

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the
PLANNING COMMITTEE

At: Council Chamber, Guildhall, Swansea

On: Tuesday, 4 October 2016

Time: 2.00 pm

Chair: Councillor Paul Lloyd

Membership:

Councillors: P M Black, A C S Colburn, D W Cole, A M Cook, M H Jones,
E T Kirchner, H M Morris, P B Smith, M Thomas, D W W Thomas and T M White

The use of Welsh is welcomed. If you wish to use Welsh please inform us by noon on the working day before the meeting.

AGENDA

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2 Disclosures of Personal and Prejudicial Interests. www.swansea.gov.uk/disclosuresofinterests	
3 Minutes. To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 4
4 Items for Deferral / Withdrawal.	
5 Application to Register Land Known as Parc y Werin, Gorseinon, Swansea as a Town or Village Green - Application No. 2734(S).	5 - 45
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Next Meeting: Tuesday, 1 November 2016 at 2.00 pm



Huw Evans
Head of Democratic Services
Tuesday, 27 September 2016

Contact: Democratic Services - 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE PLANNING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON TUESDAY,
6 SEPTEMBER 2016 AT 2.00 PM

PRESENT: Councillor P Lloyd (Chair) Presided

Councillor(s)	Councillor(s)	Councillor(s)
P M Black	A C S Colburn	D W Cole
A M Cook	M H Jones	E T Kirchner
H M Morris	P B Smith	M Thomas
D W W Thomas	T M White	

Apologies for Absence

No apologies for absence were received.

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

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

Councillor D W Cole – Minute No. 28 - Planning Application 2015/2506 – Land at Heol Pentre Bach, Gorseinon, Swansea – Personal as Ward Councillor for the area.

Councillor M H Jones – Minute No. 26 - Public Rights of Way – Various Alleged Public Rights of Way between Hendrefoilan Road, Hungtington Way and Waunarlydd Road – Personal – have walked these footpaths.

Councillor D W W Thomas – Minute No. 28 - Planning Application 2015/2506 – Land at Heol Pentre Bach, Gorseinon, Swansea – Personal as Deputy Cabinet Member for Education.

24 **MINUTES.**

RESOLVED that the Minutes of the Planning Committee held on 2 August 2016 be approved as a correct record.

25 **ITEMS FOR DEFERRAL / WITHDRAWAL.**

RESOLVED that the following applications be deferred as indicated below:

(Item 2) Planning Application 2016/0627 Land adjacent to Morriston Hospital and Cwrtnewydd Mynydd Gelli Wastad Road, Morriston, Swansea SA6 6PX – Use of land for car parking for an operational period of three years, including alternation to existing access from Mynydd Gelliwastad Road and all associated operations and the use of adjacent land for the storage of topsoil

Application **DEFERRED** to allow applicant to consider development project issues.

(Item 3) Planning Application 2016/0641 Morryston Hospital Swansea NHS Trust heol Maes Eglwys, Cwmrhydyceirw, Swansea SA6 6NL – Two / three storey private hospital with associated landscaping, road and car parking (outline)

Application **DEFERRED** as this application needs to be considered in conjunction with application 2016/0627.

(Item 5) Planning Application 2016/1249 26 Pinewood Road, Uplands, Swansea SA2 0LT – Change of use from residential (Class C3) to HMO for 4 people (Class C4)

Application **DEFERRED** to allow anomalies in the report to be corrected.

26 **PUBLIC RIGHTS OF WAY - VARIOUS ALLEGED PUBLIC RIGHTS OF WAY BETWEEN HENDREFOILAN ROAD, HUNTINGTON WAY AND WAUNARLWYDD ROAD IN THE COMMUNITIES OF KILLAY, SKETTY & COCKETT.**

Sandie Richards, Principal Lawyer presented a report on behalf of the Head of Legal & Democratic Services to consider whether to accept or reject the application to make a Modification Order to record various public footpaths on the Council's Definitive Map and Statement of Public Rights of Way.

A visual presentation was provided.

RESOLVED that the application be accepted and that modification order be made.

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

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

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 1) Planning Application 2016/1051 Channel View, Three Crosses, Swansea SA4 3UR Replacement detached dwelling

Late letter of objection received from a resident of West Cross. The objector is of the opinion that the new dwelling is of an unacceptable design that does not complement the character of the Gower or this rural location. The objector also states that the demolition of the existing house is not sustainable.

A visual presentation was provided.

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

#(Item 4) Planning Application 2016/1038 124 St Helens Avenue, Brynmill, Swansea SA1 4NW. Change of use from residential (Class C3) to 5 bedroom HMO (Class 4)

Additional letter of objection received. Issues raised reflect those raised in other objections.

Amended block plan received showing the provision of one off street car parking space to the rear of the property.

Councillor Nick Davies, Ward Councillor for Uplands addressed the Committee and spoke against the application.

