunnon, Parkmill, Gower. This application is submitted as an amendment to planning permission 2015/2308 granted 17<sup>th</sup> March 2016 for the same development.

The existing property is a modest sized chalet style bungalow which is situated within a small hamlet. The site is located within both the open countryside and the Gower AONB.

The site has expansive views to the south and west over the rural landscape and coast. The existing house occupies a concealed location at the head of a long heavily wood lined driveway. Upon reaching the dwelling the site opens offering expansive views to the south and west over the rural landscape and coast.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 5 (CONT'D)

APPLICATION NO.

2016/0971

Although relatively concealed from the immediate surroundings, the site may be viewed at a significant distance from public vantage points.

### Main Issues

Given that the principle of this development was clearly established under the previous planning permission, the main issues for consideration in this instance relate to any additional impact arising from the proposed amendments to the scale, design and appearance of the proposal having regard to Policy EV19, of the Swansea Unitary Development Plan (2008 UDP), the visual impact of the proposal upon the character and appearance of the area and the wider AONB, the impact upon the residential amenities of the neighbouring properties, the impact upon the ecology of the site and highway safety, having regard to the provisions of the UDP and the Council's adopted Supplementary Planning Guidance document entitled 'A Gower AONB Design Guide'.

The main differences between this current proposal and that previously approved are as follows:

- the re-positioning the dwelling slightly further to the south.
- a drop in the height of the main ridge of the dwelling (within the context of the site) by 31cm.
- a widening of the main body of the dwelling by approximately 50cm.
- proposed changes to the fenestration on the southern elevation of the dwelling to provide 'wrap over' roof windows as well as the replacement of a first floor window with a Juliet balcony on the western side elevation.
- the introduction of an additional ground floor window on the western side elevation of the dwelling.

For the avoidance of doubt, Councillors are advised that the proposed garage is of the same design, size and siting as that shown in the previously approved scheme.

### Policy Context

Policies EV1 and EV2 of the UDP require a development to relate satisfactorily to its local context and existing development patterns, integrate effectively with adjacent spaces and public realm, protect the amenities of the surrounding area including residential amenity, take into account and where possible retain landscape features, trees and hedgerows and have regard to visual and residential amenity and highway safety. Policies EV22 and EV26 of the UDP seeks to conserve and enhance the countryside and in particular the Gower AONB for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value.

Policy EV19 of the UDP relates to replacement dwellings in the countryside and permits such development where:

- (i) The residential use has not been abandoned,
- (ii) The proposed new dwelling is similar in terms of its siting, scale, design and character with the dwelling it is to replace, and
- (iii) The development complements the character of the surrounding area.

ITEM 5 (CONT'D)

APPLICATION NO.

2016/0971

The main aim of these policies is to prevent the replacement of rural dwellings with inappropriate new development that detracts from the character of villages and the countryside in which they are set.

Whilst Policy EV19 requires replacement dwellings to be similar in terms of siting, scale, design and character to the dwellings that they will replace, it is not considered that it is intended to prevent appropriate development where it can be clearly demonstrated that there would be no harmful impact on the character of the area through the increased size of a dwelling or where there is an enhancement in the appearance of the existing dwelling. At the same time it is paramount that any new dwelling achieves a high quality design that responds to, protects and enhances the inherent qualities of the countryside and Gower AONB whilst also respecting the residential amenity of surrounding properties and the scale and massing of the existing dwelling. Where abandonment has occurred or the dwelling has been vacant for a considerable period of time and/or deteriorated to the extent that re-use for residential purposes would involve rebuild, such proposals would fall to be considered as new residential development in the countryside and assessed against appropriate policies. As the dwelling is currently occupied the issue of abandonment is not material to the consideration of this application.

Whilst these policies are relevant during the determination of this application, it is also important to note that Planning Policy Wales states that Local Planning Authorities should encourage high quality design of buildings and spaces in their policies and guidance. They should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.

Whilst it is acknowledged that the dwelling may comply with criterion (i) of Policy EV19, it is not similar to the existing dwelling in terms of its footprint, scale and height and therefore is not considered to comply with criterion (ii). The application has therefore been advertised as a Departure from the provisions of the UDP.

The recently adopted Supplementary Planning Guidance document entitled 'A Gower Design Guide' tries to provide additional clarification with respect to proposals which depart from the provisions of Policy EV19 of the UDP. The Design Guide states that it is not the intention of the UDP to stifle appropriate modern or innovative designs which are sensitive to the AONB in accordance with Policy EV1 or to restrict proposals which would complement the character of the Gower in accordance with Policies EV19(iii) and EV26. It is acknowledged that it would be a missed opportunity not to replace an existing nondescript or poorly designed dwelling with a better designed dwelling that enhances the appearance and character of the locale and the AONB. Furthermore paragraph A1.29 of the Gower Design Guide states that proposals may be considered an exception to the policy where the scheme is considered to be high quality in terms of sustainability and design exhibiting due regard for its rural location in the countryside.

#### Visual Impact

The site lies within the countryside and Gower AONB and it is paramount that any new dwelling achieves a high quality design that responds to, protects and enhances the inherent qualities of the countryside and Gower AONB whilst also respecting the residential amenity of surrounding properties and the scale and massing of the existing dwelling.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 5 (CONT'D)

APPLICATION NO.

2016/0971

It is evident that the applicant has tried to replicate a traditional “Gower Barn”, taking reference from an existing barn in Lunnon and recognising the need for the architecture to respond to the rural character of the wider countryside and Gower AONB. Whilst it is acknowledged the proposed dwelling is considerably larger than the existing dwelling it must be noted that the site can accommodate the proposal without giving rise to an unacceptable form of development.

The existing host dwelling is a single storey, roughly ‘L’ shaped, 3 bedroom structure with a veranda to the front (south-west) and is set within its own extensive private grounds. It occupies a footprint of around 204m<sup>2</sup> including the seating area and veranda.

The design of the proposed replacement dwelling focuses on a traditional barn structure with a more modern contemporary annex projecting off the southern elevation. This projection includes a lower ground floor which in effect will be sunk into the landscape. The proposed dwelling will have a footprint of around 195m<sup>2</sup>, albeit it will provide two floors of accommodation (three if the sunken basement level is included) with the upper floor partially contained within the roof. The existing cross sections through the site identify the ground levels and massing of the existing property and indicate the lowest ground level associated with the existing building is 47.53 and the highest point of the ridge is 53.74, giving an overall height of 6.25m visible from the front elevation. The overall width of the front elevation of the existing building is 18.59m. The existing dwelling is sited high in the site and has a slab level of 48.93.

The previously approved dwelling had a slab level of 46.77, with its ridge height at 53.74 – giving a total ridge height of 6.97m above slab level.

The design proposes to again relocate the new dwelling some 14m to the south and some 16m to the west of the existing dwelling, away from the existing mature trees and their root protection areas, to a slightly lower part of the site, which will also assist in creating better views. The parking provision will be relocated from the south to the northern part of the site and will include a detached garage.

The dwelling now proposed has a slab level at 46.27 with its ridge height at 53.43 – giving a total ridge height of 7.16m above slab level. Thus, whilst the overall height of the dwelling is slightly increased by 0.19m when compared to the previously approved dwelling, its ridge height within the site is lower by 0.31m. The overall width of the front elevation of the dwelling is the same as previously approved at 19.7m.

The form and massing of the building is therefore considered acceptable and the design concept and visual character of the building adequately reflects the local character of barns upon which the concept is based. The proposed dwelling displays a suitably simple appearance which again, reflects the barn concept. The main part of the dwelling will be finished entirely in locally sourced limestone, with the exception of the western side elevation which will feature vertically hung larch cladding to the upper half only. This larch cladding is reflected on the more modern element of the scheme, namely the southward projection featured at lower ground floor/ subterranean level. A slate roof and hardwood doors and windows together with hardwood fascias are proposed. The roof lights proposed on the northern elevation will be conservation style roof lights, whilst the southern elevation will include “wrap-over” roof windows. The materials to the contemporary annex will consist of larch timber cladding and large areas of glass with powder coated aluminium frames.

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A contemporary stone chimney will feature on the contemporary projection to facilitate a wood burner, and the stone used for the chimney will match that of the main barn style dwelling.

The proposed detached garage will be sited to the north east of the dwelling and is of a standard scale and design and will be finished in a combination of limestone (and not blue pennant stone as suggested on the garage plans), larch cladding and slate roof covering to match the parent property.

It is considered that the design, coupled with the intention to replicate a traditional Gower barn helps minimise the visual impact upon the wider landscape and Gower AONB and as such it is considered to respect and enhance the character and appearance of its local context. The use of natural quality materials throughout is critical to the success of the scheme. However, further details in respect of the eaves, fascias and guttering is considered necessary in order to ensure the quality of the scheme is maintained as it is essential that the proposal relates to its wider context and as such the quality of the materials is critical. This will be addressed by the use of a suitably worded condition.

Overall therefore, it is considered that the development is of a high quality which will safeguard and protect the natural beauty of the Gower AONB and the natural qualities of the countryside. In addition its siting, form and design will ensure the proposal is compatible with its countryside location in compliance with the principles of Policies EV1, EV2, EV3, EV19, EV22 and EV26 of the Swansea UDP and Gower Design Guide.

#### Sustainability

Given the nature of this proposal, it is considered that this scheme should be an exemplar sustainable building. The Design and Access Statement submitted in support of the previous application indicated that the proposal will achieve Code for Sustainable Homes Level 4. This follows the approach adopted for other replacement dwellings such as Heritage Acres, Bryn House and Stormy Castle and is also required in the Supplementary Planning Guidance document entitled 'A Gower Design Guide' for new dwellings which are contrary to the provisions of Policy EV19 of the UDP. This matter will be secured by the use of suitably worded conditions

#### Residential Amenity

The application site enjoys an isolated concealed setting set within expansive private grounds defined by strong mature tree lined boundaries to the north-east and east. There are a number of low density dwellings that surround the site to the north south and east. However, the distance and relationship achieved between the proposal and these existing neighbouring dwellings is such that it is not considered that the proposal will result in unacceptable levels of overbearance, overshadowing or overlooking upon any of these properties to such an extent which could warrant a recommendation of refusal. As such the scheme is considered to respect the residential amenities of the neighbouring properties in compliance with the provisions of Policies EV1 and EV19 of the Swansea UDP.

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### Highways

The Head of Transportation and Engineering has been consulted and raises no highway objections to the proposal subject to conditions.

### Ecology

A protected species survey was been submitted in support of the previous planning application. The surveyor found no evidence of use of the building by bats. The Council's Ecology Officer consequently raised no objection to that proposal, although the use of precautionary advisory notes was recommended. Given the relatively short passage of time that has passed since the protected species survey was carried (August 2014) the findings of the survey report are still relevant to the determination of this application.

### Representations received

The letters of objection/observation received refer principally to issues surrounding asbestos at the property and the associated risks during demolition works. Whilst this point is noted, it is a matter controlled entirely by separate legislation and is not therefore material to the consideration and determination of this application. Other points relating to the visual impact of the proposal are addressed in detail above.

### Conclusion

For the reasons set out above, it is considered that the development accords with Policies EV1, EV2, EV3, EV22 and EV26 of the UDP and the Gower AONB Design Guide and will complement the character and appearance of the area.

In overall design terms, the proposal is considered to be of a high quality design and will demonstrate how well considered design can respond positively to the sensitive landscape of the countryside. The scheme clearly does not comply with criterion (ii) of Policy EV19, as it is not similar in terms of its scale, design and character with the dwelling it replaces.

However, the scheme is considered to be of a high quality and will achieve Code Level 4, which it is considered justifies a departure from the provisions of UDP Policy EV19, in accordance with the Gower AONB Design Guide.

The following recommendation is therefore made.

## **RECOMMENDATION**

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

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

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

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- 2 The development shall be carried out in accordance with the following approved plans and documents: 10.105.01 Site Location Plan and Existing Topographical Survey, 10.105.02A Proposed Site Layout Plan, 10.105.03B Proposed Floor Plan, 10.105.04B Proposed Floor Plans, 10.105.05B Proposed Elevations, 10.105.06 Proposed Garage Floor Plans and Elevations, received 17th May 2016.  
Reason: To define the extent of the permission granted.
- 3 The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 4 and achieve a minimum of 3 credits under category Ene1 - Dwelling Emission Rate, in accordance with the requirements of the Code for Sustainable Homes Technical Guide, November 2010 (as amended).  
Reason: To ensure that the new dwelling constitutes an 'exemplar of sustainability' as required by the Council's Gower AONB Design Guide and so can be considered as an 'exception' to UDP Policy EV19.
- 4 The construction of the dwelling hereby permitted shall not begin until an "Interim Certificate" has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 4 and a minimum of 3 credits under Ene1 - Dwelling Emission Rate, has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes Technical Guide, November 2010 (as amended).  
Reason: To ensure that the new dwelling constitutes an 'exemplar of sustainability' as required by the Council's Gower AONB Design Guide and so can be considered as an 'exception' to UDP Policy EV19.
- 5 The dwelling hereby approved shall not be occupied, until a Code for Sustainable Homes 'Final Certificate' is submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 4 and a minimum of 3 credits under Ene1 - Dwelling Emission Rate has been achieved for the dwelling, in accordance with the requirements of Code for Sustainable Homes Technical Guide, November 2010 (as amended).  
Reason: To ensure that the new dwelling constitutes an 'exemplar of sustainability' as required by the Council's Gower AONB Design Guide and so can be considered as an 'exception' to UDP Policy EV19.
- 6 Prior to the commencement of works on site, full details of all external finishes of the new dwelling and garage (including details of windows, doors, cills, fascias, soffits and guttering and the proposed stone type to be used, together with details of the cut and coursing style of the stone, as well as the mortar type, colour and pointing style) shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with such details.  
Reason: In the interest of visual amenity
- 7 Details of any external lighting shall be submitted to and approved by the Local Planning Authority in writing before the development is commenced. The scheme shall be implemented in accordance with the approved details.  
Reason: In the interest of visual amenity

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- 8 Development shall not commence until details of foul, surface and land drainage works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved details.  
Reason: To ensure a satisfactory means of drainage.
- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or amending that Order), Classes A, B, C, D, and E of Part 1 of Schedule 2 shall not apply.  
Reason: The development hereby approved is such that the Council wish to retain control over any future development being permitted in order to ensure that a satisfactory form of development is achieved at all times.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV2, EV3, EV19, EV22 and EV26 of the Swansea Unitary Development Plan 2008.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 3 If connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.
- 4 The developer is advised that some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water's (DCWW) maps or public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. DCWW advise that the applicant contacts their Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.
- 5 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2010. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.  
If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (01792 634960).



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- 6 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest in use or being built
  - Take or destroy an egg of any wild bird
- Care should be taken when working on buildings particularly during the bird nesting season March-August.
- 7 The applicant/developer is advised to take appropriate professional advice prior to the demolition of the existing dwelling, particularly in relation to the potential for asbestos to be present within the dwelling.
-

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ITEM 6

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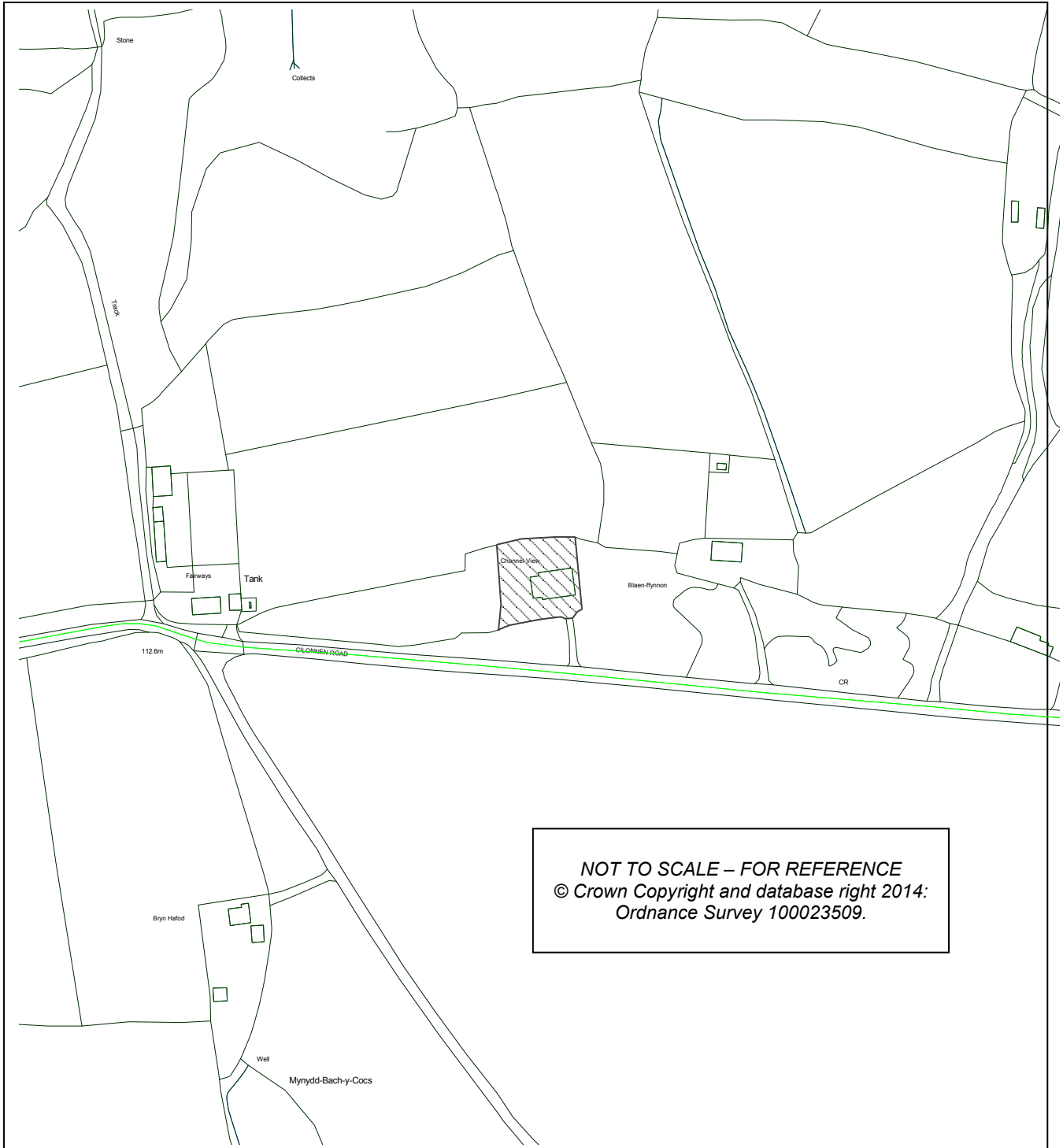
WARD:

Penclawdd

**Location: Channel View, Three Crosses, Swansea SA4 3UR**

**Proposal: Replacement detached dwelling**

**Applicant: Mr and Mrs Ngiaw and Kavitha Saw**



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### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV3	Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV19	Replacement dwellings in the countryside, including residential chalets, will only be permitted where the residential use has not been abandoned, the proposed new dwelling is similar in terms of siting, scale, design and character and compliments the character of the surrounding area. (City & County of Swansea Unitary Development Plan 2008)
Policy EV22	The countryside throughout the County will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value through: i) The control of development, and ii) Practical management and improvement measures. (City & County of Swansea Unitary Development Plan 2008)
Policy EV26	Within the Gower AONB, the primary objective is the conservation and enhancement of the area's natural beauty. Development that would have a material adverse effect on the natural beauty, wildlife and cultural heritage of the AONB will not be permitted. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

90/0784/03	DOMESTIC EXTENSION. Decision: *HGPC - GRANT PERMISSION CONDITIONAL Decision Date: 19/06/1990
2001/1355	Erection of detached stable block Decision: Refuse Decision Date: 06/11/2001

**RESPONSE TO CONSULTATIONS**

The application was advertised on site and in the press as a Departure to the City and County of Swansea Unitary Development Plan (UDP). A neighbouring property was also consulted.