Application **REFUSED** contrary to officer recommendations for the following reason:

- 1) *The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within St Helen's Avenue will result in a harmful concentration and intensification of HMOs in the street and wider area. This cumulative impact will result in damage to the character of the area and social cohesion with higher levels of transient residents and fewer long term households and established families. Such impact will lead in the long term to communities which are not balanced and self-sustaining. As a result the proposal is contrary to Policy HC5 criterion (ii) of the Swansea Unitary Development Plan (2008) and the National Policy aims set out in Planning Policy Wales (Edition 8 January 2016) of creating sustainable and inclusive mixed communities.*

(Item 6) Planning Application 2016/1316 – 105 Rhyddings Terrace, Brynmill, Swansea SA2 0DS – Retention of change of use from a 4 bedroom dwelling (Class C3) to a 5 bedroom HMO Use (Class C4) and alterations carried out to bay window and first floor windows in front elevation.

Late letter of objection received from local resident re-iterating objections raised by other residents.

Late letter of objection received from Cllr Peter May on the grounds that the proposal contravenes Policy AS6. He considers that the provision of cycle racks is only to circumvent the fact there is extra parking demand. There is no rear access to the property so any cycle parked within the rear garden will need to be taken through the house so will never or rarely be used. The object of the condition requiring cycle parking is to obtain planning permission rather than promote sustainable transport. The highway observations miss the point and focus on resident parking spaces rather than total available street parking.

A visual presentation was provided.

Julia Johnson addressed the committee on behalf of the local residents and spoke against the application.

Councillor Nick Davies, Ward Member for Uplands addressed the Committee and spoke against the application.

Application refused contrary to officer recommendations for the following reasons:

1. *The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within Rhyddings Terrace will result in a harmful concentration and intensification of HMOs in the street and wider area. This cumulative impact will result in damage to the character of the area and social cohesion with higher levels of transient residents and fewer long term households and established families. Such impact will lead in the long term to communities which are not balanced and self-sustaining. As a result the proposal is contrary to Policy HC5 criterion (ii) of the Swansea Unitary Development Plan (2008) and the National Policy aims set out in Planning Policy Wales (Edition 8 January 2016) of creating sustainable and inclusive mixed communities.*

28 **PLANNING APPLICATION REF: 2015/2506 - LAND AT HEOL PENTRE BACH, GORSEINON, SWANSEA SA4 4ZA.**

An updated report was presented on behalf of the Head of Planning and City Regeneration. The application had been deferred from Planning Committee on 2 August 2016 under the two stage voting process so that further advice could be provided with regard to the interpretation of the Council's Developer Guidance – Planning Applications for Non-Householder, Residential Development (which promotes a positive approach for appropriate residential sites recommended for allocation in the emerging LDP) and reasons for refusal relating to the impact upon the Green Wedge, highway safety and S106 contributions.

RESOLVED that the application be **APPROVED** in accordance with the recommendation.

29 **PROVISIONAL TREE PRESERVATION ORDER P17.7.4.618 - LAND AT NEWTON VILLAGE HALL, CASWELL ROAD, SWANSEA 2016.**

Alan Webster, Landscape Assistant (Arboriculturist) presented a report on behalf of The Head of Planning & City Regeneration to consider the confirmation, as a full Order, of the provisional Tree Preservation Order 618: Land at Newton Village Hall, Caswell Road, Swansea. 2016.

RESOLVED that the Tree Preservation Order: Land at Newton Village Hall, Caswell Road, Swansea, be confirmed.

The meeting ended at 3.50 pm

CHAIR

Report of the Head of Legal and Democratic Services

Planning Committee – 4 October 2016

APPLICATION TO REGISTER LAND KNOWN AS PARC Y WERIN, GORSEINON, SWANSEA AS A TOWN OR VILLAGE GREEN APPLICATION NO. 2734(S)

Purpose:	To inform the Sub-Committee of the proposal to hold a non-statutory inquiry.
Policy Framework:	None
Statutory Tests:	Section 15 Commons Act 2006
Report Author:	Sandie Richards
Finance Officer:	Paul Roach
Legal Officer:	Tracey Meredith
Access to Services Officer:	Phil Couch

FOR INFORMATION

1.0 Introduction

- 1.1 The Council has received an application from Gorseinon Community Councillors James Dunckley and Claire Elizabeth Lewis in respect of land known as Parc y Werin, Gorseinon, Swansea. The application is made by Cllrs Dunckley and Lewis in their personal capacity and not on behalf of the Community Council. The application seeks to register land as a Town or Village Green. A plan of the land in question appears as Appendix 1.
- 1.2 The land subject to the application is owned by this Council. The Council in its capacity as owner of the land and has made an objection to the application.
- 1.3 The Head of Legal and Democratic Services has delegated authority to instruct Counsel to Act as Inspector and to advise on the application and the appropriate procedure to be adopted in determining the application including whether a public inquiry would be necessary to consider the application. Mr. Alun Alesbury, MA, Barrister-at-law was instructed to advise.

2.0 History of the Application

- 2.1 A report to the Planning Committee of 10th May 2016 was deferred in order to consider further information submitted by the Applicants. A copy of that report appears as Appendix 2.
- 2.2 The Inspector recommended in that report that the application be refused and that no part of the land of the application site be added to the Register of Town or Village Greens under Section 15 of the Commons Act 2006.
- 2.3 In light of the further information submitted by the Applicants the Inspector has produced Further Advice and Revised Recommendation as to Procedure dated 2nd September 2016. A copy of this document appears as Appendix 3.
- 2.4 Members will note that the Inspector states at paragraph 20 of his Further Advice that in his judgment “the dispute between the parties has now become sufficiently complex and unstraightforward that the best way of seeking to resolve it is actually to require both parties to come to a local inquiry, having been required to ‘sort out’, at the same time, exactly what their final position is on all the relevant issues in dispute.”
- 2.5 However, the Inspector also states that such an inquiry should be limited to those aspects which are disputed between the parties.
- 2.6 The holding of such an inquiry will ensure that evidence from both the Applicants and the Objectors can be heard and tested and the issues examined and argued over.
- 2.7 Once the inquiry has taken place the Inspector will issue a report with recommendations for this Committee to consider and make a decision upon.

3.0 Equality and Engagement

- 3.1 There are no Equality and Engagement implications to this report.

4.0 Legal Implications

- 4.1 The Council in its role as Commons Registration Authority has a statutory duty pursuant to Section 15 of the Commons Act 2006 and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007 to determine applications for land to be registered as a town or village green.

- 4.2 The effect of registration of land as a town or village green is that it is protected from development for ever and preserved for use by local people.
- 4.3 The land is owned and maintained by the City and County of Swansea and a conflict arises as the Council is both the Commons Registration Authority and the principal objector. These roles have to remain separate as far as possible so as to minimise challenge by way of judicial review. The application must be considered purely on the merits of the case by applying the relevant law and in accordance with the principles of natural justice. The usual way of overcoming the conflict caused by the dual role is by the holding of a non-statutory inquiry.

5.0 Financial Implications

- 5.1 There is no specific budget identified for the expenditure incurred for the determination of applications. Expenditure will be incurred from existing budget provisions.
- 5.2 If the land is designated as Town or Village Green it will not be available for development in the future.

Background papers: Application File.

Appendices: Appendix 1: Plan of the application site

Appendix 2: Report to the Planning Committee dated 10th May 2016

Appendix 3: Further Advice and Revised Recommendation as to Procedure from Mr. Alun Alesbury, Barrister-at-law, dated 2nd September 2016.

CITY AND COUNTY OF SWANSEA
Application for Registration of Town or Village Green
Section 15 Commons Act 2006
Parc Y Werin, Gorseinon, Swansea
Application No. 2734(S)



Area subject to application
 Scale: 1:2500

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CITY & COUNTY OF SWANSEA

COMMONS ACT 2006, SECTION 15

**APPLICATION TO REGISTER LAND KNOWN AS
PARC Y WERIN, GORSEINON,
AS A 'TOWN OR VILLAGE GREEN'**

**FURTHER ADVICE AND
REVISED RECOMMENDATION
AS TO PROCEDURE**

1. I refer to my earlier 'Advice and Recommendation' in this matter, dated 19th February 2016, to the Council in its 'quasi-judicial' capacity as Registration Authority under the *Commons Act 2006*. In that earlier document I advised the Registration Authority that, for reasons discussed extensively therein, and based on the evidence and submissions which had

at that stage been provided by the parties, the Applicants' application to register land at Parc y Werin under **Section 15** of that Act as a 'town or village green' could be seen to have failed on legal grounds. Therefore (I advised) the application could properly be rejected by the Authority, without the need to convene a local public inquiry into the matter.

2. Clearly, as I have just indicated, that advice and recommendation were based on the exchanges of written material which had taken place by that time as between the relevant parties – the Applicants and the principal Objector to the application – that Objector being of course the Council itself, but in its distinct capacity as owner of the land in question. The normal practice of the Registration Authority, prior to the proposed taking of the final decision on a **Commons Act** application by the Council's relevant committee, in the light of any such advice and recommendation, is (I understand) that the advice and recommendation are then made available to the parties for any further observations or suggested factual corrections, etc.
3. In this case, that opportunity for further comment in fact generated a significant number of further representations from the parties, initially from the Applicants' side. The first of these was headed "Applicants' Response to the Inspector (dated 3rd May 2016)", though the same

document also bears the date 4th May 2016 [nothing turns on this minor inconsistency of date].