**Gower Society – OBJECTION**

3. Whatever is stated within the application, this development is on the 'ridge' between Three crosses and Welsh Moor and it is highly conspicuous.
4. We have no indication about the true state of the existing dwelling but it cannot be sustainable to demolish and rebuild on a 'sustainable ticket'.
5. The proposal will be seen and it will stick out within the AONB because it is simply not vernacular.
6. We have been misled before by similar applications (that have attracted praise from various quarters) and found that the end product, when finally constructed is simply at odds with the AONB.
7. To execute such a proposal within the open countryside demands that it will not be detrimental or improve to that landscape. If surrounded by trees (as indicated on the drawings) this may just merge into the landscape. However this proposal is all about bringing the landscape into the dwelling and not considering its impact upon the landscape.
8. Anyone who walks or drives down the Gower Way (that deliberately uses this ridge) will be aware of the magnificent views North and South. There are very few properties on the ridge line and a number that are tucked away to the Northern side and NOT viewed from the South. If this were the case we would be supporting this proposal because it would have no impact on the landscape.
9. We have to disagree (but respect his professional opinion) with Mr Nigel Jenkins' comments and suggest that such modern developments need not be so radical to be sustainable. How can it be sustainable to knock down a decent dwelling? Vernacular and sympathetic proposals can be equally sustainable as well as imaginative restorations. We must not be influenced by fashion.
10. As is the norm there are large expanses of glass on this design but the largest is to the North where it will be lit up like a superstore. Fortunately this side is the least damaging to the landscape. The Southern elevation also has a large window and again we refer to night pollution.
11. We appreciate the black shed type cladding and the dark grey lower masonry BUT we also refer to Stormy Castle that despite our initial thoughts and International Awards has damaged the AONB landscape.

**Natural Resources Wales –**

We have no objection to the application as submitted, providing that the requirement for a European Protected Species derogation licence for this development is secured by a suitably worded condition and attached to any planning permission your Authority is minded to grant.

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### Protected Species

We welcome the submission of the document entitled; 'Channel View, Cilonnen: Bat & Owl Survey', dated July-August 2014, by Rob Colley Associates, which also includes the 'Bat Roost Mitigation/ Method Statement, dated October 2015, which is also by Rob Colley Associates.

We note from the survey report that bats are present at the application site. Subject to the implementation of the mitigation set out in Section 4 of the above report, which make future provision for bats, we do not consider the proposed development will result in a detriment to the maintenance of favourable conservation status of these species.

Therefore, should your Authority be minded to grant planning permission, we advise that suitable conditions are attached to the permission to address the following;

inclusion of a planning condition on any planning permission that prevents the commencement of development works until your authority has been provided with a licence that has been issued to the applicant by Natural Resources Wales pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations (2010) authorizing the specified activity/development to go ahead.

Please note that any changes to plans between planning consent and the licence application may affect the outcome of a licence application.

### Legislation and Policy

As you are aware, bats and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2010 (as amended). Where bats are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

i. the development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

ii. There is no satisfactory alternative and

iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that your Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

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#### Foul Water Disposal

We note that the proposed development is within a non-sewered area and that the replacement dwelling will be served by a private sewage treatment plant. In addition to any planning permission and building regulations approval a permit, or registration as exempt from the requirement for a permit under the Environmental Permitting (England and Wales) Regulations 2010 (as amended), is required from Natural Resources Wales. Further information is available from our website.

#### Surface Water Disposal

We note that it is proposed to utilise soakaways for the management of surface water. In principle we would be in favour of this approach, as SUDS are promoted in Section 8 of TAN15. However, ultimately the drainage system design is a matter for the Local Authority Drainage Engineers, so we advise that they are consulted in relation to this matter.

#### Gower AONB

As the proposal is within Gower Area of Outstanding Natural Beauty (AONB), we remind you of your Authority's duty under Section 85 of the Countryside and Rights of Way Act 2000 which requires public bodies to have regard to the purposes of conserving and enhancing the natural beauty of the AONB. The statutory purposes of Areas of Outstanding Natural Beauty are conservation and enhancement of natural beauty.

Therefore, we draw your attention to your Authority's AONB Design Guidance and advise that you consult your AONB Team with regard to the proposal.

#### **Welsh Water –**

As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

#### **Ecology Officer –**

The surveyor found evidence of bats (soprano pipistrelle) using the building. The developers will therefore need an NRW protected species licence. The mitigation suggested in the bat survey dated July August 2015 looks suitable and should protect the conservation status of the affected animals if carried out. Could we add two conditions to any permission we give, one requiring the applicant to obtain an NRW licence and to send us a copy prior to any work starting and another to require the carrying out of the bat mitigation to the specification in the report. The mitigation should be retained in perpetuity. Also in addition could we add an informative regarding nesting birds.

**Head of Transportation and Engineering –**

Proposals are for a replacement detached dwelling. The property is situated on a large plot and takes access from the adopted highway by way of a short access road. There is space within the curtilage for in excess of the required parking provision of 3 spaces. In addition there is space for turning facilities. There are no highway objections.

The Planning Department's Urban Designer has also commented on the proposal. His comments are incorporated into the appraisal below.

**APPRAISAL**

This application is reported to Committee for decision as the proposal is a departure from the Development Plan and a recommendation of approval is being made.

Description

The existing dwelling is a relatively traditional styled detached dwelling within the countryside and the Gower AONB. The proposed dwelling, which is to replace the existing dwelling is a flat roofed contemporary style dwelling with an outbuilding proposed to the side of it (housing a swimming pool). The site is isolated with only a small number of dwellings surrounding it and is located to the west of the village of Three Crosses.

Main Issues

The main issues for consideration during the determination of this application relate to the acceptability of the proposal in principle, the impact of the proposed dwelling on the character and appearance of its immediate context, the wider landscape and the Gower AONB, the impact on the residential amenities of the neighbouring dwellings, the ecology of the site and highway safety, having regard to the provisions of the Unitary Development Plan. It is not considered that the Human Rights Act raises any additional issues.

Policy Context

The site is situated within the Gower AONB and as such Policies EV22 and EV26 of the UDP require development to first and foremost preserve and enhance the character and appearance of this highly protected area. Policies EV1 and EV2 are also relevant, although they are more generic policies relating to all types of development.

Policy EV19 of the UDP relates to the erection of replacement dwellings/chalets in the open countryside and states that:

*Replacement dwellings in the countryside, including residential chalets, will only be permitted where:*

- (i) The residential use has not been abandoned,*
- (ii) The proposed new dwelling is similar in terms of its siting, scale, design and character with the dwelling it is to replace, and -*
- (iii) The development complements the character of the surrounding area.*

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The main aim of these policies is to prevent the replacement of rural dwellings with inappropriate new development that detracts from the character of villages and the countryside in which they are set.

The proposal is discussed against criteria i) and ii) of Policy EV19 below. Criterion iii) is discussed in the 'Visual Amenity' section of this report.

The existing dwelling whilst not occupied, is not considered to be abandoned given it is still intact as a dwelling. The residential use of the site has, therefore, clearly not been abandoned, and criterion i) is met.

Criterion ii) of Policy EV19 requires replacement dwellings to be similar in terms of siting, scale, design and character to the dwelling it is to replace. The scale, form and design of the building is distinctly different to that which it is to replace, and therefore the proposal is not considered to comply with criterion (ii) of Policy EV19. On the basis, the application has therefore been advertised as a departure from the provisions of the Development Plan.

The Supplementary Planning Guidance document entitled 'A Gower Design Guide' provides additional clarification with respect to proposals which depart from the provisions of Policy EV19 of the Swansea UDP. The Design Guide states that *"it is not the intention of the UDP... to restrict proposals which would complement the character of the Gower in accordance with Policies EV19 (iii) and EV26."*

The Design Guide also states *"it would be a missed opportunity not to replace an existing nondescript or poorly designed dwelling with a better designed dwelling that enhances the appearance and character of the locale and the AONB."* Furthermore, paragraph A1.29 of the Gower Design Guide states that *"proposals may be considered an exception to the policy where the scheme is considered to be high quality in terms of sustainability and design exhibiting due regard for its rural location in the countryside."*

Paragraph A1.35 of the Gower AONB Design Guide also states that *"in addition to being high quality, proposals which wish to depart from the provisions of Policy EV19 should also be exemplars of sustainability. In this regard schemes which are high quality and... achieve at least Code for Sustainable Homes Level 4 in all criteria, may be considered favourably."*

The design merits of the scheme are discussed below in the 'Visual Amenity' section of this report, together with the compliance of the scheme against the Gower AONB Design Guide.

### Visual Amenity

The proposed dwelling, whilst contemporary in design is considered to be appropriate in terms of siting, scale and design in accordance with the majority of the general guidance set out in the Gower AONB Design Guide SPG.



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The dwelling is proposed to be sited in a similar position to the existing dwelling and will be lower than the existing dwelling. However, the dwelling will incorporate a larger footprint. The SPG states that larger dwellings may be considered favourably where the design can be demonstrated to be high quality, however, that there is also a limit to the 'visual/ environmental capacity' of every site. In this instance it is considered that the proposed dwelling does not exceed this capacity and as such the acceptability of the proposals rest on the design quality of the scheme.

Paragraphs A1.32 and A1.33 of the SPG state that there are 3 possible approaches to design – contemporary, modern vernacular and traditional and that all approaches will be required to be high quality. Paragraph A1.43 states that contemporary designs can draw on a wider range of materials provided that these are an integral part of the scheme and help to blend the dwelling into the AONB landscape.

In this instance, the contemporary dwelling seeks to reflect the scale and materiality of existing agricultural outbuildings found on Gower. The modular, flat roofed form of the dwelling, coupled with the use of black corrugated metal, grey render and corten steel reflect the form and materiality of such structures and also provide an earthy colour palette which will help the scheme blend into the landscape. As such the design approach is considered appropriate to reflect the character of the Gower AONB setting in a contemporary manner.

In order to ensure the quality of the proposals, conditions relating to materials and detailing are attached.

It is noted that the dwelling is of a different design to surrounding dwellings. It is, however, considered that given, as stated above, it is sympathetic in terms of scale, siting and design, it is sensitive to its surrounding and the use of specific materials has helped to ensure this will be the case. The large expanses of glazing proposed are also not considered to give rise to any particular harmful visual impact. Furthermore, given the dwelling is sited quite a distance from Cilonnen Road it is not considered to be particularly prominent when viewed from this viewpoint. Whilst there may be glimpses of the proposed dwelling from viewpoints to the rear of the site, these are considered to be very distance views and as such the proposal is not as such considered to give rise to a harmful impact on the wider landscape.

In addition, it is not considered that the proposed outbuilding to the side of the dwelling will give rise to a harmful impact given its sympathetic scale, design and siting, being located to the side of the dwelling and, therefore, not in a particularly prominent position.

It should be noted that there is some detail indicated on the roof plan showing the potential position for future solar panels. However, as this is only a 'potential proposal' they do not form part of this application and are excluded from the scheme via an appropriately worded condition.

Therefore, whilst as stated above, the proposed dwelling does not comply with criteria (ii) of EV19 of the Unitary Development Plan, it is in keeping with the credentials set out in the Gower AONB Design Guide and is not considered to have a harmful impact on the surrounding area. A pre-assessment certificate has already been submitted indicating that the proposal can achieve Code for Sustainable Homes Level 4.

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A condition is attached requiring the submission of a final certificate to be submitted to ensure the dwelling is constructed to Code for Sustainable Homes Level 4.

Therefore, it is considered that the proposal will be high quality in terms of design and sustainability, and therefore qualifies as an 'exception' scheme to Policy EV19, as permitted by the Gower AONB Design Guide.

### Residential Amenity

The proposed dwelling (and outbuilding) is located relatively far away from neighbouring properties and, therefore, is not considered to result in any overbearance, overshadowing or overlooking of neighbouring properties.

### Highway Safety

The property is situated on a large plot and takes access from the adopted highway by way of a short access road. There is space within the curtilage for in excess of the required parking provision of 3 spaces. In addition there is space for turning facilities. Therefore, there are no highway objections.

### Sustainability

To accord with the criteria set out in the Gower AONB Design Guide the development should achieve at least Code for Sustainable Homes Level 4 in all criteria. A pre-assessment certificate has already been submitted indicating that the proposal can achieve Code Level 4. The submission of a further certificate to confirm the dwelling has been constructed to the required Level 4 standard is ensured via the attachment of an appropriately worded condition.

### Ecology

A Bat and Owl Survey has been submitted in support of the application. In summary, the survey of the existing dwelling revealed that there is evidence of bats (Soprano Pipistrelle) using the building.

Both NRW and the Council's Ecology Officer have been sent copies of the survey for their consideration and comment. Neither consultee has objected to the proposal which will involve the disturbance of the bats using the building (a European Protected Species) subject to the imposition of suitably worded conditions.

One of the requested conditions requires the implementation of the mitigation measures set out in the survey report, whilst the other requires the developer to obtain a NRW licence and to send a copy of this licence to the Local Planning Authority prior to any work commencing.

These planning conditions are contained within the recommendation below, as requested by the consultees.

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Response to Consultations

The issues relating to a majority of the concerns contained within the letter of objection from the Gower Society, relating to issues such as visual amenity, impact on the landscape and sustainability considerations are considered to have been addressed within the context of the report. Whilst the concerns regarding light pollution from the dwelling during hours of darkness are noted, it is not considered that the level of light emitted from the dwelling will be sufficient enough as to have a negative impact on the natural beauty and tranquillity of the Gower AONB.

Conclusion

For the reasons set out above, it is considered that the development accords with Policies EV1, EV2, EV3, EV22 and EV26 of the UDP and will complement the character and natural beauty of the AONB.

In overall design terms, however, the proposed scheme is considered to be high quality in terms of sustainability and design, which demonstrates how well considered contemporary design can respond positively to the sensitive and cherished landscape of the Gower AONB.

The scheme clearly does not comply with criterion (ii) of Policy EV19, as it is not similar in terms of its scale, design and character with the dwelling it replaces. However, the scheme is considered to be of a high quality and will achieve Code Level 4, which it is considered justifies a departure from the provisions of UDP Policy EV19, in accordance with the Gower AONB Design Guide.

On this basis therefore the proposal is regarded as an acceptable departure from the provisions of Policy EV19 of the City and County of Swansea UDP (2008). Approval is, therefore, recommended.

**RECOMMENDATION**

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
  
- 2 The development shall be carried out in accordance with the following approved plans and documents: 1584\_SHC 100 Site and Location Plan, 1584\_SHC 200 Proposed Ground Floor, 1584\_SHC 201 Proposed First Floor, 1584\_SHC 202 Proposed Roof Plan, 1584\_SHC 300 Existing and Proposed Street Elevation (South), 1584\_SHC 301 Proposed North and South Elevations, 1584\_SHC 302 Proposed East and West Elevations, received 23rd May 2016. 1584\_SHC 303 Proposed East and West Sections, received 13th June 2016.  
Reason: To define the extent of the permission granted.

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- 3 Notwithstanding the details shown on any approved plan, samples and details of all external finishes, including windows, doors, cills, fascias, soffits and rainwater goods, vents and flues to show the precise pattern and distribution of these shall be submitted to and approved by the Local Planning Authority in writing prior to the commencement of development.

The submitted details shall include large scale drawings at 1:10 or 1:20 scale of:

- o All junction types between different materials;
- o Typical window and door in their openings;
- o Roof junctions and fascia details.

Development shall thereafter be carried out in accordance with the approved details.

Reason: To allow the appropriate consideration of details in the interests of visual amenity.

- 4 The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 4 and achieve a minimum of 3 credits under category Ene1 - Dwelling Emission Rate, in accordance with the requirements of the Code for Sustainable Homes Technical Guide, November 2010 (as amended).

Reason: To ensure that the new dwelling constitutes an 'exemplar of sustainability' as required by the Council's Gower AONB Design Guide and so can be considered as an 'exception' to UDP Policy EV19.

- 5 The dwelling hereby approved shall not be occupied, until a Code for Sustainable Homes 'Final Certificate' is submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 4 and a minimum of 3 credits under Ene1 - Dwelling Emission Rate has been achieved for the dwelling, in accordance with the requirements of Code for Sustainable Homes Technical Guide, November 2010 (as amended).

Reason: To ensure that the new dwelling constitutes an 'exemplar of sustainability' as required by the Council's Gower AONB Design Guide and so can be considered as an 'exception' to UDP Policy EV19.

- 6 No works shall take place on site until a copy of a European Protected Species Development Licence (issued by NRW) relating to the development has been submitted to the Local Planning Authority.

Reason: To ensure that a European Protected Species Development Licence has been obtained by the developer/applicant.

- 7 The bat mitigation measures contained within the 'Bat Roost Mitigation/Method Statement' (dated October 2015) appended to the 'Channel View: Bat & Owl Survey' (dated July-August 2014) submitted in support of this application, shall be fully implemented during the demolition and construction phases of the development and the 'long term roost provision' measures shall be incorporated into the new dwelling hereby approved and shall be retained as such in perpetuity.

Reason: To ensure that the proposed mitigation measures are implemented, in the interests of bats.

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ITEM 6 (CONT'D)

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8 Notwithstanding the details shown on Drwg No:1584\_SHC 202, the indicative solar panels shown on the roof of the proposed dwelling are expressly excluded from this permission.

Reason: For the avoidance of doubt and to clearly define the scope of this planning permission.

9 No construction works relating to the buildings hereby approved shall commence, until a drainage scheme for the new development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details relating to the disposal of surface and land water, and shall include an assessment of the potential to dispose of surface and land water by sustainable means. The scheme shall be implemented in accordance with the approved details prior to the occupation of the dwelling and shall be retained as such in perpetuity.

Reason: To ensure that the proposal is served by an adequate surface and land water drainage system.

**INFORMATIVES**

1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV2, EV3, EV19, EV22 and EV26 of the Unitary Development Plan

2 Birds may be present. Please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to: -

Kill, injure or take any wild bird

Take, damage or destroy the nest of any wild bird while that nest is in use or being built

Take or destroy an egg of any wild bird

Care should be taken when working on buildings, trees and clearing bushes particularly during the bird nesting season, March to August

3 A permit, or registration as exempt from the requirement for a permit under the Environmental Permitting (England and Wales) Regulations 2010 (as amended), is required from Natural Resources Wales. Further information is available from our website.

4 **STANDING ADVICE - DEVELOPMENT LOW RISK AREA**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

- Continued -

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- 4 Further information is also available on The Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

This Standing Advice is valid from 1st January 2015 until 31st December 2016

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PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 7

APPLICATION NO.

2016/0408

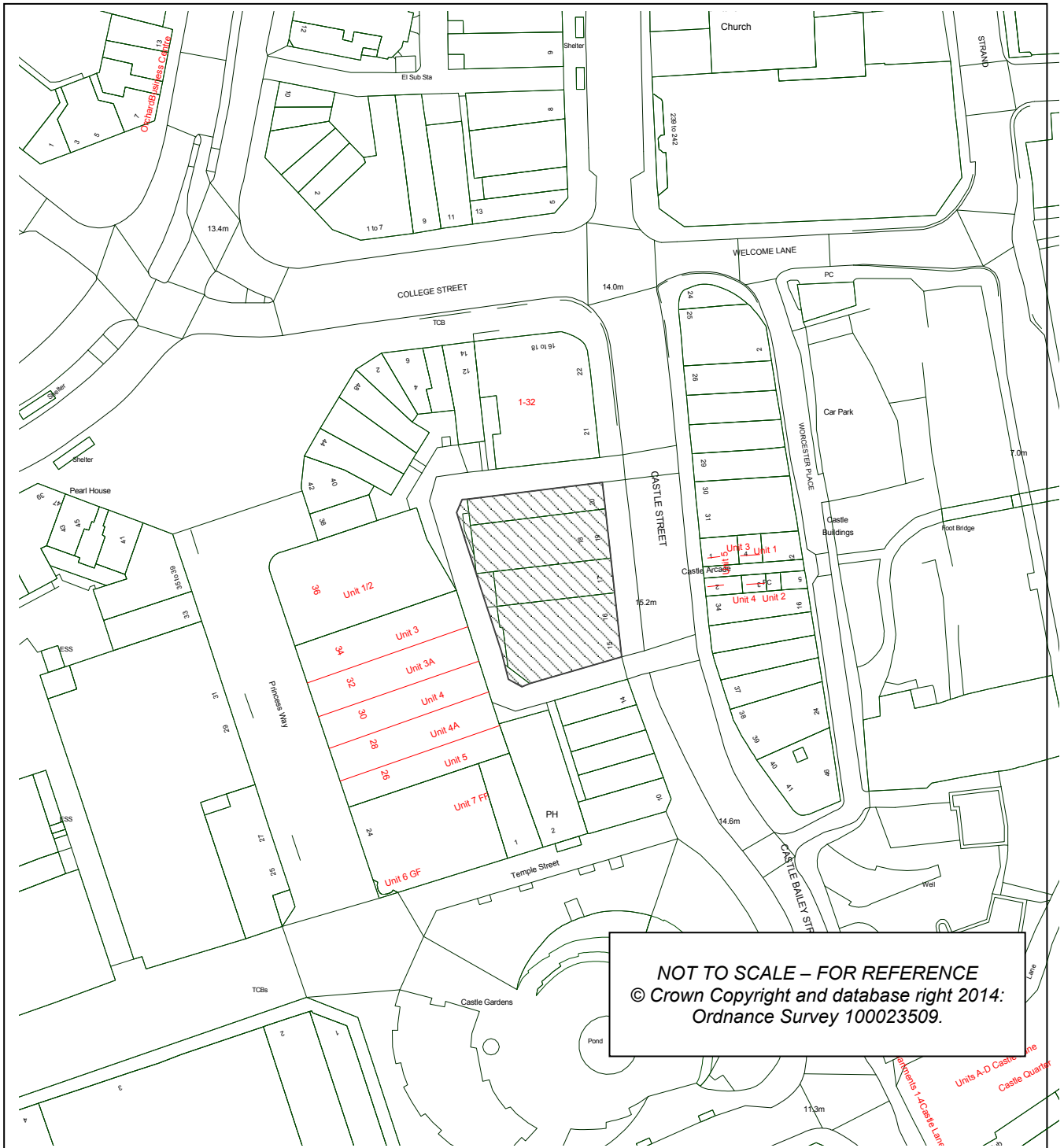
WARD:

Castle

**Location:** 15-20 Castle Street Swansea SA1 1JF

**Proposal:** Change of use, conversion of existing first and second floors and erection of two new floors to create 44 live/work units (Class C3/B1) and associated works

**Applicant:** D S Properties (Barry) Ltd



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy EV2	The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).
Policy EV3	Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)
Policy EV9	Development within or adjacent to a conservation area will only be permitted if it would preserve or enhance the character or appearance of the conservation area or its setting. (City & County of Swansea Unitary Development Plan 2008)
Policy EV33	Planning permission will normally only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. (City & County of Swansea Unitary Development Plan 2008)
Policy EV35	Development that would have an adverse impact on the water environment due to: i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or, ii) A reduction in the quality of surface water run-off. Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008)
Policy EV40	Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)
Policy HC3	In areas where a demonstrable lack of affordable housing exists, the Council will seek to negotiate the inclusion of an appropriate element of affordable housing (City & County of Swansea Unitary Development Plan 2008)
Policy HC8	The conversion of vacant or underused floorspace above commercial properties to residential use will be encouraged (City & County of Swansea Unitary Development Plan 2008)



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ITEM 7 (CONT'D)	APPLICATION NO.	2016/0408
Policy HC17	The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)	
Policy R16	Proposals for major new developments will be required to incorporate adequate and effective waste management facilities (City & County of Swansea Unitary Development Plan 2008)	
Policy AS1	Accessibility - Criteria for assessing location of new development. (City & County of Swansea Unitary Development Plan 2008)	
Policy AS5	Accessibility - Assessment of pedestrian and cyclist access in new development. (City & County of Swansea Unitary Development Plan 2008)	
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)	
Policy CC1 - UDP	Within the City Centre, development of the following uses will be supported:- (i) Retailing and associated uses (Classes A1, A2, A3), (ii) Offices (B1), (iii) Hotels, residential institutions and housing (C1, C2, C3), (iv) Community and appropriate leisure uses (D1, D2, A3) (v) Marine related industry (B1, B2). Subject to compliance with specified criteria. (City & County of Swansea Unitary Development Plan 2008)	

### RELEVANT PLANNING HISTORY

2007/2537	Change of use of basement of 15-19 from Class A1( retail) to Class A2 (financial and professional services) or Class A3 (food and drink), and change of use of ground floor (15-16 only) from Class A1( retail) to Class A2 (financial and professional services) or Class A3 (food and drink) and change of use of first floor (15-16 only) from Class A1 to Class A2 or Class B1 (Business). Decision: Grant Permission Conditional Decision Date: 18/04/2008
2007/2881	Conversion of second floor from retail (Class A1) to residential (Class C3) and two storey roof extension to provide 32 flats Decision: Grant Permission Conditional Decision Date: 18/09/2008

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2015/2091      Retention of temporary change of use from former army recruitment centre and restaurant (A2/A3) to cinema (D2) and gallery (D1) and ancillary refreshment space (A1/A3)  
Decision: Grant Temporary Permission  
Decision Date: 14/12/2015

### RESPONSE TO CONSULTATIONS

#### Original scheme – 47 residential units

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letter sent to No. 13 Castle Square and through display of a site notice on the 21<sup>st</sup> March 2016. The proposal was also advertised in the local press as a major development.

**Amended scheme** – Scheme reduced to 44 live/work units and obscured glazing introduced to some windows in the side elevations.

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letter sent to No. 13 Castle Square and through display of a site notice on the 18<sup>th</sup> April 2016. The proposal was also advertised in the local press.

THREE LETTERS OF OBEJCTION have been received which can be summarised as follows:

1. The application states that provision has been made for storage and separation of residual waste and recycling. There is nothing apparent on the ground floor plans to show any provision for the off-road storage of wheeled bins. You may expect that 47 flats could each produce one each of residual, green bag & pink bag = 141 bags the equivalent of 10 x 1100 litre commercial sized wheel bins per fortnight. There is no allowance that I can see on the plans for this capacity. There is no room outside the property on the road to accommodate this number of wheeled bins. The area is already saturated with commercial wheel bins from the businesses in operating on the ground floor of 15-20 Castle Street.
2. The proposed development would have a major impact on my business and could spell the end of my 18 year run as Swansea's only alternative music venue;
3. As a result of the Castle Lofts residential development, I have been required to undertake £300,000 of soundproofing measures to my business premises;
4. If planning permission is approved, it will be at great cost to myself and my family and will pretty much make the last 2 decades of tireless effort at contributing to the culture of Swansea, and of regenerating my little corner of the city centre, into a fool's errand, as well as making all the funds contributed by myself and the Welsh Assembly at renovating and adapting my buildings into a reckless waste of money.

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ITEM 7 (CONT'D)

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5. There should be no facing windows in the south elevation that overlook the rear of Monkey Bar;
6. There should be no flats in the south elevation. This area of the building should be utilised for emergency fire exit only;
7. The windows should contain soundproofing glass; and
8. All the flats should have air conditioning units so that in the summer future occupiers can be comfortable with opening windows during the busy night time trade hours.

**Education** - there is no request for an education contribution for any of the schools in question from this development.

**Housing Enabling** - We will require a 30% affordable housing contribution on this site, a mix of 1 & 2 bedroom DQR compliant apartments. The apartments will be social rented tenure at 42% ACG, to be picked up by a RSL. To ensure affordability they need to have either a low or nil service charges applied.

**Natural Resource Wales** - We do not have any comment to make on the proposed development.

**Parks Section** - Parks have no comment to make on the planning application.

**Pollution Control** – No objection subject to conditions in respect of road traffic noise, plant noise, ventilation, and acoustic isolation of internal fixed plant and machinery and sound attenuation between commercial and residential units.

**Waste Management** - The application states that provision has been made for storage and separation of residual waste and recycling, as per existing arrangements. As there are no residential units on site currently, there are no existing arrangements. There is nothing apparent on the ground floor plans to show provision for off-road storage of wheeled bins. An estimate of the volume of waste that could be generated from 47 flats is a minimum of; one black residual waste bag, one pink plastic recycling and two green recycling bags per fortnight. This totals a minimum of 188 bags or the equivalent of 13 x 1100 litre commercial sized wheeled bins per fortnight.

There is no room outside the property on the rear lane to accommodate this number of wheeled bins. For information, the area is already saturated with commercial wheel bins used by the commercial premises on Castle Street, Castle Gardens and Princess Way who have rear exits in the lane. You should be aware that the commercial waste and recycling wheeled bins on contract between the business and City & County of Swansea are serviced by commercial refuse/recycling crews who operate from 5am Monday to Friday and from 6am Saturday and Sunday.

**Planning Ecologist** – birds informative requested

**Welsh Water** – sewage condition and standard informatives requested

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**Transportation Group** - The application form states that no parking, car or otherwise is available. The plans however show a communal bike store at proposed first floor level, accessed from the ground floor via a lift. The room can accommodate 50 cycles. This level is in excess of the parking standards and should ensure that reliance on private cars is reduced given the lack of car parking available within the site (which is located within the city centre core).

The site is located within the city centre core where there is no requirement to provide parking for the residential. There will be a condition added to the effect that no parking permits will be issued to allow any of the residents of the proposed development to park in any restricted areas. This should safeguard the provision of existing residents.

The uses on the ground floor (A3) are unaffected by the proposed works which affect the upper floors only.

The site is restricted in terms of parking availability and as such a CTMP will be required to be submitted to outline the methodology for the site build out should permission be forthcoming.

There is no mention of waste management on either the drawings nor on any of the supporting documentation. It is important that adequate provision is made for this as given the number of proposed units and frequencies of collection of the various types of waste then this provision could be sizable.

I recommend that no highway objections are raised to the proposal subject to:

1. Cycle parking to be provided in accordance with the approved plans prior to beneficial occupation of any of the residential units.
2. Before the development hereby permitted begins arrangements shall be agreed in writing with the local planning authority and be put in place to ensure that no resident of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force on Castle Street at any time.
3. The applicant is required to submit a Travel Plan for approval within 12 months of consent and that the Travel Plan is implemented prior to the beneficial use of the building commencing.
4. Adequate bin storage to be contained within the site curtilage for the residential use in accordance with details to be submitted for approval to the LPA (to avoid storage on the highway causing any obstruction to traffic given the lack of available space on street).
5. Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Local Planning Authority.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 7 (CONT'D)

APPLICATION NO.

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### APPRAISAL

Full planning permission is sought for the change of use, conversion of existing first and second floors and erection of two new floors to create 44 live/work units (Class C3/B1(a)) and associated works at 15 – 20 Castle Street, Swansea. The site is currently partly occupied by a restaurant (Cosmo), ice cream parlour (Kasper's) and pop-up cinema (Cinema & Co) at ground floor and basement level (restaurant only).

Live/work units can be defined as units of living accommodation, which are specifically designed to accommodate work facilities for those residing therein. The proposed accommodation schedule in this instance is as followed:

Floor	Total no. of units	1-bed	2-bed
1 <sup>st</sup>	10	5	5
2 <sup>nd</sup>	12	7	5
3 <sup>rd</sup>	12	7	5
4 <sup>th</sup>	10	4	6
<b>TOTAL: 44no. = 23no. 1-bed / 21no. 2-bed</b>			

Planning permission was approved for a similar proposal in 2009 at the application premises to include the conversion of the second floor from retail (Class A1) to residential (Class C3) and two storey roof extension to provide 32 flats, planning application 2007/2881 refers.

As previously proposed, and in order to accommodate the new third floor level, it is proposed to raise the level of the existing parapet, essentially incorporating this floor into the existing building façade. The proposed fourth floor extension would be set back from the main façade. The external finishes of the fourth floor would consist of metal cladding which would provide a contemporary light weight component in contrast to the stone façade of the main building. Two residential entrances are proposed off Castle Street, one to the lift core which would allow disabled access to all residential floors. Bicycle stores are indicated on the first floor whilst dedicated refuse storage is provided on each floor.

### Policy Issues

The main issues for consideration with regard to this application relate to the acceptability of the proposed residential use at this location when assessed against prevailing planning policies, the impact of the proposed roof top extension on the character and appearance of adjacent Wind Street Conservation Area and the effect on the residential amenity of future and existing occupiers. There are in this instance considered to be no additional overriding considerations arising from the provisions of the Human Rights Act.

Within the City Centre, Policy CC1 (City Centre Mixed Use Development) supports residential uses. Policy HC8 (Over The Shop Housing) of the City and County of Swansea Unitary Development Plan presumes in favour of the conversion of vacant or underused upper floor space above commercial properties for residential purposes subject to satisfactory access and parking arrangements (where appropriate), detailed design considerations and the relationship with and impact upon adjacent uses. The proposed change of use of the upper floors will result in the reuse of a large area of redundant floor space.

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The Council encourages the use of upper floors above shops which complement the ground floor retail use such as residential uses as these help to add vibrancy to the City Centre. It is therefore considered in principle that the change of use of the upper floors of this building complies with policies CC1 and HC8 of the City and County of Swansea Unitary Development Plan.

### **Planning Obligations**

Policy HC3 of the Swansea Unitary Development Plan requires development proposals such as this for 25 or more units to incorporate a percentage of affordable housing. Having consulted the Councils Housing Enabling Officer a request of 30% has been made.

The applicant through the submission of supporting information has contended that the Affordable Housing Section 106 requirement is too onerous and would render the scheme unviable. To support this, the applicant submitted a number of financial viability appraisals, property valuations, construction costs and comparables in line with the requirements of the Supplementary Planning Guidance document entitled 'Section 106 Contributions'.

The building is currently in commercial use and has an existing use value. It is generally accepted that where a site has an existing use value, the land owner will undoubtedly require a premium on the land value in order to ensure a site is brought forward for development. From a purely economic regeneration perspective the Local Planning Authority would want to see this development come forward in order to help contribute to the much needed regeneration of the city centre. The Local Planning Authority acknowledges that there are development costs associated with the partial conversion and redevelopment of this site.

The Local Planning Authority would not wish to see the opportunity for this vacant building not to be redeveloped given the Councils commitment to City Centre regeneration, however, this must be balanced against UDP policy requirements which seek to deliver affordable housing.

As stated above, the applicant has provided an array of supporting information to support the notion that the development cannot provide any affordable housing and whilst the Local Planning Authority would query some of the figures used, it is acknowledged that given the current economic conditions, proposed sale values and construction costs associated with the development the uplift in land value is not significant.

Furthermore it must also be recognised that the development has to be viable in financial terms for the landowner to release this land for development given that it has an existing land use value.

The applicant has provided sale valuations by Peter Alan Estate Agents which have been verified and supported by an Independent Chartered Surveyor. In addition to this the applicant has provided an indication of likely construction costs based on developments undertaken by the developer in other areas of Wales. Whilst these cannot be solely relied upon the Local Planning Authority has undertaken an evaluation of the scheme using BCIS figures which gives a residual land value of £468,487 which is below what the applicant is apparently paying for the land (£525,000).

On this basis it is considered that the provision of affordable housing at this site is not viable and in accordance with the provisions of the Council's adopted Supplementary Planning Guidance entitled "Planning Obligation" published in March 2010 it is not considered that the provision of affordable housing on this site could be justified in this instance.

### Visual Amenity

The existing three storey building has a Portland Stone façade with feature pilasters and a high level parapet running across the Castle Street elevation. The side and rear elevations onto the service lane consist of a mixture of brick and render. It is proposed that the front elevation to the third floor extension will be finished with reconstituted stone to match the existing Portland Stone, whilst the rear and south elevation (Castle Square side) of the new build extension would have a brick finish to match existing. The proposed north side elevation would have a render finish to match existing. The majority of the window openings would be retained except for the replacement of a number of small vertical openings on the rear elevation for larger windows. It is also proposed to block up a number of openings on the south elevation, towards the rear of the building.

As already mentioned, the proposal involves the construction of a further two floors of residential accommodation on the roof of the building. The third floor will effectively be formed by raising the level of the existing parapet, essentially incorporating this floor into the existing building façade. The proposed fourth floor extension would be set back from the main façade. The external finishes of the fourth floor would consist of metal cladding which would provide a contemporary, lightweight component in contrast to the Portland Stone façade of the main building. The setting back of the extension at roof level reduces the perceived height and massing of the extension, whilst its contemporary design would complement the existing building in a scale which would be proportionate to the scale of the building. It is appropriate however, that the detailed design and finishes of these features are controlled by planning condition.

Whilst the proposal would significantly increase the height of the building, this part of the City Centre is characterised by a uniformity in the scale of development and in this respect the increase in the roof height should be seen as a positive response in urban design terms and would achieve a better sense of enclosure to Castle Street. Additionally, it should also be borne in mind that a two storey extension above the existing flat roof of Nos. 24 – 39 Castle Street (Castle Lofts) (planning application: 2004/1879 refers) has been constructed on the opposite side of the street creating 30 flats and a four storey roof extension to provide a total of 32 flats (planning application: 2007/2864 refers) at Baron's Court (the former Baron's nightclub), adjacent to the application premises. Having regard to the form of development created by the above proposals, it is considered that the scale, design and external appearance of the proposed extension would have an acceptable visual impact on the surrounding area by respecting the existing built form in accordance with Policy EV1 and EV2 of the Swansea Unitary Development Plan 2008.

The architectural design of the proposed roof top fourth floor extension is designed in a contemporary manner intended to complement the existing building, whilst the third floor is designed to be sympathetic to the existing building. In terms of its impact upon the character and appearance of the adjacent Wind Street Conservation Area, the extent to which the extension would be visible from the public vantage points is a significant factor in assessing the visual impact of the proposal.

The rooftop extension would be viewed from a number of public vantage points, particularly from those within the Wind Street Conservation Area (Castle Street) and High Street. However, it is considered that the design of the proposed roof top extension would be sympathetic to the existing building and preserve the character and appearance of the adjacent Conservation Area in accordance with Policy EV9 of the Swansea Unitary Development Plan.

### **Residential Amenity**

The city centre location of the property will be exposed to relatively high levels of ambient noise, predominantly from traffic but also from late night noise particularly having regard to its location within close proximity of nightclubs and public houses. In particular, the Monkey Café at No.13 Castle Street, which has a license to open until 06.30 am Monday to Sunday, is situated on the opposite side of the service lane at the side of the property and noise levels at the rear would be dominated by Monkey Café during night time hours.

As such, a noise survey was submitted at the request of the case officer during the course of the planning application which recommended an acoustic glazing system together with the requirement for there to be no ventilation penetration in the southern elevation, adjacent to Monkey Bar. It is understood that the preferred glazing would be a Pilkington system with a predicted  $R_w$  of 44 dB. With this system, it has been advised that the resulting internal level would be approximately  $L_{Aeq,8hour}$  26 dB with a 35 dB reduction between outside and inside. Accordingly, subject to being controlled by a planning condition, the proposed internal noise level of 26db is considered to be acceptable to safeguard the future occupiers in terms of noise and disturbance.

Notwithstanding the above, Pollution Control have recommended conditions in respect of road traffic road noise, plant noise, ventilation, acoustic isolation of internal fixed plant and machinery and sound attenuation between commercial and residential units. Such conditions are considered reasonable to protect existing and future occupiers of the building and surrounding area.

It is also acknowledged that a planning application is currently being considered for the proposed change of use of the adjacent block (Nos. 10 to 14 including Monkey Bar) to a restaurant and cafe bar area (Class A3) at ground floor with converted and extended first and second floor office use (Class B1) and construction additional storey of office use above at Nos 10 to 14 with external rear staircase, planning application 2016/1070 refers. Whilst there is no guarantee that this development would come to fruition, this would present a more neighbouring use in the future.

Due to concerns raised previously in respect of both direct and indirect noise produced by Monkey Bar on the future occupiers of proposed residential units on the southern side elevation, the previously approved scheme did not have any residential units on the first, second and third floor on the southern side elevation and it was proposed to block up existing windows within this elevation. Whilst it is acknowledged that the current scheme now proposes units within the side elevation on all floors, having regard to the noise survey submitted and the proposed recommendations in respect of the proposed glazing system and a requirement for there to be no ventilation penetration in the southern elevation, it is considered that the future occupiers of the residential units on the southern side elevation can expect to enjoy a reasonable standard of amenity associated with a city centre location.