4. In this Response document the Applicants indicated that they (at that time) accepted my findings in relation to the part of the application site which the parties had called ‘the 1921 land’ [originally acquired by the Council’s predecessor (on lease) in that year]. However they suggested, in relation to the other part of the site known (for these purposes) as ‘the 1924 land’, that evidence had become available suggesting: (i) that temporary housing had been erected for a period on part of the ‘1924 land’; (ii) that some of the 1924 land had for a period had an old spoil tip on it; (iii) that parts of the original ‘1924 land’, extending beyond the present application site, had been over the years developed for permanent housing [I summarise the Appellants’ main points briefly, but I have read and considered the whole of their representation]. The Applicants also produced some further plans relating to their points.

5. Clearly there was no need for me to comment any further on the Applicants’ (then) acceptance of my findings about the ‘1921 land’. As far as the ‘1924 land’ was concerned, new points had been raised by the Applicants. If the matter had rested there, it would have been appropriate to consider whether a further reply on those points was needed from the

Objector, and if so whether anything more than a further exchange of written submissions was required, in order to do justice to the positions of the respective parties.

6. However, in a later email to the Registration Authority of 8th May 2016, attaching a representation headed 'Further Comments on the 1921 land', it was suggested on behalf of the Applicants that further reasoning had come to light as to why the 'Inspector's current finding in respect of the 1921 land is fundamentally flawed' [the reference to "the Inspector" in both representations being clearly a reference to myself in the context of my earlier Advice and Recommendation]. In addition, the Applicants drew attention (with some supporting documentation) to the point that, in answer to a 'Freedom of Information' request made in November 2015, an answer had been given on behalf of the Council which was completely at odds, factually, with the factual basis on which the Council had made its case as Objector in the present *Commons Act* proceedings. The information requested had been as to what statutory power Parc y Werin is held under, and under what statutory power it had been acquired by the Council's predecessor authority.
7. The answer which had been given (dated 15th December 2015) to the 'Freedom of Information' request made reference to a conveyance of July

1949 between the old Llŵchwr Urban District Council and the old Glamorgan County Council, and to two transactions, in 2011 and 2013, between the present Council and a local health board, which were said to have given rise to some restrictive covenant considerations. However no reference at all was made to any of the substantial information which was later provided by the Council as Objector in these present proceedings, in relation to the acquisition and subsequent history of what became called (by all parties) the '1921 land' and the '1924 land'. Conversely the representations and evidence of the Council as Objector in these proceedings had made no reference to the conveyance of 1949, or the matters from 2011 and 2013, to which the 'FOI Response' had referred.

8. The first part of the Applicants' 'Further Comments' of 8th May again gave rise to a need to consider whether points had been raised which required a further reply from the Objector, and if so as to the best manner procedurally to provide for any consequential exchange of submissions.

9. However the matter which the Applicants raised in relation to the 'Freedom of Information' response of December 2016, and its inconsistency with the factual basis of the Council's previously lodged case in these present proceedings, clearly merited immediate further investigation, with a view to elucidating the true position. Whatever view

may have been ultimately taken as to the various new legal submissions which had been raised by the Applicant, it would clearly in my view have been unsatisfactory and legally questionable for the Registration Authority to have contemplated taking the final decision in the present proceedings, without this very puzzling apparent inconsistency in the factual background having been clarified.

10. The Registration Authority had (as is proper) drawn the attention of the Objector (i.e. the Council as landowner) to the various further representations received from the Applicants, including the query about the 'Freedom of Information' response having been inconsistent with the Objector's earlier submissions in the present case. An email dated 20th May 2016 was sent to the Registration Authority by Mr Mathew Joyce-Brown of (I understand) the Council's Property Department, which suggested that the Freedom of Information Request (and its answer) had related to other neighbouring land, and not to land subject to the present *Commons Act* application. Accompanying the email were attachments including a copy of the conveyance of 20th July 1949, to which the 'FOI Response' had referred, and also a copy letter of 1944, relating to the (then proposed) acquisition of the freehold of the previously (1921) leased area of the park, citing the statutory authority for the acquisition as being the *Public Health Act 1875*.

11. In a later email of 26th May 2016, Mr Joyce-Brown informed the Registration Authority that he had been in contact with the officer who had been responsible for the December 2015 'FOI Response', who had admitted that the answer given on 15th December was an error, based (it seems) on the re-use of material which had originally been available in a different context, relating to the adjoining piece of land.
12. I understand that the Registration Authority provided the Applicants with copies of both of Mr Joyce-Brown's communications on behalf of the Objector, and their relevant attached documents, and invited them to make any further comments or representations which they wished to, in relation to them.
13. However, in addition to doing that, it transpired that the Applicants had undertaken further research into the case more widely, and had come up with a series of additional points, and 'new' information, which they set out in a series of documents, in some cases accompanied by 'exhibits' (generally 'historic' documents or photographs). On 24th May 2016 they submitted a document headed 'Further submissions on the 1921 land'. Then on 7th June 2016 they submitted a document headed 'Comments on the Objector's new evidence', and another one (with exhibits) headed

‘Further information regarding residential accommodation on Parc y Werin’.