The layout of the proposed residential units has been carefully considered to maximise the outlook from individual units. However due to the close relationship of the application premises and adjoining buildings, some of the units in the side elevations have a poor outlook. However the outlook from these units is a similar arrangement to the residential units at the adjacent Baron's Court building. Therefore, on balance, it is considered unreasonable to request that these units are omitted from the current proposal.

With regard to overlooking/loss of privacy impact, the majority of the windows on the side elevation adjacent to Monkey bar would be obscurely glazed and fixed (mechanically vented) to ensure that there would be no overlooking from the elevated smoking area and rooms at the rear of Monkey Bar. It should be noted that all units would have some windows with clear glazing generally in the living accommodation which would provide sunlight and daylight to the units.

With regard to the units on the side elevation adjacent to Baron's Court, some of the units on the side elevation of Barons Court are currently obscurely glazed, therefore windows which would directly overlook existing clear glazed windows at Baron Court would be obscurely glazed.

### **Access and Highway Safety**

The Head of Transportation and Engineering has been consulted on the proposal and has raised no objection subject to the imposition of planning conditions. It has been commented that the application form states that no parking, car or otherwise is available. The plans however show a communal bike store at proposed first floor level, accessed from the ground floor via a lift. The room can accommodate 50 cycles. This level is in excess of the parking standards and should ensure that reliance on private cars is reduced given the lack of car parking available within the site (which is located within the city centre core). A suitable condition to control retention of the cycle storage space, and make it available prior to beneficial use of the units, is considered reasonable to be imposed.

Reference is made to the site being located within the city centre core where there is no requirement to provide parking for the residential. A condition has been recommended to the effect that control should be given over any residents obtaining a parking permit to park within any restricted areas. Whilst this condition could be imposed if there was a perceived or other issue over highway safety on a particular residential street given that the site location is within a sustainable city centre location, within the core area where parking is already restricted such a condition is not considered to be necessary in order to meet the tests set out in Welsh Government Circular 016/2014. The circular identifies that in considering to impose a condition local planning authorities should ask themselves whether planning permission would have to be refused if a condition were not imposed, or if it would be expedient to enforce against a breach of the condition. In this instance the condition would not be necessary for inclusion.

In addition, a condition requiring a Construction Transport Management Plan has been requested although given that the development does not attract vehicular parking or a requirement for turning within the site such a condition is not considered to be necessary.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

Other conditions to provide for a Travel Plan as well as detail the internal bin storage areas to be utilised by the individual residential units would be reasonable in the interests of promoting sustainable travel and to avoid highway safety issues.

On the basis of the nature of the proposals within the city centre location and the promotion of sustainable travel it is considered that the development complies with the requirements of policies EV1, EV3, AS6, HC8 and CC1 of the Swansea Unitary Development Plan.

### **Public consultation response**

UDP Policy R16 states that proposals for major new developments will be required to incorporate adequate and effective waste management facilities. The supporting text states that when assessing proposals for major new developments, the provision of waste management facilities for the collection, recycling and other management of waste likely to be generated must be included. In accordance with this policy and in response to concerns raised to refuse storage, the submitted plans illustrate a number of storage/support rooms through the building on each floor. Control can be secured through condition to ensure that clear spaces are made available for the storage of refuse along with a waste management scheme to be utilised.

In respect to concerns raised by the adjacent Monkey Bar, it is considered that subject to an acoustic glazing system being introduced at the application premises, that the existing A3 use would not have an unacceptable impact on the residential amenities of the future occupiers of the proposed units.

### **Conclusion**

In conclusion, it is considered that the proposal represents an acceptable form of the development which would have an acceptable impact on the visual amenities of the streetscene and the adjacent Wind Street Conservation Area, the residential amenities of existing occupiers of the surrounding residential units and the future occupiers of the proposed residential units particularly in terms of noise and disturbance and local highway conditions. The proposal would continue the trend of regeneration within this City Centre location embracing good design principles. The proposal is therefore in accordance with policies EV1, EV2, EV9, CC1, HC8, R16 and AS6 of the Swansea Unitary Development Plan. Approval is recommended.

### **RECOMMENDATION**

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

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

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

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

- 2 The development shall be carried out in accordance with the following approved plans and documents: Existing site location plan dated 26th February 2016. Amended existing basement plan/ ground floor plan/ first floor plan/ second floor plan, existing east elevation, amended existing south elevation, amended existing west elevation, amended existing north elevation, amended proposed basement plan/ ground floor plan/ first floor plan/ second floor plan, third floor plan, fourth floor plan, proposed east elevation, proposed south elevation, proposed west elevation & proposed north elevation, dated 5th April 2016.

Reason: To define the extent of the permission granted.

- 3 No development shall take place until the developer has notified the Local Planning Authority of the initiation of development. Such notification shall be in accordance with the form set out in Schedule 5A of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or any order revoking or re-enacting that order.

Reason: To comply with the requirements of Section 71ZB(1) of the Town and Country Planning Act 1990 (as amended).

- 4 No development shall take place until the developer has displayed a site notice in accordance with the form set out in Schedule 5B of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or any order revoking or re-enacting that order. The site notice shall be displayed at all times when development is being carried out.

Reason: To comply with the requirements of Section 71ZB(2) of the Town and Country Planning Act 1990 (as amended).

- 5 Samples of all external finishes shall be submitted to and approved by the Local Planning Authority in writing before the development is commenced. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 6 All of the live/work units hereby approved shall be used for residential purposes falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 or as live/work units falling within Class B1(a) and C3 of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order and for no other purposes whatsoever.

Reason: In order to safeguard the amenities of the occupiers of the proposed residential units in respect of noise pollution.

- 7 Prior to the occupation of any part of the development hereby permitted, a Waste Management Plan to include dedicated refuse storage areas within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter take place in accordance with the approved Waste Management Plan and the refuse storage areas retained thereafter for this purpose to serve the development.

Reason: To safeguard the visual amenity of the locality and the residential amenities of future occupiers.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

- 8 The development shall be carried out in accordance with a Travel Plan to be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. This plan as approved shall be implemented, monitored and reviewed as agreed with the Local Planning Authority.  
Reason: The residential units would not be served by any car parking facilities and in order to encourage other modes of transportation.
- 9 The proposed cycle storage facility within the building shall be implemented in accordance with the approved details as set out on Drawing P(0)102 Rev B - Proposed First Floor Plan , and shall be provided within the building prior to the occupation of any of the residential units. The cycle storage facility shall be retained thereafter to serve the development.  
Reason: In order to encourage bicycle use by the residents.
- 10 No development shall take place until a scheme which adequately restricts the flow of sound energy between commercial and residential units has been submitted to and approved by the Local Planning Authority and such works that form part of the approved scheme shall be completed before the premises are occupied and retained thereafter.  
Reason: In order to safeguard the amenities of the occupiers of the proposed residential units in respect of noise pollution.
- 11 Before any internal fixed plant or machinery associated with the development is used, a scheme to mitigate disturbance to other occupiers of the building from conducted noise and vibration arising from its operation shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before use of the plant or machinery, and retained during use of the plant or machinery for the duration of the development.  
Reason: To protect the amenities of other occupiers of the building.
- 12 No development shall take place until a scheme, which specifies the provisions to be made for the control of ventilation has been submitted to and approved by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the premises are occupied and retained thereafter to serve the development.  
Reason: In order to safeguard the amenities of the occupiers of the proposed dwellings in respect of odour issues from surrounding commercial premises.
- 13 The total noise emissions from plant serving the subject premises when measured at a position one metre from the nearest affected window of the nearest noise affected residential premises should be controlled to a level 5 dBA below the lowest measured background noise level (LA90, 15min). Plant must not have a noise characteristic which will attract attention to itself.  
Reason: In order to safeguard the amenities of the occupiers of the proposed residential units in respect of noise pollution.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

- 14 Prior to the beneficial use of the development and in accordance with the recommendations contained within the submitted noise survey, details of the acoustic glazing system which will provide an internal noise level of approximately LAeq,8hour 26Db to be used in the development shall be submitted and approved in writing by the Local Planning Authority. 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..

Reason: In order to safeguard the amenities of future occupiers of the proposed residential units

- 15 No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV2, EV9, HC8, AS6 & CC1.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 3 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest in use or being built
  - Take or destroy an egg of any wild bird
- Care should be taken when working on buildings particularly during the bird nesting season March-August.
- 4 If connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 7 (CONT'D)

APPLICATION NO.

2016/0408

- 5 The developer is advised that some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water's (DCWW) maps or public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. DCWW advise that the applicant contacts their Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.
  - 6 The applicant is advised to contact the Highways Authority prior to the commencement of works on site, and submit and agree a Construction Traffic Management Plan.
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**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 8

APPLICATION NO.

2016/0873

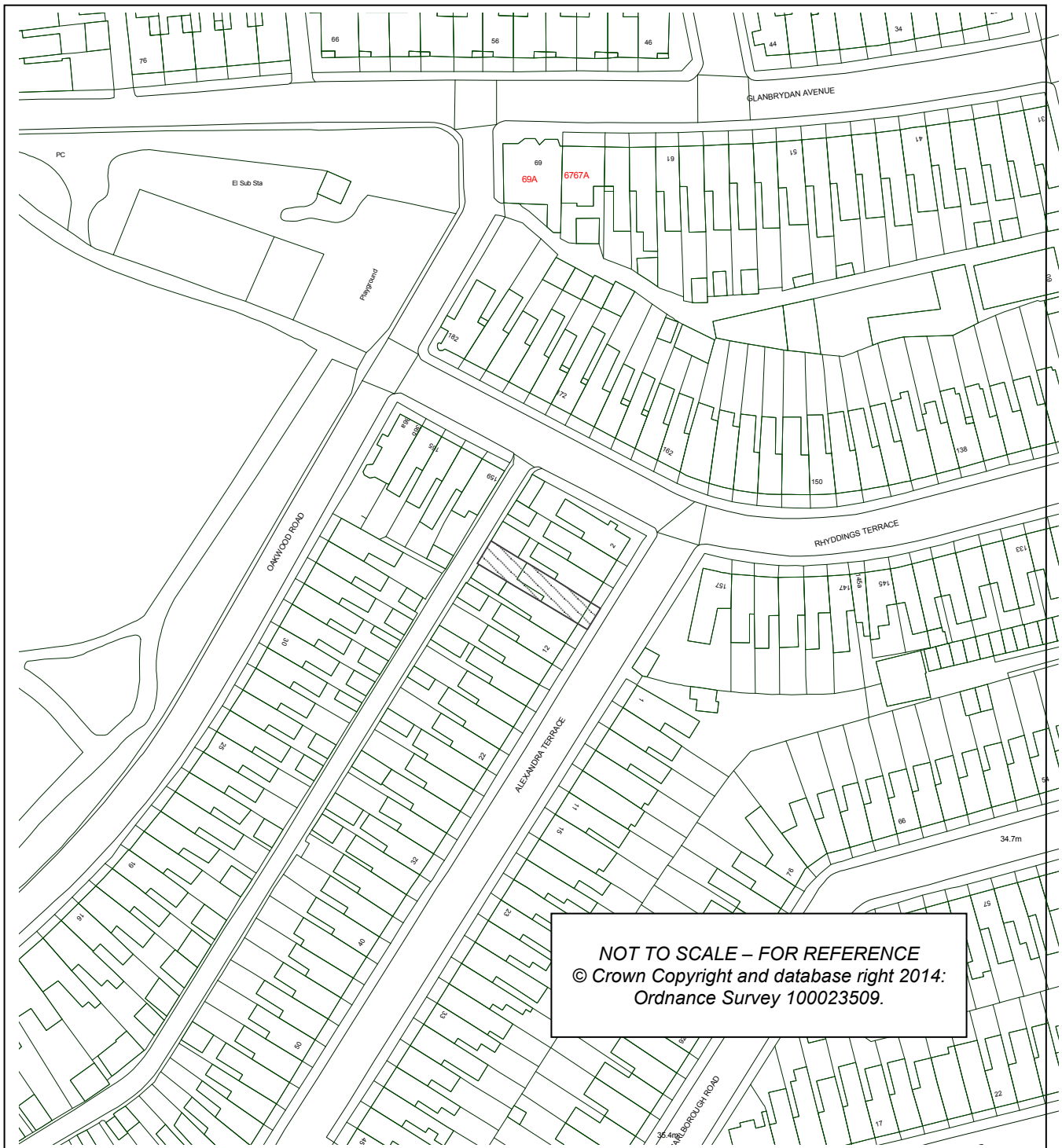
WARD:

Uplands

**Location: 8 Alexandra Terrace Brynmill Swansea SA2 0DU**

**Proposal: Change of use from residential (Class C3) to HMO for up to six people (Class C4)**

**Applicant: Mr Michael Hooper**



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 8 (CONT'D)

APPLICATION NO.

2016/0873

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy HC5	Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
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#### **RESPONSE TO CONSULTATIONS**

**Neighbours:** The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No's 8 and 10 Alexandra Terrace and through display of a site notice dated 26th May 2016. FIVE LETTERS OF OBJECTION were received and a PETITION OF 30 SIGNATURES received raising concerns relating to:

1. Too many HMO's.
2. Parking issues.
3. Noise.
4. Litter problems.
5. Anti-social behaviour.
6. Damage to vehicles.
7. Loss of council tax.
8. Community is in decline.
9. House is already furnished.
10. Impact on the school.
11. Decline in the care of properties.
12. High turn over of residents has a detrimental impact on area.
13. Bins and recycling issues.
14. Properties not looked after which affects house prices.
15. Letting signs are being left up all year around.
16. Empty properties outside of term time.
17. Fire alarm issues during summer months.



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 8 (CONT'D)

APPLICATION NO.

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18. Lack of natural surveillance during summer months.
19. Impact on business.
20. Bus issues with navigating the streets.

**Dwr Cymru/Welsh Water:** No comment.

**Highways:** No objection subject to conditions requiring cycle storage and provision of one parking space to the rear.

### APPRAISAL

This application is reported to Committee as a call in request by Councillor Nick Davies and the objection threshold of a petition of 30 or more signatures from different people at different addresses has been reached within the call in period.

#### Description

Full planning permission is sought for the change of use of No 8 Alexander Terrace, Brynmill from a residential dwelling to a House in Multiple Occupation (HMO) for up to 6 people (Class C4). The existing dwelling is a two storey mid link terrace property which is situated within the suburban area of Uplands. The area comprises rows of traditionally designed terraced properties.

No external alterations are proposed and as such the proposal will have no impact on visual amenity.

#### Main Issues

The main issues for consideration during the determination of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea Unitary Development Plan (UDP) and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

#### Principle of Use

Up until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in Uplands which has happened predominately without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made introducing a separate C4 use for HMO properties with more than 2 people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

ITEM 8 (CONT'D)

APPLICATION NO.

2016/0873

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however Swansea Local Authority has not produced any evidence or Supplementary Planning Guidance to date to quantify the harm caused by the concentration of these types of uses.

Policy HC5 of the Swansea UDP supports the conversion of dwellings to HMOs subject to compliance with the set criteria:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criteria of the above is addressed below:

**Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?**

On the basis of the information provided, the proposal will not result in an increase in the number of bedrooms and as such both the existing and proposed units would accommodate 6 bedrooms. A large family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to 6 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwellinghouse.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

**Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?**

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple accommodation (HMOs) concentrations on local communities in certain areas across Wales.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 8 (CONT'D)

APPLICATION NO.

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The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016) HMOs. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

It is evident from visiting the site and viewing the Councils own records that there is a high level of multiple occupation in Alexandra Terrace. The street comprises of rows of terraced two storey properties. Alexandra Terrace runs vertically northwest to southeast and intersected horizontally by Rhyddings Terrace to the north and Park Place. Using evidence held by our Environmental Health Department there are currently 25 HMO licenses active between No's 1 and 70 Alexandra Terrace (57 properties) which is approximately 44% of dwellings within this road.

It is clear that approval of the application would result in the addition of a further HMO into a ward area that already comprises a concentration of HMOs, however whilst this is the case there is no empirical evidence that leads conclusively to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or street.

In the absence of a percentage or other similar calculation based approach it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. As such whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration such that it complies with the aims of this criterion.

### **There would be no significant adverse effect on local car parking and highway safety**

It can be noted that the site is in a sustainable location and is well served by public transport and local amenities as well as being located within walking distance of Swansea University. With respect of highway and parking considerations consultation has been undertaken with the Head of Transportation and Engineering. It is considered in light of the extant lawful use as a residential property that a HMO for 6 persons would be comparable in terms of the nature of use.

ITEM 8 (CONT'D)

APPLICATION NO.

2016/0873

There is room for the parking of cars to the rear of the property and as such there would not be any harmful highway safety issues created by the approval of this proposal. A condition can be imposed to ensure the provision of cycle parking as an alternative means of sustainable transport.

Therefore subject to appropriately worded conditions the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property in compliance with the provisions of Policies EV1, HC5 and AS6.

### **Appropriate refuse storage arrangements can be provided**

The site has a large enough rear garden to accommodate refuse bins and as such it is reasonable to suggest these could be provided and agreed via an appropriately worded condition.

### Response to Consultations

Notwithstanding the above, 5 individual letters of objection and a petition of 30 objectors were received which raised concerns relating to the impact of the proposal upon the number of HMOs in the area, increase in crime, reduction in quality of an environment, school numbers, parking, highway safety, impact on community and facilities, bins and recycling. The issues pertaining to which have been addressed above.

Further concerns were raised with respect of litter, noise and Anti Social Behaviour Orders and increase in crime associated with HMO occupiers. This is a stereotypical assumption to make and the planning process cannot legislate for the behaviour of residents. Alternatively the occupiers of this property could be model citizens and it is for other bodies to legislate the behaviour of residents. As such these issues raised are covered under separate legislation via Environmental Health or the Police and as such cannot be taken into consideration during the determination of this application.

Concern has been raised that work has commenced inside the property. Renovations to a property do not require planning permission and a breach in terms of a proposed use only occurs when the property is being used for purposes outside its lawful use. As such it is not a material planning consideration and any works undertaken are at the financial risk of the applicant.

In terms of the loss of council tax, fire alarm issues and impact HMOs have on property prices are not material planning considerations which can be taken into account during the determination of an application.

In addition to this concern has been raised with respect landlords leaving letting signs up all year around. This is a Licensing and Enforcement issue and would need to be pursued separately.

### Conclusion

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as a HMO would result in a harmful concentration of HMOs within this area.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 8 (CONT'D)

APPLICATION NO.

2016/0873

Furthermore the proposal would not have a harmful impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, AS6 and HC5 of the Swansea UDP and approval is recommended.

### RECOMMENDATION

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Block Plan, Floor Plans received 5th May 2016 and Site Location Plan received 19th May 2016.  
Reason: To define the extent of the permission granted.
- 3 Details of facilities for the secure and undercover storage of six cycles, storage of refuse and provision of one off street parking space shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.  
Reason: In the interest of sustainability, visual amenity and highway safety.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, AS6 and HC5
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM 9

APPLICATION NO.

2016/0983

WARD:

Uplands

**Location: 28 Rhyddings Park Road Brynmill Swansea SA2 0AQ**

**Proposal: Change of use from residential (Class C3) to HMO for 4 people (Class C4)**

**Applicant: Mr Robert Greenshields**



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 9 (CONT'D)

APPLICATION NO.

2016/0983

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy HC5	Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
2011/1716	Ground floor rear extension Decision: Grant Permission Conditional Decision Date: 16/02/2012
2013/0068	Rear roof extension Decision: Refuse Decision Date: 16/05/2013

#### **RESPONSE TO CONSULTATIONS:**

**Neighbours:** The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters and through display of a site notice. Two letters of objection were received and a petition of 30 signatures received raising concerns relating to:

1. Too many HMO's.

**Dwr Cymru/Welsh Water:** No comment.

**Highways:** The applicant has confirmed that a single garage is available to the rear of the property for use by the dwelling.

Given that the HMO is only for 4 persons then I do not consider that there would be any highway safety issues arising given that there is one parking space available. In addition a condition will be added to provided cycle parking within the curtilage to provide for an alternative to using a car.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 9 (CONT'D)

APPLICATION NO.

2016/0983

I recommend that no highway objections are raised to the proposal subject to:

1. The garage being retained for parking purposes only.
2. Cycle parking in accordance with details to be submitted for approval to the LPA, being laid out prior to beneficial occupation of the HMO.