14. All of these documents were of course provided to the Objector. I have now seen a document (with several appendices) dated 16th August 2016, headed ‘Supplementary Objection Statement’, which has been received by the Registration Authority from the Objector (the Council as landowner). In its terms this statement indicates that it is seeking to respond to the Applicants’ “Further information regarding residential accommodation on Parc y Werin”.
15. The first thing which needs to be said is that, whatever else is done, no determination could properly be made on the current application until the Applicants had been given an adequate opportunity to respond properly, on the facts and on the law, to this latest objection statement, and its exhibits. The experience of what took place in May and early June 2016, following the Applicants’ being given sight of my original Advice and Recommendation, makes it highly likely (in my judgment), and perfectly reasonable in the circumstances, that the Applicants’ could be expected to take advantage of their right of reply to make further relevant submissions, and possibly provide yet further historical evidence. It is not inappropriate to observe that, as matters have progressed so far, various pieces of the

potentially relevant historical background have been emerging in ‘dribs and drabs’ from both sides.

16. The question which now arises for the Registration Authority is the most appropriate way of dealing with the present situation procedurally, having regard to the need for fairness and justice to both sides, and the linked need to bring the matter properly to a *final* determination, consistent with that requirement for fairness and justice.

17. In my original Advice, when I believed this matter could properly (and fairly) be determined ‘on the papers’, without the need for a local inquiry, I said this: *“Clearly, if this were a case where there was a substantial dispute of fact, whose resolution one way or the other is likely to determine the application, as well as the land belonging (as it does) to the Council itself, it is unlikely, given the Registration Authority’s adopted procedure for ‘village green’ applications, that it would **not** be a case where the normal assumption would be that an inquiry should be held. In reality therefore the present question becomes whether or not, on such of the facts as are undisputed (or not materially disputed), there are clear legal grounds for concluding that, whatever the Applicants may argue, the land concerned cannot as a matter of law be registered under **Section 15** of the **2006 Act.**”*

18. At that time it appeared to me, on the material then available, that there was a sufficient basis of apparently undisputed historical information, in relation to the use and status of this land, that an inquiry was not needed to resolve the matter. However the exchanges which have taken place since then have plausibly raised the suggestion that the historical background here was (or might have been) considerably more complicated than then appeared to be the case. It appears to me also from a number of observations in the latest supplementary objection statement from the Objector that there is some recognition there that the background history of the land-holding at Parc y Werin is still not completely clear..
19. The situation which has now been reached is therefore not, I have to advise, one where I feel any longer confident that the position on the facts is so clearly established that no further investigation or consideration by the Registration Authority or the parties is required. I am also no longer satisfied that the matter can be brought to a proper final determination simply by asking the Applicants' side for a written reply to the latest statement from the Objector.
20. In my judgment the dispute between the parties has now become sufficiently complex and unstraightforward that the best way of seeking to resolve it is actually to require both parties to come to a local inquiry,

having been required to ‘sort out’, at the same time, exactly what their final position is on all the relevant issues in dispute.

21. I do not believe it would be necessary for such an inquiry to spend time hearing lengthy evidence on all aspects of the statutory criteria for a claim under the *Commons Act*; the concessions on behalf of the Objector as to some of the key aspects of those criteria, which I noted at paragraph 7 of my earlier Advice, mean (for example) that it would not be necessary for an inquiry to hear evidence from local people that they had actually used Parc y Werin for ‘lawful sports and pastimes’ during the relevant 20 year period. The evidential matters still needing to be clarified definitively could be said to relate more to the longer term history of the park, and the various parts of it, and the implications of that history for its legal status
22. It is however entirely possible (and desirable) for the scope of any proposed inquiry to be controlled by the issue of Directions to the parties, so that time is not wasted dealing unnecessarily with undisputed aspects of the case.
23. I have already said that, in any event, the Applicants have to be given the opportunity of considering and replying to the latest supplementary statement from the Objector. However if (as I advise) the decision is now taken to hold a local inquiry, it is not necessary for that opportunity to be

provided before the parties are invited to prepare for such an inquiry. The Applicants can properly be asked to make what response they consider appropriate to the supplementary statement, as part of the preparation of their evidence and submissions for the inquiry itself.