### **APPRAISAL**

This application is reported to Committee as a call in request by Councillor Nick Davies and the objection threshold of a petition of 30 or more signatures from different people at different addresses has been reached within the call in period.

#### Description

Full planning permission is sought for the change of use of No 28 Rhyddings Park Road, Brynmill from a residential dwelling to a HMO for up to 4 people (Class C4). The existing dwelling is a two storey mid link terrace property which is situated within the suburban area of Uplands. The area comprises rows of traditionally designed terraced properties.

No external alterations are proposed and as such the proposal will have no impact on visual amenity.

#### Main Issues

The main issues for consideration during the determination of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea Unitary Development Plan (UDP) and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards.

#### Principle of Use

Up until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in Uplands which has happened predominately without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made introducing a separate C4 use for HMO properties with more than 2 people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however Swansea Local Authority has not produced any evidence or Supplementary Planning Guidance as of yet to quantify the harm caused by the concentration of these types of uses.

Policy HC5 of the Swansea UDP supports the conversion of dwellings to HMOs subject to compliance with the set criteria:



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 9 (CONT'D)

APPLICATION NO.

2016/0983

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criteria of the above is addressed below:

### **Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?**

On the basis of the information provided, the proposal will not result in an increase in the number of bedrooms and as such both the existing and proposed units would accommodate 4 bedrooms. A large family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to 6 people under the use class as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

### **Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?**

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple accommodation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

ITEM 9 (CONT'D)

APPLICATION NO.

2016/0983

Following on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016) HMOs. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

It is evident from visiting the site and viewing the Council's own records that there is a high level of multiple occupation in Rhyddings Park Road. The street comprises of rows of terraced properties. Rhyddings Park Road runs vertically north to south and intersected horizontally by Bay View Terrace and Marlborough Road. Using evidence held by our Environmental Health Department there are currently 34 HMO licenses active between No's 1 and 80 Rhyddings Park Road which is approximately 42.5% of dwellings within this section of the road.

It is clear that approval of the application would result in the addition of a further HMO into a ward area that already comprises a concentration of HMOs, however whilst this is the case there is no empirical evidence that leads conclusively to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or street.

In the absence of a percentage or other similar calculation based approach it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. As such whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration such that it complies with the aims of this criterion.

**There would be no significant adverse effect on local car parking and highway safety,**

Having consulted the Head of Transportation and Engineering it is considered in light of the extant lawful use as a residential property it is felt that a HMO for 4 persons would be comparable in terms of the nature of use. There is room for the parking of one vehicle to the rear of the property and as such there would not be any highway safety issues created by the approval of this proposal. A condition will be added to ensure the provision of cycle parking as an alternative means of sustainable transport for future residents.

The site is also considered to be in a sustainable location and is well served by public transport and local amenities as well as being located within walking distance of Swansea University.

Therefore subject to appropriately worded conditions the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property in compliance with the provisions of Policies EV1, HC5 and AS6.

**Appropriate refuse storage arrangements can be provided**

The site has a large enough rear garden to accommodate refuse bins and as such it is reasonable to suggest these could be provided and agreed via an appropriately worded condition.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM 9 (CONT'D)

APPLICATION NO.

2016/0983

### Response to Consultations

Notwithstanding the above, 2 individual letters of objection and a petition of 30 objectors were received which raised concerns relating to the impact of the proposal upon the number of HMOs in the area. The issues pertaining to which have been addressed above.

### Conclusion

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as a HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would it is considered have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, AS6 and HC5 of the Swansea UDP and approval is recommended.

### **RECOMMENDATION:**

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Block Plan received, floor plans received 18th May 2016 and Site Location Plan received 26th May 2016.  
Reason: To define the extent of the permission granted.
- 3 Details of facilities for the secure and undercover storage of four cycles and the provision of one off street parking space shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained and not used for any other purpose.  
Reason: In the interest of highway safety and sustainability.

### **INFORMATIVES**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, HC5, AS6.
  - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

**PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016**

ITEM10

APPLICATION NO.

2016/1114

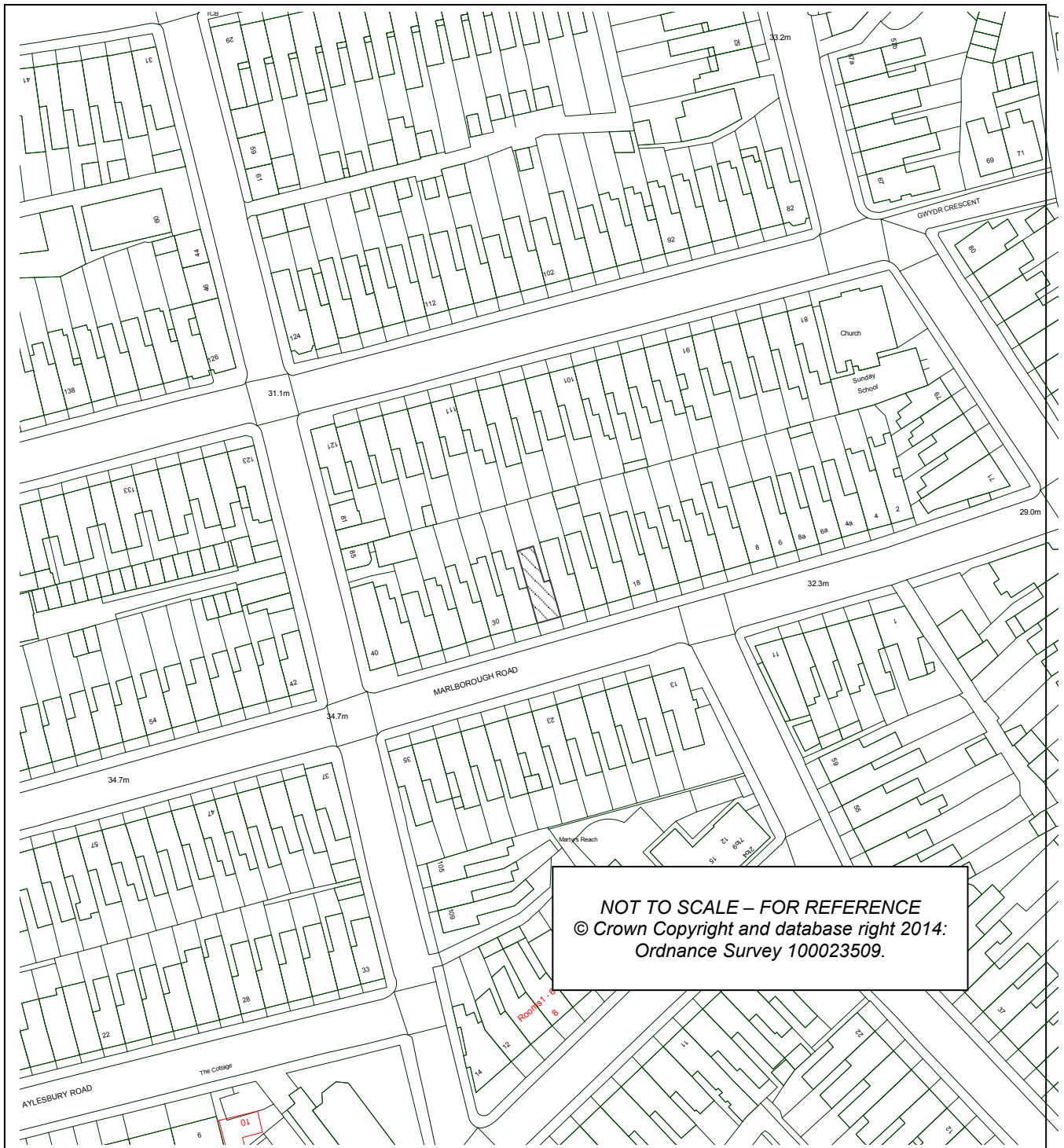
WARD:

Uplands

**Location: 26 Marlborough Road Brynmill Swansea SA2 0EA**

**Proposal: Change of use from residential (Class C3) to 5 bedroom HMO (Class C4)**

**Applicant: Mr Steven Richardson**



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

### **BACKGROUND INFORMATION**

#### **POLICIES**

<b>Policy</b>	<b>Policy Description</b>
Policy AS6	Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)
Policy EV1	New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).
Policy HC5	Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

#### **SITE HISTORY**

<b>App No.</b>	<b>Proposal</b>
----------------	-----------------

#### **RESPONSE TO CONSULTATIONS:**

**Neighbours:** The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No's 24 and 28 Marlborough Road and 107 and 109 Rhyddings Terrace and through display of a site notice dated 18th June 2016. ONE LETTER OF OBJECTION was received and a PETITION OF 33 SIGNATURES received raising concerns relating to:

1. Too many HMO's.
2. Noise.
3. Litter problems.
4. Residents being forced out of area.
5. High concentration of HMOs affects house prices.
6. Parking issues.
7. Impact on residential amenity.
8. Impact on quality of life.

**Dwr Cymru/Welsh Water:** No comment.

**Pollution Control:** No observations.

**Highways:** Change of use from residential (Class C3) to HMO for 5 people (Class C4)

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

No parking is currently available for the unit and none is proposed either. The street where the dwelling is located is subject to residents parking permit restrictions. The house would currently be eligible for two permits and this would not change with the proposed use as no new units are being created.

The site is well located in terms of local amenity and public transport access.

Given the recent planning Inspectorate decisions and relative small increase in numbers from 3 to 5 persons I do not consider that there will be any highway safety issues arising.

I recommend that no highway objections are raised to the proposal.

### **APPRAISAL**

This application is reported to Committee as a call in request by Councillor Nick Davies and the objection threshold of a petition of 30 or more signatures from different people at different addresses has been reached within the call in period.

#### Description

Full planning permission is sought for the change of use of No 26 Marlborough Road, Brynmill from a residential dwelling to a HMO for up to 5 people (Class C4). The existing dwelling is two storey mid link terrace property which is situated within the suburban area of Uplands. The area comprises rows of traditionally designed terraced properties.

No external alterations are proposed and as such the proposal will have no impact on visual amenity.

#### Main Issues

The main issues for consideration during the determination of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea Unitary Development Plan (UDP) and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

#### Principle of Use

Up until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in Uplands which has happened predominately without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made introducing a separate C4 use for HMO properties with more than 2 people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however Swansea Local Authority has not produced any evidence or Supplementary Planning Guidance as of yet to quantify the harm caused by the concentration of these types of uses.

Policy HC5 of the Swansea UDP supports the conversion of dwellings to HMOs subject to compliance with the set criteria:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criteria of the above is addressed below:

### **Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?**

On the basis of the information provided, the proposal will not result in an increase in the number of bedrooms and as such both the existing and proposed units would accommodate 5 bedrooms. A large family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to 6 people under the use class as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

### **Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?**

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple accommodation (HMOs) concentrations on local communities in certain areas across Wales.

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016) HMOs. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

It is evident from visiting the site and viewing the Councils own records that there is a high level of multiple occupation in Marlborough Road. The street comprises of rows of terraced two storey properties. Marlborough Road runs horizontally east to west and intersected horizontally by Rhyddings Park Road to the east, Bernard Street and Finsbury Terrace through the middle and Aylesbury Road and to the west. Using evidence held by our Environmental Health Department there are currently 57 HMO licenses active between No's 1 and 114 Marlborough Road (approximately 95 properties) which is approximately 60% of dwellings within this road.

It is clear that approval of the application would result in the addition of a further HMO into a ward area that already comprises a concentration of HMOs, however whilst this is the case there is no empirical evidence that leads conclusively to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or street.

In the absence of a percentage or other similar calculation based approach it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. As such whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration such that it complies with the aims of this criterion.

**There would be no significant adverse effect on local car parking and highway safety,**

Having consulted the Head of Transportation and Engineering it is considered in light of the extant lawful use as a residential property it is felt that a HMO for 5 persons would be comparable in terms of the nature of use and as such there would not be any highway safety issues created by the approval of this proposal. A condition will be added to ensure the provision of cycle parking as an alternative means of sustainable transport is provided.



## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

The site is in a sustainable location and is well served by public transport and local amenities as well as being located within walking distance of Swansea University.

Therefore subject to appropriately worded condition the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property in compliance with the provisions of Policies EV1, HC5 and AS6.

### **Appropriate refuse storage arrangements can be provided**

The site has a large enough rear garden to accommodate refuse bins and as such it is reasonable to suggest these could be provided and agreed via an appropriately worded condition.

### Response to Consultations

Notwithstanding the above, 1 individual letter of objection and a petition of 33 objectors were received which raised concerns relating to the impact of the proposal upon the number of HMOs in the area, parking, residential amenity, impact on character of an area, bins and recycling. The issues pertaining to which have been addressed above.

Further concerns were raised with respect of litter and noise associated with HMO occupiers. This is a stereotypical assumption to make and the planning process cannot legislate for the behaviour of residents. Alternatively the occupiers of this property could be model citizens and it is for other bodies to legislate the behaviour of residents. As such these issues raised are covered under separate legislation via Environmental Health and as such cannot be taken into consideration during the determination of this application.

Concern has been raised in relation to families being forced out of the area due to the high concentration of HMOs. The Local Planning Authority cannot legislate for where people choose to live and as such cannot take this into account during the consideration of this application. Likewise the impact a high concentration of HMOs has on an areas house prices is also something which cannot be taken into account.

### Conclusion

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as a HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would not have a harmful impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, AS6 and HC5 of the Swansea UDP and approval is recommended.

## **RECOMMENDATION**

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

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

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

## PLANNING COMMITTEE – 2<sup>ND</sup> AUGUST 2016

ITEM10 (CONT'D)

APPLICATION NO.

2016/1114

- 2 The development shall be carried out in accordance with the following approved plans and documents: Proposed Floor Plan, Site Location Plan, Existing and Proposed Block Plan received 10<sup>th</sup> June 2016.

Reason: To define the extent of the permission granted.

- 3 Details of facilities for the secure and undercover storage of five cycles and storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.

Reason: In the interest of sustainability, visual amenity and highway safety.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS6, HC5 and EV1

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

# Agenda Item 6

## Report of the Head of Economic Regeneration and Planning

2 August 2016

### Provisional Tree Preservation Order P17.7.4.617

Townhill Campus, Trinity St. Davids University, Pant y Celyn Road,  
Townhill, Swansea. 2016.

To consider the confirmation, as a full Order, of the provisional Tree Preservation Order 617: Townhill Campus, Trinity St. Davids University, Pant y Celyn Road, Townhill, Swansea. 2016.

#### Recommendation:

That the Tree Preservation Order: Townhill Campus, Trinity St. Davids University, Pant y Celyn Road, Townhill, Swansea. 2016 be confirmed

#### For Decision

#### 1. Introduction

1.1 The Provisional Tree Preservation Order was served on 1<sup>st</sup> March 2016

#### 2. Objections and Representations

2.1 One letter expressing an objection and eight letters of support were received within the minimum required consultation period. Two further letters were received expressing no clear opinion.

2.2 The letter of objection was received from JCR Planning on behalf of the University of Wales Trinity St. David.

2.3 The objection to the trees at Townhill Campus being protected by the TPO are listed by JCR Planning as the following reasons:

- Improper service of the Tree Preservation Order
- Imprecise Nature of Tree Preservation Order
- Inappropriate Means of Tree Protection
- Development Plan Prejudice

### **3 Appraisal**

- 3.1 A provisional tree preservation order P17.7.4.617 has been placed on trees at Townhill Campus of Trinity St David's University; the trees have been historically protected by virtue of being within an educational establishment that had few threats. On the 26th February 2016 tree felling was reported to the Landscape Team; on investigation the work was being carried out in good faith for interests of health and safety. However, the work had been specified by a contracting company and was, in the view of the Landscape Assistant (Arboriculturalist) overzealous. The site has also been identified as a candidate site which will put pressure on the many fine trees present.
- 3.2 The trees contribute significantly to local amenity in the immediate area and also can be viewed from further afield such as Oystermouth Road and the beach.
- 3.3 It was deemed necessary to create a tree preservation order to ensure that any future work requires consent by the Authority thus protecting the amenity contribution the trees provide.

#### **Improper service of the Tree Preservation Order**

- 3.2 The TPO was served in accordance with the requirements of the Regulations and documented evidence is held on file that proves the correct documentation was delivered to the University. Therefore the University's interests have not been prejudiced.

#### **Imprecise Nature of Tree Preservation Order**

- 3.5 The TPO does cover all trees within the area specified. The objection is that areas within the designated area have no trees present. Where this is true there are no restrictions as to what the landowner can do. The order has no effect on areas of buildings paths etc.
- 3.6 Shrubs and bushes are not protected by the TPO as they do not qualify for inclusion under the Regulations.
- 3.7 The area is clearly shown on the TPO map and at a scale that is clear and unambiguous.
- 3.8 At a site meeting with the land owner's representative it was explained that the area designation was used due to the perceived threat to the trees and the need to place the trees under immediate protection. It was agreed that the TPO could subsequently be split into individual, group and woodland designations if a topographic plan that the University were commissioning, was provided to the Council. This has not been forthcoming.

### **Inappropriate Means of Tree Protection**

- 3.9 The TPO was created after reports of healthy trees being felled were received from the public. This was corroborated during a site visit made by the Councils Landscape Assistant (Arboriculturalist). This is contrary to the statement in the objection that *'the trees at the campus are certainly not under threat'*.
- 3.10 Tree felling controls under the Forestry Act 1964 is not the same as the controls of a tree preservation order; otherwise there would not be the need for both types of statutory control.

### **Development Plan Prejudice**

- 3.11 All Local Development Plan candidate sites that have trees present have the same constraints whether protected by TPO or not. All trees within a development site should be considered a constraint and assessed using the guidance in *'BS5837:2012 Trees in relation to design, demolition and construction – Recommendations'*.
- 3.12 The site has been allocated in the LDP and can be objected to with alternative sites recommended. However, its allocation indicates that the LPA is content with any site constraints. Although the TPO has been created since the LDP Report was written, the trees and their biodiversity value were identified as a constraint in the original process.

## **4. Recommendation**

- 4.1 It is recommended that the Tree Preservation Order: P17.7.4.617. Townhill Campus, Trinity St. David's University, Pant y Celyn Road, Townhill, Swansea. 2016, be confirmed without amendment.

Contact Officer: Alan Webster  
Extension No: 5724  
Date of Production: 15th July 2016

### **Appendices:**

TPO 617

Letter of objection from JCR Planning dated 24<sup>th</sup> March 2016

Royal Mail proof of delivery

Location of T.P.O.:-	Townhill Campus, Trinity St Davids University, Pant y Celyn Road, Townhill
Date of Notification:-	1 <sup>st</sup> March 2016
National Grid Reference:-	263465 193503
O.S.1:10,000 Sheet No.:-	
Tree Preservation Order No.:-	P17.7.4.617

First Schedule:-

**Trees Specified individually.**

<u>No on Map</u>	<u>Description</u>	<u>Location</u>
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NONE

**Trees specified by reference to an area.**

<u>No on Map</u>	<u>Description</u>	<u>Location</u>
------------------	--------------------	-----------------

A:001	All trees of whatever species	As shown on plan
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**Groups of Trees.**

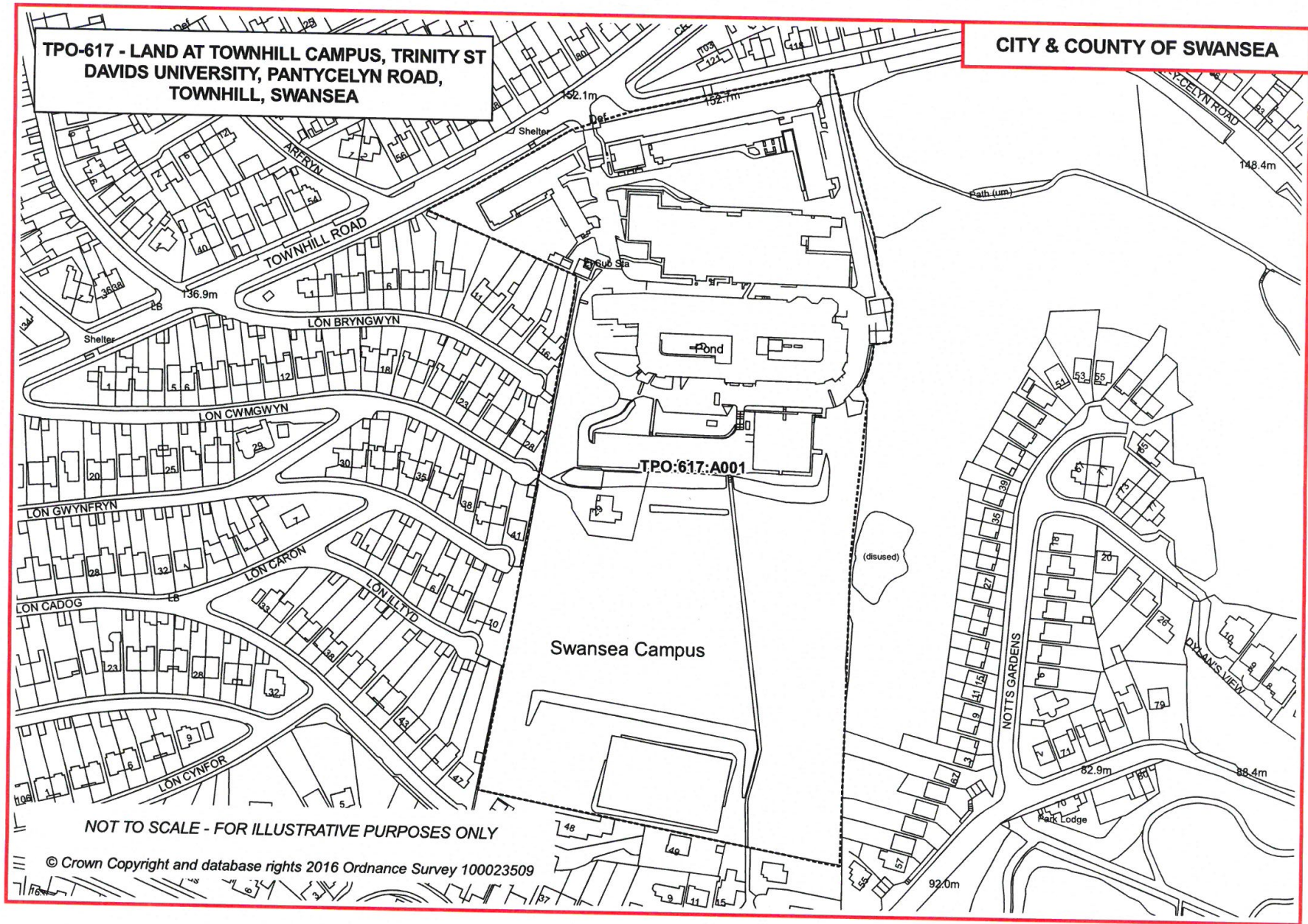
<u>No on Map</u>	<u>Description</u>	<u>Location</u>
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NONE

**Woodlands**

<u>No on Map</u>	<u>Description</u>	<u>Location</u>
------------------	--------------------	-----------------

NONE





PLANNING & DEVELOPMENT CONSULTANCY | YMGYNGHORIAETH CYNLLUNIO A DAIBYGU

43 Pottery Street Llanelli Carmarthenshire SA15 1SU  
Tel: 01554 527111 | e-mail: info@jcrplanning.com | www.jcrplanning.com

**Our Ref / Fy nghyf:** TPO/CLJ/01

**Date / Dyddiad:** 24<sup>th</sup> March 2016

Mr. Jeff Saywell,  
Landscape Team Leader,  
Economic Regeneration and Planning,  
Regeneration and Housing Department,  
City and County of Swansea,  
Civic Centre,  
Oystermouth Road,  
Swansea,  
SA1 3SN.

Dear Sir,

**TOWN AND COUNTRY PLANNING ACTS 1990-2004  
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999  
TREE PRESERVATION ORDER 617, TOWNHILL CAMPUS, UNIVERSITY OF WALES  
TRINITY ST. DAVID, PANT Y CELYN ROAD, TOWNHILL, CITY & COUNTY OF  
SWANSEA**

We have been instructed by our client, University of Wales Trinity St. David, to submit an objection to the making of the above Tree Preservation Order.

The grounds of objection are as follows:-

**Improper Service of the Tree Preservation Order**

It appears that our client was only recently made aware of the making of the Tree Preservation Order, by chance, and has no immediate record of having been served with the required formal notification. This failure is contrary to Part II, Section 3 of the 1999 Tree Preservation Order Regulations, as amended:-

**3.—(1) As soon as practicable after making an order, and before confirming it, the authority which made it shall—**

**serve on the persons interested in the land affected by the order—**

- (i) a copy of the order; and
- (ii) a notice containing the particulars mentioned in paragraph (2);

If it does transpire that proper procedures have not been followed, and that our client's interests have been prejudiced, the Townhill Campus Tree Preservation Order cannot, by definition, be confirmed.

**Imprecise Nature of Tree Preservation Order**

Tree Preservation Order no. 617 attempts to afford protection to every tree growing within the university campus site by means of an "Area" designation category.

JCR PLANNING LIMITED | CHARTERED TOWN PLANNERS

DIRECTORS: R.A.BANKS BA(Hons) MRTPI J.D.EVANS BSc(Hons) DipTP MRTPI C.L.JONES BA(Hons) MSc MRTPI  
A.M.TREHARNE; JONES BA(Hons) DipTP MRTPI E.L.EVANS (DIRECTOR OF FINANCE) K.BANKS (DIRECTOR OF ADMINISTRATION)  
Registered in England and Wales Registered Office: 43 Pottery Street, Llanelli, Carmarthenshire, SA15 1SU. Company No.: 9045715 VAT Reg. No.: 187 1794 62



The majority of the land falling within the proposed designated tree protection "Area" (A:001) does not contain any trees, but instead solely relates to the numerous university buildings as well as all the formally surfaced external walkways, utility areas, etc. A brief visit to the campus will confirm that the majority of tree cover is situated at the southern end of the site. Less than 20% of the campus site and thus "Area" (A:001) is covered by trees. In addition, a proportion of the "trees" that may have been afforded protection appear to be shrubs and bushes and do not qualify for inclusion under the regulations.

The designated "Area" is imprecise in spatial terms, far too extensive and inaccurate in terms of its coverage. The imposition of such an extensive and blanket control is contrary to the spirit and purpose of Part II, Section 2 of the Tree Preservation Order regulations:-

*2.—(1) An order shall be in the form set out in the Schedule to these Regulations, or in a form substantially to the same effect and—*

*(a) shall specify the trees, groups of trees or woodlands to which it relates;*

*(b) where the order relates to a group of trees, shall specify the number of trees in the group; and*

*(c) shall indicate the position of the trees, groups of trees or woodlands, as the case may be, by reference to a map, .....*

*(3) The map contained in, or annexed to, an order shall be prepared to a scale sufficient to give a clear indication of the position of the trees, groups of trees or woodlands to which the order relates.*

It is evident that the Tree Preservation Order map does not provide an adequate indication of the position of the trees within the campus, and erroneously includes vast tracts of building structures, etc.

#### **Inappropriate Means of Tree Protection**

It is good practice to afford TPO protection only to those trees that are under an immediate threat from felling. The trees at the campus are certainly **not** under threat from indiscriminate felling. They have been managed in an appropriate manner for many years. The felling of the trees on site is already regulated by the felling licence procedures administered by Natural Resources Wales.

The serving of this Tree Preservation Order does appear to be a little 'heavy handed'; instead our client would prefer to continue working with the Local Planning Authority in a constructive and pragmatic manner, with the mutual aim of appropriate arboricultural management and not the proposed 'blanket' control.

#### **Development Plan Prejudice**

The entire Townhill campus has been considered suitable for potential future development as part of the emerging draft Local Development Plan (LDP). A final decision as to whether or not the campus site is included for development purposes within the adopted plan is likely to be reached following a year or so of formal LDP Inquiry procedure and process.

During this process, the appointed LDP Inspector will be presented with arguments for and against the designation of a wide range of alternative sites. The fact that our client's site may be the subject of a 'blanket' Tree Preservation Order designation, will place it at considerable disadvantage in comparison to those other sites which will not be constrained by such amenity controls. Our client has no intention to fell the trees at the campus site, without giving fair and detailed consideration to all amenity concerns, and then only as part of a precise and realistic future development proposal(s). Those trees that are deemed to be of high amenity value can be protected by means of conditions attached to any planning permission that may be issued. A more appropriate way in which to evaluate the amenity of these trees would be by way of a detailed arboricultural/landscape assessment of the site at the appropriate stage in the forthcoming LDP proceedings, and in collaboration with relevant officers of the Local Planning Authority.

I trust you will treat the foregoing as an adequate summary of our client's very grave concerns about the making of the Townhill Campus Tree Preservation Order. It is also hoped that you will give the content of this objection your full and earnest consideration.

Please feel free to contact me should you wish to discuss this matter in more detail.

Yours faithfully,

*R. Banks*

**R.A. Banks**  
**Director**

Recorded Signed For posting receipt

Royal Mail

Your company name CCOS

Address Civic Centre, Economic Regeneration & Planning,  
Oystermouth Road, Swansea.

Postcode SA1 3SN

Details of each item being sent

Delivery address The Campus Manager, Townhill Campus,  
Trinity St Davids University, Pant y Celyn Road, Townhill, Swansea.  
Postcode SA2 0TX

Item reference DV 3063 2056 7GB

Delivery address

Postcode

Item reference

Delivery address

Postcode

Item reference

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Postcode

Item reference

Delivery address

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Item reference

Delivery address

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Item reference

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Postcode

Item reference

Delivery address

Postcode

Item reference

Total no. items

Sender's signature

Sender's printed name

Date / /

For official use  
Date Stamp

Total no. bags

Accepting officer's signature

TPO confirmation: P17.7.4.617. Townhill Campus, Trinity St. Davids University, Pant y Celyn Road, Townhill, Swansea.

2016.doc

Page 9 of 10



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Date: **02 March 2016, 09:06am**

# Agenda Item 7

**Report of the Head of Planning and City Regeneration  
Planning Committee - 2 August 2016  
Preparation and adoption of Supplementary Planning Guidance for  
“The Protection of Trees on Development Sites”**

To consider the revised Supplementary Planning Guidance (SPG) “The Protection of Trees on Development Sites (2016)” as an update to the current guidance adopted in 2008, and for adoption as SPG to the Local Development Plan (LDP).

Recommendation:

1. That the “The Protection of Trees on Development Sites” (2016) be consulted upon as an update to “The Protection of Trees on Development Sites” (2008) SPG in the Unitary Development Plan and the findings be reported back to Planning Committee for approval.
2. That the Protection of Trees on Development Sites” (2016) as approved be included as Supplementary Planning Guidance in the Local Development Plan for adoption.

For Decision

## **1. Introduction**

- 1.1 Following a report to Scrutiny Committee Working Group of 21st April 2016 resultant actions required a review and update of: Guidance notes “The Protection of Trees on Development Sites” to ensure the public is provided with current best advice. This should also be included as SPG when the new LDP is adopted.
- 1.2 “The Protection of Trees on Development Sites” (2008) is listed in the UDP as SPG. However at present this document is not made available on the Councils website.

## **2. Discussion**

- 2.1 The current guidance originally drafted in 1995, updated in 2008, refers to several documents that have been superceded, most notably by two British Standards relating to trees. In addition a new British Standard has been introduced in relation to planting trees.
- 2.2 The current guidance was not subject of public consultation and therefore carries little weight as a material planning consideration when considering proposals. It also refers to outdated best management practices.

- 2.3 New legislation relating to the Council's obligations in the planning process has also been introduced in relation to biodiversity (Environment (Wales) Act 2016). Trees are closely linked to the biodiversity of a site.

### **3 Appraisal**

- 3.1 As the guidance is in need of updating the content has been extended to give the public more information on how to successfully integrate trees into proposed developments.
- 3.2 The updated guidance (Appendix 1 refers) gives advice on what information is required to accompany a planning application in relation to trees and will improve customer service during the planning process. The objective of the new document is to improve the retention of trees on development sites.
- 3.3. A six-week period of public consultation on the revised document is proposed with the responses, together with any amendments arising, reported back to Planning Committee for approval in order to be used as an update to current guidance and adopted in due course as SPG to the emerging LDP.

### **4. Recommendation**

1. That the "The Protection of Trees on Development Sites" (2016) be consulted upon as an update to "The Protection of Trees on Development Sites" (2008) SPG in the Unitary Development Plan and the findings be reported back to Planning Committee for approval.
2. That the Protection of Trees on Development Sites" (2016) as approved be included as Supplementary Planning Guidance in the Local Development Plan for adoption."

**Officer Contact:** *Alan Webster*      **Extension No:**      *5724*

### **Appendices:**

1. "The Protection of Trees on Development Sites" (2016).
2. Letter sent on behalf of Councillor David Cole, Convener of the Tree Preservation Scrutiny Working Group.
3. Tree Preservation Scrutiny Working Group – progress document.



## ***City & County of Swansea***

### **The Protection of Trees on Development Sites (2016)**

The steps that need to be considered at the Planning and Design Stages and during Construction to ensure that significant existing and proposed trees are kept healthy and become an asset to a new development.



An example of the retention of existing and the planting of new trees in the creation of 'Place'.

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## 1.0 INTRODUCTION



Example of the retention of existing and the planting of new trees © getmapping.com

- 1.1 This guide has been produced to give developers basic information on how trees are dealt with in the planning system. The document provides clear and consistent guidance to applicants on the requirements of the Local Planning Authority (LPA) with respect to trees and development.
- 1.2 This document relates primarily to trees, woodlands, hedges, hedgerows and large shrubs (hereafter 'Trees'). 'Trees' provide habitat for protected species such as birds and bats that require consideration in the planning process and are protected by other legislation.
- 1.3 'Trees' are of vital importance to the landscape. It is now widely accepted that trees in and around towns and cities have a vital role to play in promoting sustainable communities. Trees and large shrubs make a positive contribution to the scenic character and diversity of the landscape and are important in the creation of 'place', provide vital habitat for dependant wildlife populations and

substantial environmental benefits such as improving quality of life, attenuation of noise and improving the climate and air quality. Trees can also help protect buildings from the elements, provide shade and assist in energy conservation. Trees can enhance the setting of new development, its character, sense of maturity and overall quality thus helping with the saleability and profitability of properties. Their positive effect on the environment also helps to attract businesses and visitors to an area, thereby boosting the economy. In addition to legislative protection of trees and wildlife the public's awareness of environmental issues and the health benefits of being near or seeing trees is also increasing. Developers are therefore under increasing pressure to focus attention on trees and their role in providing a more pleasant and healthier environment.

- 1.4 A tree may take a century to reach maturity but it can be damaged or felled in a few minutes. Such damage is frequently caused unwittingly because of a failure to appreciate the vulnerability of trees, particularly the root system, and how easily they can be damaged. Where trees are damaged during development of a site and subsequently decline and die, or where inappropriate or poor design leads to conflict, trees become a constant source of complaint and ultimately, any positive benefits are lost. **Early erection of tree and landscape protection measures to form construction exclusion zones before work commences on site is essential. (See 6.1)**

## 2.0 LEGISLATIVE AND POLICY CONTEXT

- 2.1 Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, wherever it is appropriate, that in granting planning permission for any development, adequate provision is made by the imposition of conditions, for the preservation or planting of trees. If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, Section 198 of the Act provides the power to make a Tree Preservation Order (TPO) for that purpose. Under Section 211 of the Act, trees in conservation areas are subject to similar controls as trees to which a TPO applies.
- 2.2 This guide has been prepared in accordance with guidance contained in Planning Policy Wales, Technical Advice Notes issued by Welsh Government, the City and County of Swansea Unitary Development Plan and emerging Local Development Plan<sup>4</sup>.
- 2.3 **Planning Policy Wales (PPW) Edition 8.** Planning Policy Wales makes it clear that "Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty. They also play a

role in tackling climate change by trapping carbon and can provide a sustainable energy source. They also intercept rain fall slowing the rate water enters rivers and drains, preventing soil erosion, whilst also taking water up through their roots. Local planning authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality. Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage” (PPW Edition 8, para 5.2.9).

- 2.4 It is the responsibility of Local Authorities to ensure that adequate provision is made for the planting or preservation of trees through imposing conditions through a planning permission and /or Tree Preservation Orders.
- 2.5 **Technical Advice Note (TAN) 10: Tree Preservation Orders.** TAN 10 supplements Planning Policy Wales and states that under the Town and Country Planning Act 1990 (section 198) Local Planning Authorities are empowered, in the interests of amenity, to protect trees and woodlands by making Tree Preservation Orders (TPOs). As such, any tree or woodland that has a TPO attached to it is legally protected from cutting down, uprooting, topping, lopping, wilful damage or destruction without consent from the Local Planning Authority.
- 2.5.1 Tree Preservation Orders should be considered where provision should be made for the preservation of trees or woodlands in the interest of amenity (TAN10; para 14). TPOs should be made where the removal of trees and woodlands would have a significant impact on the environment and its enjoyment by the public. TPOs cannot be made on bushes, shrubs or hedgerows (however they can be made on trees within hedgerows).
- 2.5.2 The Draft City and County of Swansea Protected Tree Policy details the approach of the Council in protecting trees and how the guidance in TAN 10 is interpreted.
- 2.6 **City and County of Swansea Unitary Development Plan.** Policy EV30 states that: “Protection and improved management of woodlands, trees and hedgerows which are important for their visual amenity, historic environment, natural heritage, and/or recreation value will be encouraged, with priority being given to:
- i. Protecting the remaining areas of ancient semi natural woodland and planted ancient woodland sites.
  - ii. Promoting new planting with species appropriate to the location, where there is no conflict with other land uses or nature conservation interests, and

iii. Ensuring that where management involves commercial felling and replanting, protection of amenity interests is achieved.”

2.7 The emerging Swansea LDP has a more detailed approach to sustaining tree cover within the City and County of Swansea. (Policy ER 11: Trees and Development)<sup>4</sup>

### **3.0 PREVENTING DAMAGE DURING CONSTRUCTION**

3.1 In addition to the obvious parts of the tree (canopy, branches and stem), the hidden roots can also be damaged during construction. In general terms tree roots are found in the upper 600mm of soil, although root distribution can be deeper dependant on site conditions and tree species. They consist of structural roots which anchor the tree and a network of smaller roots that uptake water and nutrients.

3.2 **Maintaining soil structure.** An ideal soil for root growth and development contains about 50 percent pore space for water and air movement. Heavy construction equipment and/or repeated pedestrian movements can compact topsoil and subsoil dramatically reducing pore space. Compaction inhibits root growth, limits water penetration, and decreases oxygen needed for root survival. (See 4.4)

3.3 **Maintaining a healthy root structure.** Digging, grading, and trenching associated with construction and underground utility installation can be very damaging to roots. A tree’s root system can extend horizontally a distance one to three times greater than the height of a tree. Excavation in a tree’s root protection area can reduce tree vitality leading premature death of the tree(s). Cutting roots close to the trunk can severely damage a tree and cause it to fail in high winds. (Refer to section 4.3)

3.4 **Maintaining original soil levels.** The majority of fine water-and-mineral-absorbing roots are in the upper 15 to 30 cm of soil where oxygen and moisture levels tend to be best suited for growth. Even a few centimetres of soil piled over the root system to change the grade can smother fine roots and eventually lead to larger root death and the loss of trees.

3.5 **Avoiding root / soil contamination.** Spillages of fuels, construction chemicals or uncontrolled cement run off can change soil pH or poison tree roots.

3.6 **Avoiding physical impact.** Construction equipment can injure the above-ground portion of a tree by breaking branches, tearing the bark, and wounding the trunk. These injuries are permanent and, if extensive, can be fatal.

- 3.7 **Avoiding exposure.** Trees in a group grow as a community, protecting each other from the elements. Trees can grow tall with long, straight trunks and high canopies; removing neighbouring trees during construction exposes the remaining trees to increased sunlight and wind which may lead to sunscald or breakage of limbs and stems and potentially windthrow of remaining trees.