Revised advice and recommendation

24. I therefore now advise, contrary to the formal Advice I gave on 19th February 2016, that it is no longer appropriate for the Registration Authority to see this application as one which can properly and justly be determined ‘on the papers’, without the need for a public local inquiry. Clearly this change in my advice is because of all the various further submissions and evidence received from the parties since February, as discussed extensively above. My recommendation therefore is that a public local inquiry should now be held, as speedily as practicable, but that its scope should be limited (through the issue of suitable Directions), so as to avoid time being wasted on the hearing of evidence on undisputed aspects of the case.

25. I am happy to assist further, in any way I can, in relation to this matter, including the drafting of relevant Directions, as well (of course) as answering any queries which may arise from this present advice.

ALUN ALESBURY
2nd September 2016

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London WC1R 5JH
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Pierhead Street
Cardiff Bay CF10 4DQ

COMMONS ACT 2006, SECTION 15

**APPLICATION TO REGISTER LAND KNOWN AS
PARC Y WERIN, GORSEINON,
AS A 'TOWN OR VILLAGE GREEN'**

**FURTHER ADVICE AND
REVISED RECOMMENDATION
AS TO PROCEDURE**

Mrs Sandie Richards
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Report of the Head of Legal and Democratic Services

Planning Committee – 10 May 2016

APPLICATION TO REGISTER LAND KNOWN AS PARC Y WERIN, GORSEINON SWANSEA AS A TOWN OR VILLAGE GREN

APPLICATION NO. 2734(S)

Purpose:	To inform the Committee of the recommendation of the Inspector
Policy Framework:	None
Statutory Tests:	Section 15 Commons Act 2006
Reason for the Decision:	The Authority has a statutory duty to determine the application
Consultation:	Legal, Finance, Planning and Local Members
Recommendation	It is recommended that: <ol style="list-style-type: none">1) the application for the above registration be REFUSED;2) that NO PART of the land of the application site be added to the Register of Town or Village Greens under Section 15 of the Commons Act 2006.
Report Author:	Sandie Richards
Finance Officer:	Aimee Dyer
Legal Officer:	Tracey Meredith
Access to Services Officer:	Phil Couch

1.0 Introduction

1.1 The Council has received an application by Gorseinon Community Councillors James Dunkley and Claire Elizabeth Lewis in respect of land known as Parc y Werin, Gorseinon, Swansea. The application is made by Cllrs Dunkley and Lewis in a personal capacity and not on behalf of the Community Council. The application seeks to register land as a Town or Village Green. A plan of the land in question appears as Appendix 1.

2.0 History of the Application

2.1 The land is owned by this Council. The Council in its capacity as owner of the land has made an objection to the application. A number of other objections have also been received from residents from the locality of the application site.

2.2 The Head of Legal and Democratic Services has delegated authority to instruct Counsel to act as Inspector and to advise on the application and the appropriate procedure to be adopted in determining the application including whether a public inquiry would be necessary to consider the application. Mr. Alun Alesbury, MA, Barrister-at-law was instructed to advise.

3.0 The Remit of the Inspector

3.1 The role of the Inspector was to act on behalf of the Council solely in its role as Commons Registration Authority. The Inspector had no involvement with the Council in its capacity of landowner or in respect of the planning permission granted by the Planning Committee on 8th December 2015 for the development of a new school.

3.2 Mr. Alesbury is a recognised expert in this area of law and has been appointed on numerous occasions to advise on applications and to hold public inquiries in relation to village green applications both by the City & County of Swansea and other local authorities throughout England and Wales.

4.0 The Role of this Committee

4.1 The Inspector's findings are not binding on this Committee. It is for the Committee to reach its own determination on the matters of fact and law arising as a result of the Application.

4.2 It is for this Committee to determine the Application fairly, putting aside any considerations for the desirability of the land being registered as a Town or Village Green or being put to other uses.

4.3 However, the Inspector has had the opportunity to assess the written evidence of all parties in light of the legislation and relevant case law. It is therefore not appropriate for this Committee to re-open issues regarding the quality of the evidence unless they have extremely strong reasons to do so.

5.0 The Legal Tests to be Satisfied

5.1 The Commons Act 2006 is the statutory regime governing village greens. Section 15 of the Act sets out the requirements which must be met if the land is to be registered. Registration of town and village greens is determined by the Council in its capacity as Commons Registration Authority. The process of determination of any application is focused on whether a village green has come into existence as a matter of law.

5.2 The tests to be satisfied in respect of an application for town or village green status are completely different to those involved for a planning application. The criteria relevant to the granting of a planning permission are, as a matter of law, completely different from those relevant to a Commons Act determination. A Commons Act determination is entirely dependent on matters of *fact* relating to the past history of the land concerned and the legal consequences of those facts, once the facts have been established. Views as to what *ought* to happen (or be permitted to happen) on the site in the future are completely irrelevant.

5.3 The application in this case was made under s.15(2) of the Commons Act 2006. That section applies where:

“a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years”

and

b) “they continue to do so at the time of the application.”