#### 4.0 INCORPORATING TREES INTO THE DEVELOPMENT

- 4.1 **British Standard 5837:2012 - Trees in relation to design, demolition and construction – Recommendations**, will be regarded as the overriding document detailing the standard and guidance for a balanced approach on deciding;

- Which trees are appropriate for retention;
- The effect of trees on design considerations; and
- The means of protecting these trees during development.

Variation from the guidance in BS5837:2012 Trees in relation to design, demolition and construction – Recommendations, will require justification on a site specific basis.

- 4.2 **Design Stage:** A tree survey in accordance with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations, provides important information to enable decisions to be made about which trees should remain and consequently the location of development on a site. For this reason **a tree survey should be commissioned as early as possible in the process to inform the design.** Early arboricultural advice in some cases will also highlight if a scheme is viable or not.
- 4.3 When identifying trees for retention regard should be taken of their quality and condition, their potential for future growth, longevity and where applicable, their value as a group.
- 4.4 Principally a tree constraints plan should show the root protection areas and canopy spreads of the trees. The root protection area (RPA) is the **minimum** area that a tree requires to ensure that it can continue to survive. **For a single stem tree this area is a circle with a radius of 12 x the stem diameter, measured 1.5m above ground level.** The RPA should be modified from a circle if the topography dictates or if there is an obstruction preventing root growth in a particular direction. Tree roots can extend further than this area and at times should be protected beyond it (See 4.8).

- 4.5 Any development, excavation or access within a RPA will not usually be permitted unless measures are taken to prevent damage to the tree(s) and agreed in writing by the LPA prior to development.
- 4.6 During the design and planning stages various factors must be taken into account. This should include, but is not limited to, the following:
- Tree Preservation Orders / Conservation Area protection, and protected wildlife.
  - The effects of development proposals on the amenity value of trees (post design).
  - Below ground constraints: root distribution, suitable root protection areas taking into account root morphology.
  - Above ground constraints: overbearing and large trees close to buildings/proposed development, shading to rooms and gardens, positions of infrastructural provisions that could impact upon, and be impacted by trees. Future growth of the trees should also be taken into account. Design guidance to reduce solar shading can be sought from BRE "*Site layout planning for daylight and sunlight: a guide to good practice (BR 209)*"<sup>20</sup>
  - Change in hydrology – decreasing available water or waterlogging
  - Design should minimise conflicts between highways, streetlights, advertisement and signage, kerbs/haunching, hard surfacing, soft landscaping treatments and existing trees.
  - Secure by design requirements and CCTV provision
  - Mitigating conflicts between finished levels and existing trees.
  - Where the site is affected by shrinkable/ expandable clay soils, attention shall be given to the design of building foundations, walls and pavements such that they are sufficient to avoid future problems of movement exacerbated by tree roots of existing trees and new tree planting.
  - Routing of any underground services. It is unacceptable for underground services to be routed through the Root Protection Areas of existing trees.
  - Soakaways should not be installed close to trees as tree roots may exploit such areas and feeder drains may become blocked.
  - The principle of balancing tree, shrub and hedge removal with the quality of the proposed landscaping requires careful consideration at the outset and should not be considered as an afterthought. There is likely to be ongoing protection of any proposed tree planting by TPO to mitigate the loss of trees that may have been removed as part of the development process and in the creation of place. (See 8.6)
- 4.7 Ancient trees are trees in their third or final stages of life for the given species and are 'old' in comparison to trees of the same species. A Veteran Tree may not be old but because of its environment or life experiences has developed the valuable features of an ancient tree. Both classifications of trees are less capable of

surviving tree surgery or root disturbance. Ancient trees are of historic interest and a valuable part of our cultural heritage. Each individual tree is a survivor from the past and a relic of a former landscape. They are a living document of past management practices and ways of life. Britain has some 80% of Europe's 'ancient' trees. If veteran or ancient trees / woodland are identified on site they must be considered carefully in relation to a development proposal and every attempt must be made to integrate the tree into a development proposal from an early stage to secure its long-term survival and retention. Ideally ancient trees would be retained within public open space to minimise future pressure from residents requiring the removal of the tree from within their curtilage. Veteran and ancient trees are given special consideration in the UDP and emerging LDP<sup>4</sup>.

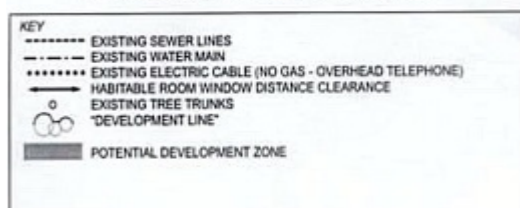
- 4.8 The root protection area for ancient trees will be considered in favourable site conditions to be 15 x the diameter of the stem at 1.5m from ground level (*Veteran Trees: A guide to good management*). This is to take into account their intolerance of root disturbance.
- 4.9 Whilst the tree survey shall inform the design process and ultimately the site layout, the LPA recognises the competing needs of development and that trees are only one factor requiring consideration. However, certain trees, woodlands and hedgerows are of such importance and sensitivity as to prevent development occurring or substantially modify its design and layout.
- 4.10 Care shall also be taken to avoid misplaced tree retention; attempting to retain too many low quality trees, unsuitable trees or trees that are unlikely to survive the development process on a site may result in excessive pressure during and after the development work and subsequent demands for their removal. The end result may be a poor design with fewer trees or less suitable and sustainable tree cover than would be the case if careful planning and expert arboricultural and/or landscape advice had been employed from the outset.
- 4.11 Trees can impinge on many aspects of site development. Throughout the development process all members of the design team should give adequate consideration to the requirements of trees. **Even if trees are not present within the site, off site trees and areas for planting trees, where potentially affected, should be identified and plotted on the Tree Constraints Plan and protected from damage or compaction.**

## 5.0 APPLICATION REQUIREMENTS

- 5.1 Whilst building works carried out as **permitted development** do not require any documentation to be submitted to the LPA, it will be generally in the best interests of a householder to consider trees using the guidance in this document. Permitted development rights do not allow damage to protected trees (including qualifying trees within a Conservation Area <sup>5</sup>) and a tree works application will be required if work is likely to affect protected trees. Construction will need to comply with building regulations and foundation design should follow guidance in NHBC Standards, Building near trees, (See 4.2) <sup>14</sup>
- 5.2 Trees on neighbouring land potentially affected by permitted development should also be considered as action can be taken under common law if damage causes the death of the tree or harm to the neighbouring people or property. (See also 4.11)
- 5.3 **For householder applications** (e.g. all works to a single dwelling, except house construction) all trees (stems and canopy spreads) and hedges on site or within influencing distance (i.e. off-site) should be accurately plotted on a block plan. Details of which trees are to be retained, removed and pruned should be shown.
- 5.4 Where the block plan shows a conflict between the proposals and trees then a more detailed Arboricultural Impact Assessment may



**Sample Householder Constraints Plan. To be replaced by a more appropriate plan in final version**



be required after consultation with the Councils Arboriculturalist.



Submitting this at the outset may reduce delays in processing the application.

- 5.5 **For larger scale development** (e.g. new build, mineral workings and waste development proposals) where trees are on or within influencing distance (i.e. off-site) of the proposed development site, a land survey, a BS 5837 tree survey and an Arboricultural Impact Assessment is likely to be required.
- 5.6 Where possible a Tree Protection Plan and an Arboricultural Method Statement and often a Landscape Plan will be a condition of planning, and this information may be required to demonstrate that the development is feasible prior to approval.
- 5.7 An application for **outline permission** will normally only require a tree survey, however if the indicative layout or density shows development close to trees then an Arboricultural Impact Assessment is likely to be required / should also be submitted. This will evaluate future potential conflicts between the development and the final size of adjacent trees and hedgerows that are to remain. If the impacts are considered a threat to the trees then a Tree Protection Plan and an Arboricultural Method Statement may also be required.

	Householder Applications	Outline Applications	Full Applications
Trees & Hedges Plotted on Block and Site Layout Plans	✓	✓	✓
Indication of Services and Drainage	* (maybe required)	* (maybe required)	✓
Land Survey	X	✓	✓
BS 5837 Tree Survey	* (maybe required)	✓	✓
Arboricultural Impact Assessment (AIA)	* (maybe required)	✓ (if impacts to trees are foreseeable)	✓
Tree Protection Plan (TPP)	* (maybe required)	✓ (maybe required to show development is feasible or will be a reserved matter)	✓ (can be conditioned)
Arboricultural Method Statement (AMS)	* (maybe required)	✓ (maybe required to show development is feasible or will be a reserved matter)	✓ (can be conditioned)

Table 1: Documentation required with different types of application.

## 6.0 PLANNING CONDITIONS

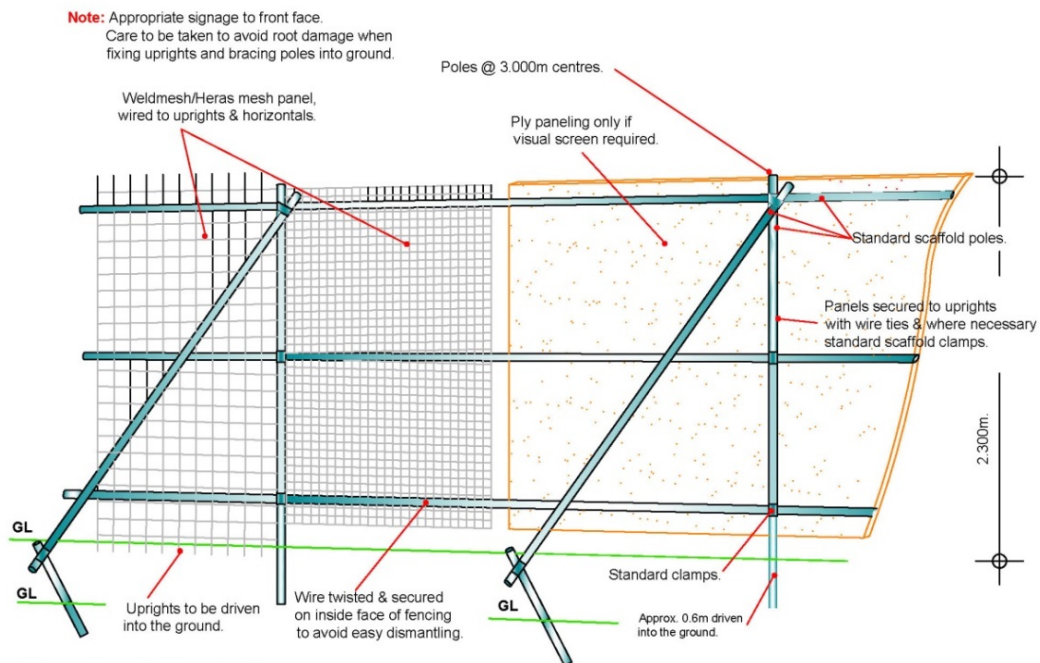
- 6.1. A tree protection scheme is more likely to be successfully implemented if submitted and approved as part of the planning application.
- 6.2 Conditions will be attached to a planning permission to ensure that that the Root Protection Areas of retained trees are adequately fenced off for the duration of the demolition/construction phase of the development.
- 6.3 Developers will be required to notify the LPA prior to commencement of any works on site, including demolition or vegetation clearance. At this stage the Council Officers may inspect the measures that have been put in place to protect trees during construction. Ad-hoc visits will be made throughout the construction phase to check that tree protection measures are still in place. The LPA will exercise its powers of enforcement, where necessary, to ensure compliance.
- 6.4 The LPA will not only expect developers to obtain the appropriate professional advice during the application stage but may also attach a condition to ensure adequate supervision of the construction phase by the developer's own Arboriculturist.
- 6.5 If difficulties are experienced at any time during the construction process in complying with conditions relating to trees (e.g. in maintaining the distances of protective fencing in accordance with the Tree Protection Plan) and it is desired that the terms of any conditions be modified, it will be necessary to consult with and get written approval of the LPA prior to carrying out any changes.
- 6.6 **Failure to comply with Planning Conditions:** Where a breach of any tree protection related planning condition is identified, the LPA will take appropriate enforcement action. This may include serving a 'Stop Work Notice' on a construction site where a contravention has occurred, or the instigation of legal proceedings under Section 210 of The Town & Country Planning Act 1990.

## 7.0 TREE PROTECTION PLAN AND THE ARBORICULTURAL METHOD STATEMENT

- 7.1 **Tree protective fencing must be in place before any aspect of development starts** and maintained in this position throughout the lifetime of the development. The fencing must be in position prior to demolition, commencement of ground works, materials being brought onto site etc. The majority of damage to soil and trees on development sites occurs during these activities. If alternative fencing layouts are needed for the various stages of demolition and

construction these must be detailed on the Tree Protection Plan with a clear definition between layouts and 'phases'.

7.2 All operatives should be aware of all tree protection measures and a

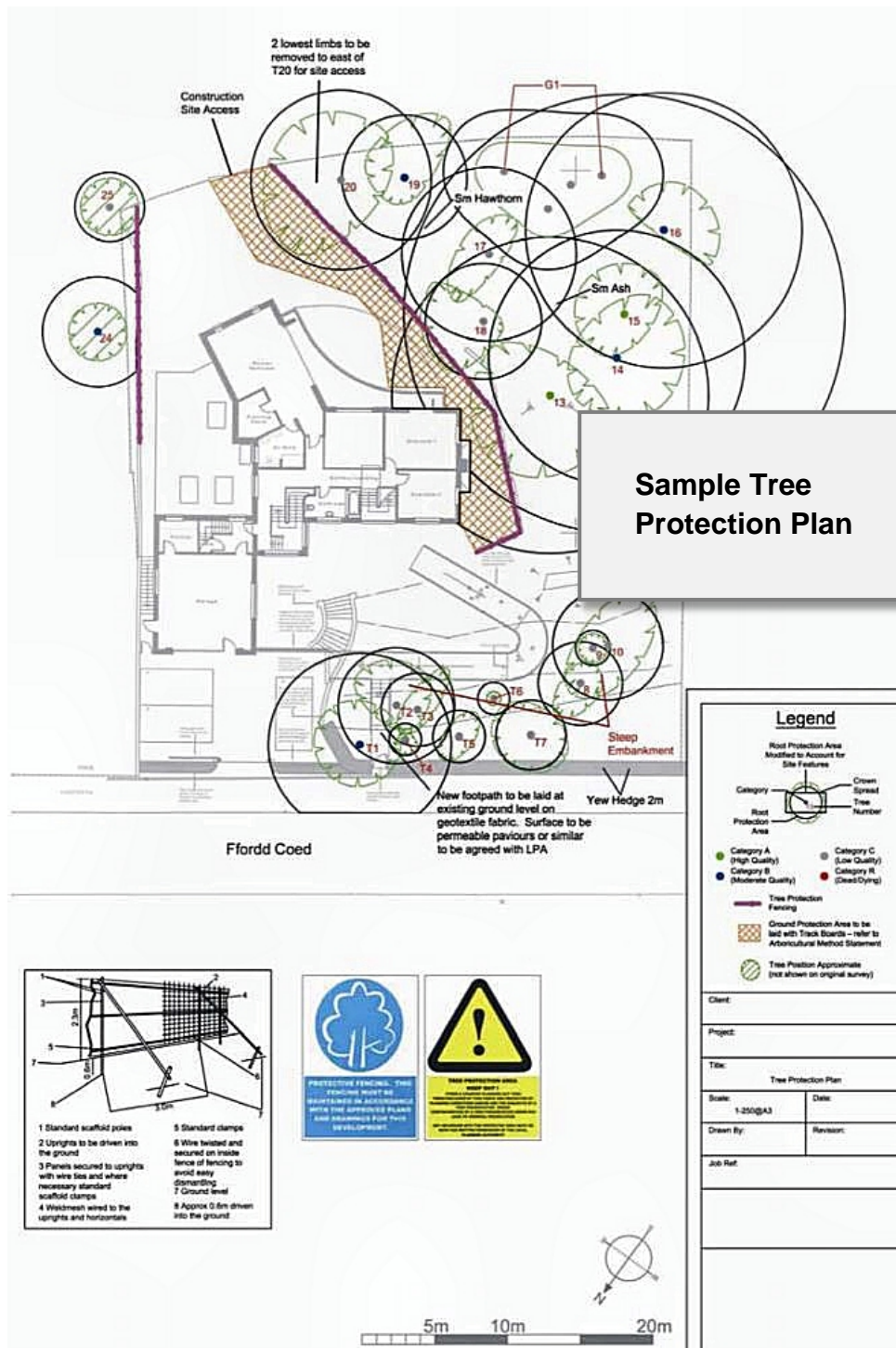


### Typical Detail: Tree Protection Fence To BS5837

copy of the approved Tree Protection Plan, any Arboricultural Method Statements and a copy of the planning consent with conditions **should be available for inspection on the site**. The following simple rules **MUST** be adhered to throughout the demolition and construction phases of the development:

- Do not remove the protective fencing around a RPA for any reason without prior approval.
- Repair any damage to the protective fencing around a RPA immediately.
- Do not park or operate machinery and equipment near trees.
- Do not store materials within the RPA. Contaminants (fuel, oil and chemicals) must be stored at least 10m away from the protected area.
- Do not mix cement near trees (See also 7.6)
- Do not light fires within 10m of any tree and beware of flames drifting towards branches.
- Do not secure temporary overhead cables or floodlights to trees.
- Do not change the ground level or excavate within the branch spread of existing trees.

- 7.3 The purpose of the Tree Protection Plan is to provide the precise location and physical protection measures, including ground protection, for trees woodlands or hedges present on or immediately adjacent to the development site that are identified for retention and are likely to be affected either directly or indirectly by the development. The plan must be fit for purpose and have enough detail so that a contractor can install the measures.
- 7.4 The Tree Protection Plan shall take account of the RPA, areas of proposed structural landscaping, trees to be retained and removed and the precise location of protective barriers and their signage. Barriers shall be fit for the purpose of excluding construction activity and appropriate to the intensity and proximity of work taking place around trees selected for retention. In certain circumstances standard Heras, chestnut pale or orange barrier mesh fencing may be appropriate. However, deviation from the default British Standard will require justification;
- 7.5 **The Tree Protection Plan** shall give details of:
- The physical means of tree protection on site, indicated through drawings and/or descriptive text.
  - The position of the tree protection fencing and any ground protection showing the actual position with dimensions from a fixed point.
  - Dimensions of the exclusion zone and position and type of signage identifying them as an exclusion zone shall be noted on the Tree Protection Plan.
  - The protective fencing requirements appropriate for the development should be identified within the Tree Protection Plan and approved in writing by the LPA prior to the commencement of work on site.
  - Where approved work is detailed to occur within the RPA, details of the re-aligned position of fencing, along with specific ground protection details shall be supplied.
  - The plan must be to a suitable scale, with a north point and scale bar.



- 7.6 An **Arboricultural Method Statement** shall describe construction operations to be undertaken in proximity to trees as highlighted in the arboricultural impact assessment. The Arboricultural Method Statement shall make allowance for, and plan, all construction operations to be undertaken in proximity to trees. This shall include, but is not limited to, the following aspects;
- Site construction access;
  - The intensity and nature of the construction activity;
  - Special engineering solutions (foundations etc.) to protect trees;
  - Specification of no-dig surfacing details within tree RPAs and method statement;
  - Method for approved excavation in RPA's;

- Contractors car parking and phasing of construction works;
- Space required for foundation excavations and construction works;
- The location and space required for any service runs, both underground and overhead, including: foul and surface water drains, land drains, soakaways, gas, oil, water, ground source heat systems, electricity, telephone, television or other communication cables;
- All changes in ground levels including the location of retaining walls and steps, making adequate allowance for the foundations of such structures, drainage and back filling;
- Space for cranes, plant, scaffolding and access during works;
- Space for site huts, temporary toilets (including their drainage) and other temporary structures;
- The type and extent of landscape works which will be needed within the protected area, and the affect these will have on the root systems
- Space for storage (whether temporary or long-term) materials, spoil and fuel and the mixing of cement and concrete (including storage);
- The effect of slope on the movement of potential harmful liquid spillages towards or into protected areas.
- Particular attention, where applicable, to be given to the height of storage of topsoils and subsoils that is to be reused and should be dealt with as per BS 3882:2015 and BS 8601:2013
- Measures for dealing with Japanese Knotweed / Himalayan Balsam etc.
- Any proposed arboricultural watching brief to monitor and confirm the implementation and maintenance of tree protection measures.
- Tree surgery specification (in accordance with BS3998:2010 Tree work – Recommendations)
- Method for mitigating any accidents or contravention of the Tree Protection Plan.