5.4 The test can be broken down as follows:

“a significant number of the inhabitants . . . “

It is sufficient to show a general use by the local community as opposed to mere occasional use by trespassers. It is not assessed by a simple headcount of users.

5.5 *“. . . of the inhabitants of any locality or any neighbourhood within a locality”*

This is not defined by any arbitrary margins and must be a recognised county division such as a borough, parish or manor. An ecclesiastical parish can be a locality. It is acceptable for the users of the land to come ‘predominantly’ from the locality. A neighbourhood must be clearly defined and have a sufficient cohesiveness. It must also be within a locality.

5.6 *“. . . have indulged as of right . . . “*

Use ‘as of right’ is use without permission, secrecy or force. The key issue in user ‘as of right’ is not the subjective intentions of the users but how the use of the land would appear, objectively, to the landowner. Use is ‘as of right’ if it would appear to the reasonable landowner to be an assertion of a right. Permission by the landowner, perhaps in the form of a notice on the land, would mean that the use is not ‘as of right’. Equally use by force, such as where the user climbs over a fence or other enclosure to gain access to the land would not be use ‘as of right’.

5.7 If the use of the land is not sufficient in terms of frequency or regularity to reasonably bring it to the attention of a landowner, then it may be a secret use and have direct consequences upon it. Another example of a secret use could be where the use takes place exclusively under the cover of darkness such that it would not be reasonable to expect a landowner to become aware of it.

5.8 *“in lawful sports and pastimes on the land . . .”*

This is broadly interpreted so that general recreational use including walking with or without dogs and children’s play would all be included.

5.9 *“. . . for a period of at least 20 years. . . .”*

The relevant 20 year period in this application is measured backwards from the date the application was received on 23rd November 2015.

6.0 Burden and Standard of Proof

6.1 In order for an application to be successful each aspect of the requirements of Section 15(2) must be strictly proven and the burden of proof in this regard is firmly upon the Applicant. The standard of proof to be applied is ‘on the balance of probabilities’. Therefore the Applicant must demonstrate that all the elements contained in the definition of a town or village green in section 15(2) of the Commons Act 2006 have been satisfied.

6.2 This Committee must be satisfied based on the evidence and the report of the Inspector that **each** element of the test has been proven on the balance of probabilities. In other words, it must be more likely than not that each element of the test is satisfied.

7.0 The Inspector’s Findings

7.1 The Inspector addresses each of the elements of the test in an Advice dated 19th February 2016 (which is attached as Appendix 2) and these are set out below.

7.2 Members will note from paragraph 7 of the Inspector’s Advice and Recommendations that the Council as Objector has expressly accepted that the application site at Parc y Werin has been extensively used since the 1920s as a park for recreation by local people and the general public; that there have been no ‘permissive’ signs at the park; and that the gates of the park were not (at any material time) closed or locked.

7.3 However, three main lines of argument have been put forward by the Council as Objector as to why the application site is still not eligible to be registered under Section 15(2) of the Commons Act 2006. These can be summarised as being that the use of the park by the local public was not “as of right” as required by the legislation; that there is a ‘statutory incompatibility’ between the basis on which the Council has held the land concerned and finally that

the Applicants had not identified an appropriate 'Locality' in respect of whose inhabitants the claim for registration was made. The Inspector considers these points as follows:

7.4 "Locality" or "Neighbourhood within a Locality"

This is addressed in paragraphs 9 and 10 of the Inspector's Advice and Recommendations. He concludes that the administrative area of the Gorseinon Town Council is plainly capable of being a 'locality' for the purposes of the application.

7.5 Statutory Incompatibility

The Inspector considers the argument submitted by the Council in its objection that the precise basis on which the Council, and its local government predecessors as owners, have held the various parts of the land at Parc y Werin since their original acquisition. He is of the view that on the information he had considered does not present a clear basis on which it would be appropriate or right to reject the Applicants' claim, without calling on the parties to provide further submissions and evidence in clarification.

7.6 "As of right"

The issue of whether the use of the land has been "as of right" is considered by the Inspector on paragraphs 18 to 31 of his Advice and Recommendations.

The Inspector discusses the relevant case law and in particular the decision of the Supreme Court in the case of *R (Barkas) –v- North Yorkshire County Council* [2015] AC 195, [2014] UKSC 31 where the Court equated having a statutory right to use a piece of land to having *permission* to use it. This means that if there is something about the basis on which the Council (or its predecessors) held the land concerned which gave the public a right, or a permission to use the land, in particular during the relevant 20 year period, then that land *cannot* be registered as 'town or village green' because it cannot have been used so as to meet the 'as of right' test.

Consideration is given to the fact that part of the present Parc y Werin was purchased by the former Swansea RDC under an Indenture of 1924 under statutory powers under the Housing Acts 1890 to 1919 and further that recreational/leisure use of the relevant part of Parc y Werin by the local public will have been 'by right', not 'as of right', during the whole of the period being considered.