## **8.0 TREE AND SHRUB PLANTING**

- 8.1 Appropriate new tree, shrub and hedgerow planting, amongst other landscaping proposals, may be required on development sites to enhance amenity, mitigate for any loss of tree canopy cover and to provide a sense of 'place'. It may also be to mitigate for a loss of biodiversity due to tree felling.
- 8.2 Planting should be carried out in accordance with British Standard BS8545 '*Trees: from nursery to independence in the landscape – Recommendations*'.
- 8.3 The choice of trees to be planted should consider the layout and design of the site, future use, soil and climatic conditions, local landscape character and contextual surroundings. Sufficient space must be planned within the layout to allow trees to reach their mature size.

- 8.4 Planted trees should be of a species that at maturity achieve a size and form compatible with the scale and structure of the development.
- 8.5 Where tree planting is proposed within hard surfaced areas (e.g. parking areas and footpaths) details of the drainage / irrigation (where necessary) and size of planting pits must be sufficient to provide an adequate volume of soil to support the eventual size of the planted tree(s). (Further advice on tree rooting volumes can be found in the titles marked \* in the Reference section.)
- 8.6 Commercial and large scale development should consider how trees can be integrated into the development taking into account other factors such as Sustainable Drainage Systems (SuDS) requirements. Guidance on tree integration can be found in *"Trees in the Townscape: A Guide for Decision Makers"* and be delivered using guidance in *"Trees in Hard Landscapes: A Guide for Delivery"*. (See UDP Policy EV35 'Surface Water Run-off')
- 8.7 **Protection of trees after the development is complete.** Both newly planted trees and existing ones retained within a development should be cared for after the development is complete. Conditions will normally be placed on planning consents to ensure that if any new tree included in a landscaping scheme of a development becomes unhealthy, or dies within 5 years of the completion of the development (or other conditioned period of time for the replacement of tree and shrub failures), it will be replaced by a new tree of like species, similar in age and size to the tree to be removed and at the same location. After 5 years (or other conditioned period of time for the replacement of tree and shrub failures) have elapsed following the completion of the development the LPA may consider making TPOs on the trees protected previously by condition.

## 9.0 PROFESSIONAL ADVICE

- 9.1 Who do you need to employ, Tree Consultant, Landscape Architect or Tree Surgeon / Contractor?
- A Tree consultant will give professional advice on the health and/or safety of a tree; relationships with proposed or existing buildings and development sites or any other tree issue requiring a report.
  - A suitably qualified, experienced and resourced Landscape Architect will give comprehensive advice on working with and the protection of the existing landscape, will design and 'make' great places and may give advice on existing tree issues. See links to the Landscape Institute (LI) in the Contacts page to see what a Landscape Architect can offer, the categories of membership of the LI and find a Practice with the skills and expertise you need.

- A qualified, competent and experienced tree surgeon / contractor will give a professional service including pruning, and removal and may give basic advice on tree condition and tree management operations as required.

**The LPA is unable to recommend who to employ but further guidance is set out below.**

9.2 **Tree Consultant.** A tree survey should be undertaken by a suitably qualified and experienced arboriculturist (as required by BS5837). All reports must specify the qualifications held by the arboriculturist and all surveyors. A professional providing this type of service **should hold Professional Indemnity Insurance** and one of the following qualifications or industry recognised standards:

- Certificate in Arboriculture level 3/4 (Tech Arbor A).
- Diploma in Arboriculture level 6 Dip Arb (RFS)
- BSc or MSc (Degree or Masters) in arboriculture.
- Professional Member or Fellow of the Institute of Chartered Foresters] attained by an arboricultural route / Chartered Arboriculturist (MICFor / FICFor)
- Fellow of the Arboricultural Association Arboricultural Association Registered Consultant

9.3 **Tree surgeon / contractor.**

Picking the wrong contractor could lead to:

- Injury to people,
- Damage to property,
- Irrevocable damage to trees that have taken many years to grow.

Tree work operations (arboriculture) require a high degree of technical competence, supported by training and experience. For these reasons tree work should only be undertaken by well trained, suitably resourced, competent contractors who hold adequate insurance.

Look for:

- Employers Liability and Public Liability Insurance (recommended min £5 million)
- NPTC Certificates of Competence
- Written quotations
- Membership of a professional organisation. (Membership does not guarantee work standards but does show a degree of commitment)
- References for similar work

9.4 An arboriculturist (e.g. an arboricultural Consultant) can help you prepare the necessary documentation required by the LPA in support of a planning application.



## REFERENCES

- <sup>1</sup> **Planning Policy Wales** (Edition 8, January 2016)
- <sup>2</sup> **Technical Advice Note (TAN) 10: Tree Preservation Orders** (1997)
- <sup>3</sup> **City and County of Swansea Unitary Development Plan.**  
Adopted November 2008
- <sup>4</sup> **City and County of Swansea Emerging Local Development Plan 2016**
- <sup>5</sup> **City and County of Swansea Draft Protected Tree Policy**
- <sup>6</sup> **British Standard BS5837:2012 Trees in relation to design, demolition and construction - Recommendations**
- <sup>7</sup> **British Standard BS3998:2010 Tree Work – Recommendations**
- <sup>8</sup> **British Standard BS8545:2014 Trees: from nursery to independence in the landscape – Recommendations**
- <sup>9</sup> **British Standard BS3882:2015 Specification for topsoil**
- <sup>10</sup> **British Standard BS8601:2013 Specification for subsoil and requirements for use**
- <sup>11</sup> **'Tree Roots in the Built Environment'**. (2006). Department for Communities and Local Government (DCLG)
- <sup>12</sup> \* **'Up by Roots' - Healthy Soils and Trees in the Built Environment.** James Urban. (ISA) (2008).
- <sup>13</sup> \* **'Urban Trees: A Practical Management Guide'**. Steve Cox. (2011)
- <sup>14</sup> **NHBC Standards, Building near trees**, Chapter 4.2
- <sup>15</sup> **'Ancient Tree Guides No. 3: Trees and Development.'**
- <sup>16</sup> **'Ancient and other veteran trees: further guidance on management'**. Lonsdale (2013)
- <sup>17</sup> **'Veteran Trees: A guide to good management'**. Helen Read. (2000). All ancient / veteran tree books are available from [www.woodlandtrust.org.uk](http://www.woodlandtrust.org.uk) as a free download.
- <sup>18</sup> **'Trees in the Townscape: A Guide for Decision Makers'**. 2012. TDAG
- <sup>19</sup> **'Trees in Hard Landscapes: A Guide for Delivery'**. 2014. TDAG. Both TDAG books are available as a free download at <http://www.tdag.org.uk>
- <sup>20</sup> **'Site layout planning for daylight and sunlight: a guide to good practice (BR 209)'** BRE. P.Littlefair

## USEFUL CONTACTS

- **Arboricultural Association (AA)**  
The Malthouse, Stroud  
Green, Standish,  
Stonehouse,  
Gloucestershire. G40 3DL  
Tel: 0 1242 522152  
E-mail: [admin@trees.org.uk](mailto:admin@trees.org.uk)  
Web: [www.trees.org.uk](http://www.trees.org.uk)

*Advice on trees and produces an annual directory of AA Registered Consultants*

- **Consulting Arborist Society (CAS)**  
Email: [chairman@consultingarboristsociety.co.uk](mailto:chairman@consultingarboristsociety.co.uk)  
Web: [www.consultingarboristsociety.co.uk](http://www.consultingarboristsociety.co.uk)

*Provides a list of CAS approved arboriculturists (Tree Consultants).*

- **British Standards Institute**  
Customer Services, 389  
Chiswick High Road,  
London, W4 4AL  
Tel: 020 8996 9001  
E-mail: [cservices@bsigroup.com](mailto:cservices@bsigroup.com)  
Web: [www.bsi-global.com](http://www.bsi-global.com)

*Provision of British Standards.*

- **Landscape Institute (LI)**  
107 Grays Inn Road  
London WC1X 8TZ  
Tel: 020 7685 2640  
<http://www.landscapeinstitute.org>

*See what a Landscape Architect can offer and find a practice with the skills and expertise you need.*

- **Arboricultural Advisory & Information Service,**  
Alice Holt Lodge,  
Wrecclesham,  
Farnham, Surrey, GU10 4LH.  
Tel: 09065 161147 (Premium rate) or  
administration 01420 22022  
Email: [admin@treehelp.info](mailto:admin@treehelp.info)  
Web: [www.treehelp.info/](http://www.treehelp.info/)

*Advice and guidance on tree care and issues related to trees on development sites*

*For more information contact:*

- **Planning and City Regeneration**  
City and County of Swansea  
Council  
Civic Centre  
Oystermouth Road  
Swansea  
SA1 3SN  
01792 636000  
[planning@swansea.gov.uk](mailto:planning@swansea.gov.uk)  
[ProtectedTrees@swansea.gov.uk](mailto:ProtectedTrees@swansea.gov.uk)  
[www.swansea.gov.uk](http://www.swansea.gov.uk)

## Appendix 2



CITY AND COUNTY OF SWANSEA

Dinas A Sir Abertawe

### BY EMAIL

Councillor Robert Francis-Davies  
Cabinet Member for Enterprise,  
Development & Regeneration

Councillor Mark Child  
Cabinet Member for Wellbeing & Healthy  
City

Please ask for:  
Gofynnwch am:

Direct Line:  
Llinell  
Uniongyrochol:

e-Mail  
e-Bost:

Our Ref  
Ein Cyf:

Your Ref  
Eich Cyf:

Date  
Dyddiad:

Scrutiny

01792 636292

scrutiny@swansea.gov.uk

9<sup>th</sup> May 2016

**Summary:** This is a letter from the Tree Preservation Scrutiny Working Group to the Cabinet Member for Enterprise, Development & Regeneration following the meeting of the Working Group on 21 April 2016. It is about the Council's approach to tree preservation and the working group's recommendations.

Dear Councillor Francis-Davies,

### Tree Preservation Scrutiny Working Group 21<sup>st</sup> April 2016

We wish to thank you and the officers, Jeff Saywell, Paul Meller, Alan Webster and Martin Bignall, for attending our meeting and engaging in an interesting and productive discussion. This letter reflects on the main areas of our discussion and provides a summary of our views on the matter of tree preservation.

We discussed the importance of the Council's responsibilities for preserving trees and we agree that this is an essential role. We were advised of the Tawe Catchment iTree Eco-survey and the significant benefits it has identified that are brought through the existence of urban trees, including their contribution in terms of carbon capture, rainwater interception and the removal of air pollution. In addition the Green Infrastructure Policy in the draft LDP lists the wide range of benefits of trees including enhancing the landscape and bio-diversity, improving air quality, reducing the impact of noise pollution, reducing flood risk, capturing carbon and goes on to state that trees should wherever possible be protected as part of new development.

Overview & Scrutiny / Trosolwg a craffu

City and County of Swansea / Dinas a Sir Abertawe  
Civic Centre, Swansea, SA1 3SN / Canolfan Ddinesig, Abertawe, SA1 3SN

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## Appendix 2

As a consequence of this we feel that it more important than ever that the Council ensures that it has an effective tree preservation service, both for trees on private land and on Council owned land. We discussed a range of issues and as a result have identified a number of recommendations that have an impact across the Council, and not just for the Landscaping Team.

### **Resources**

We were pleased to hear that the service has become more pro-active since becoming part of the Landscaping Team in 2011. Work is underway to address the accuracy of records by carrying out a review of existing Tree Preservation Orders. We were informed that there are a range of problems with the Council's historic records, which include a lack of original Tree Preservation Orders in the older files and instances of incomplete paperwork e.g. with missing signatures. We were advised that whilst this is not a problem in the planning arena it causes difficulties if the Council wishes to take up criminal proceedings as part of enforcement, as all relevant paperwork would need to be complete. A review of all documents is underway but limited resources means that progress is slow. We believe that the service should consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale.

### **Enforcement activity**

It is important that the Council is seen to be taking action where householders/developers have ignored Tree Preservation Orders. Our preferred option would be for the Council to select an appropriate case and follow through with a prosecution. We understand that there are difficulties in this, partly due to the fact that it would be a criminal case with a high burden of proof placed on the Council and that the time and resources available for this work are limited. However without taking action the Council is seen as a soft touch on this issue and there is no incentive for people to pay regard to Tree Preservation Orders. We were advised that a more straightforward option is the rigorous pursuit of replacement planting or remedial work at the owner's expense. Both routes should be followed and any successful outcomes publicised and promoted.

### **Protection of trees on Council land**

We learnt that Tree Preservation Orders are not placed on Council owned land as the Council is considered to be a responsible landowner. However we feel that this approach should be reconsidered as the increased sales of Council owned land through the asset disposal programme mean that we are reducing our land holdings in order to raise much needed capital receipts. This means that when land passes out of the Council's ownership the trees are unprotected. Therefore we recommend that Tree Preservation Orders are placed on Council land prior to sale. We appreciate that this may have an impact on the land value however the importance of tree preservation needs to be taken into account.

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### **Provision of information**

Overall we feel that more work needs to be done promoting the value and importance of trees both within the Council and with the general public. In particular, key officers within the Council such as planning officers should be fully aware of the importance of trees in order to ensure that appropriate planning conditions are used to protect trees as part of planning approvals. It is also important that clear information is available to the public regarding what can and can't be done to trees that are subject to Tree Preservation Orders.

### **Identification of protected trees**

We raised the issue of ensuring that trees covered by protection order can be identified. We discussed whether it would be possible to tag individual trees so that there is a clear visual marker that a tree is protected. However we were advised that this is not feasible due to the large number of trees and the officer time it would take. In addition, trees would eventually grow around the tags. We accept this advice, however we believe that it is essential that local ward members are provided with details of all Tree Preservation Orders in their wards. We believe that this will assist the service to identify when orders are breached or at risk of being breached by provided additional "eyes and ears" on the ground. We also propose that consideration is given to providing the same information to community councillors.

### **Tree replanting programme**

We learnt during our discussions that the Parks Service is the only section of the Council who carries out a tree replanting programme. We were informed that the service approximately plants 100-150 tree per year, but at the same time has to remove around 400 trees per year. Other departments do not replace trees as a matter of course. We feel that this is an area of concern. In order to maintain the tree population, with its associated benefits, we believe that the Council should ensure that, wherever possible, trees are replaced if they need to be removed.

We discussed the costs associated with this and were advised that the average cost of a 6-8ft tree is £100. We appreciate that the Council has to manage with reduced resources and is facing difficult budget decisions therefore we support the Parks Service idea of developing a Tree Nursery to mitigate the costs of purchasing new trees. We believe that the service should investigate whether this would be a feasible commercial opportunity.

### **Development of a tree policy**

There are a number of issues in relation to tree preservation which we believe should be brought together within an overarching Tree Policy. This should cover all issues relating to trees and not just Tree Preservation Orders, including the relevant issues we have raised in this letter plus the range of issues already

## Appendix 2

identified by officers in order to ensure a consistent Council wide approach to the retention and provision of tree cover.

### Recommendations

As a result of our consideration of the Council's work on tree preservation we wish to make the following recommendations:

1. Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale
2. Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised
3. When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's expense
4. Ensure that Tree Preservation Orders are placed on Council land prior to sale
5. Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards
6. Look for ways to promote the value and importance of trees amongst key staff members and the public
7. Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity
8. Ensure that other Council departments replant trees that are removed during the course of their work
9. Develop a tree policy for the whole Council

### Your response

In your response we would appreciate your comments on any of the issues raised in this letter. We would be grateful if you could specifically refer to the recommendations outlined. As some of the issues and recommendations come under the portfolio of the Cabinet Member for Wellbeing & Healthy City we have also sent a copy of this letter to him, however it would be preferable to receive a joint response to this letter.

Please could you provide your response by 30<sup>th</sup> May 2016.

Yours sincerely,

**Councillor David Cole**  
**Convener of the Tree Preservation Scrutiny Working Group**

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	<b>Recommendation</b>	<b>Cabinet Member</b>	<b>Decision</b>	<b>Actions include</b> <i>NB these actions are taken from Cabinet Member response – would need to clarify with officers the exact actions that are taking place</i>	<b>Progress</b>
<b>1</b>	Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale	Enterprise, Development & Regeneration	Agreed	<ul style="list-style-type: none"> <li>• Complete scanning of paper files</li> <li>• Identify inaccuracies in paper work – check each TPO</li> <li>• Identify and allocate ad hoc officer time to complete above actions</li> </ul>	
<b>2</b>	Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised	Enterprise, Development & Regeneration	Agreed	<ul style="list-style-type: none"> <li>• Landscape team will identify a suitable case for prosecution when it occurs</li> <li>• Any successful prosecution to be reported in the local press</li> </ul>	
<b>3</b>	When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's	Enterprise, Development & Regeneration; Leader (Finance & Strategy)	Agreed *may require a budget	<ul style="list-style-type: none"> <li>• Decision whether to take enforcement action to be assessed in each case – following persuasion, discussion and advice with tree owner</li> <li>• If Council decides not to take</li> </ul>	

	expense			<p>formal enforcement action a record will be kept and made available to public on request</p> <ul style="list-style-type: none"> <li>• If replanting not carried out by tree owner tree replacement notice to be served (within 4 years of alleged non-compliance)</li> <li>• A budget will be required if the Council is to carry out replanting in the event of non-compliance by tree owner</li> </ul>	
<b>4</b>	Ensure that Tree Preservation Orders are placed on Council land prior to sale	Enterprise, Development & Regeneration; Leader (Finance & Strategy)	Agreed	<ul style="list-style-type: none"> <li>• When considered for disposal land owned by the Council will be assessed using the Tree Evaluation Method for Preservation Orders</li> </ul>	
<b>5</b>	Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards	All CCS Councillors	Partially agreed	<ul style="list-style-type: none"> <li>• Each CCS Councillor will be supplied with electronic “copies” of each TPO present in their Ward</li> <li>• Members will be informed of new TPOs (as at present) and</li> </ul>	



				<p>any variation or revocation within their wards</p> <ul style="list-style-type: none"> <li>Community councils are consulted on and are provided with copies of schedules and plans of provisional TPOs and are notified of confirmations, variations and revocations and are consulted on relevant tree works applications</li> </ul>	
6	<p>Look for ways to promote the value and importance of trees amongst key staff members and the public</p>	<p>Enterprise, Development &amp; Regeneration</p>	<p>Agreed</p>	<ul style="list-style-type: none"> <li>Training will be provided to Planning Officers by the Landscape Team relating to trees in the planning context in validating planning and tree works applications and the emerging LDP policies.</li> <li>Guidance notes “The Protection of Trees on Development Sites” to be updated to ensure public is provided with current best advice. This may be included as supplementary planning guidance when the new LDP is adopted</li> </ul>	

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				<ul style="list-style-type: none"> <li>• Further information to be provided on website to increase the information available to the public on matters of relevance to protected trees within Conservation Areas and trees in general e.g. our approach to Ash die back disease.</li> </ul>	
7	Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity	Wellbeing & Healthy City	Partially agreed	<ul style="list-style-type: none"> <li>• Parks department to look at space and resources to carry this out on a limited scale for their own use.</li> <li>• Being considered as part of the Parks and Cleansing Commissioning Review – but not felt to be viable to carry out on a commercial basis</li> </ul>	
8	Ensure that other Council departments replant trees that are removed during the course of their work	All Cabinet Members	Partially agreed	<ul style="list-style-type: none"> <li>• Look to reduce the imbalance between felling and planting – unlikely to be able to ensure 1 for 1 replanting. But ensure justifying why not replanting trees in certain circumstances</li> <li>• This to be a key element of a Tree Policy</li> </ul>	

### Appendix 3

9	Develop a tree policy for the whole Council	All Cabinet Members		<ul style="list-style-type: none"><li>• A whole Council Tree Policy requires co-operation and approval of all Cabinet and affected Council Services</li><li>• Landscape team to produce and interim policy covering protected trees to facilitate and make more transparent the decision making process</li></ul>	
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