8.0 Formal Conclusion and Recommendation

- 8.1 The Inspector concludes that there is no justification for the convening of a local public inquiry in order to consider the matter further. He takes the view that the application simply cannot succeed as a matter of law because the use of the application site cannot have been 'as of right', in the sense required by the law.
- 8.2 He recommends that no part of the application site at Parc y Werin should be added to the statutory register of town or village greens and that further this decision can properly be taken without convening a public local inquiry.

9.0 Recommendation

- 9.1 It is RECOMMENDED that the application for registration be REFUSED for the reasons set out in Mr. Alesbury's Advice and Recommendations.

10.0 Equality and Engagement Implications

- 10.1 There are no Equality and Engagement implications to this report.

11.0 Financial Implications

- 11.1 If the land is designated as a town or village green it will not be available for development in the future.

12.0 Legal Implications

- 12.1 None over and above those included in the body of the report.

Background papers: Application file.

Appendices: Appendix 1: Plan of the application site

Appendix 2: Advice and Recommendations of the Inspector, Mr. Alun Alesbury, M.A., Barrister at Law, dated 19th February 2016

CITY & COUNTY OF SWANSEA

COMMONS ACT 2006, SECTION 15

**APPLICATION TO REGISTER LAND KNOWN AS
PARC Y WERIN, GORSEINON,
AS A 'TOWN OR VILLAGE GREEN'**

ADVICE AND RECOMMENDATION

1. I am asked to advise the Council of the City & County of Swansea ('the Council'), in its capacity as Registration Authority under the *Commons Act 2006*, in relation to an application received on 23rd November 2015, for an area of land known as Parc y Werin, at Gorseinon, to be registered under *Section 15(2)* of the Act as a 'town or village green'. The land is in the freehold ownership of the Council itself, and as its name implies, it has

(it seems) been laid out for many years as a public park or recreation ground.

2. The Council in its landowner capacity has in fact objected to the application, and there are also a number of other objectors. The Applicants have responded in writing to the objections. Part of the background to this situation is that there are plans to develop some of Parc y Werin as the site for a new Primary School; planning permission for that development was granted on 8th December 2015. Rather earlier than that, it seems that a Cabinet decision was taken within the Council in July 2015 (with no objections having been lodged at the time), whose aim was to appropriate the intended school site from a ‘park or recreation’ purpose to a purpose associated with the provision of the new school (presumably therefore a holding ‘for the purposes of education’).
3. Although there are prospective amendments to *Section 15* of the *Commons Act*, whose effect when implemented will be to make it impossible for a ‘town or village green’ application to be made where a planning application for development is in process, it appears that those amendments have not been brought into effect in Wales at a time which is relevant to this present application.

4. The Council as Registration Authority under the *Commons Act* has in place procedures which include the possibility of holding a non-statutory inquiry, under an independent inspector, into ‘village green’ applications where there are issues of fact in dispute, and/or where the land in question is owned by the Council. Clearly at least the latter of those criteria applies in the present case. The questions which I am asked to address at the present stage are as to the most appropriate process in order to determine the application, and in particular whether this might be a case where it is appropriate, in the light of the detailed objections and responses submitted, for the application to be determined ‘on paper’, without the need to convene a public inquiry.

5. Clearly, if this were a case where there was a substantial dispute of fact, whose resolution one way or the other is likely to determine the application, as well as the land belonging (as it does) to the Council itself, it is unlikely, given the Registration Authority’s adopted procedure for ‘village green’ applications, that it would *not* be a case where the normal assumption would be that an inquiry should be held. In reality therefore the present question becomes whether or not, on such of the facts as are undisputed (or not materially disputed), there are clear legal grounds for concluding that, whatever the Applicants may argue, the land concerned *cannot* as a matter of law be registered under *Section 15* of the *2006 Act*.

6. I should perhaps at this point note that, although other objections have been lodged than that of the Council as landowner, and other letters sent in support of the application, beyond the material directly provided by the Applicants [all of which I have read, on both sides], I have formed the clear view that the above question can in fact be answered by addressing the points which have been put forward on behalf of the Applicants themselves, and the Council in its role as the main Objector.
7. The task of consideration of the issues here is rendered rather more straightforward by a number of clear concessions which have been made by the Council as Objector, in its representations. Thus the Council as Objector has expressly accepted that the application site at Parc y Werin has been extensively used since the 1920s as a park for recreation by local people and the general public; that there have been no ‘permissive’ signs at the park; and that the gates of the park were not (at any material time) closed or locked.
8. Nevertheless the Council as Objector has raised three main lines of argument as to why the application site is still not eligible to be registered under *Section 15(2)* of the *Commons Act*. In brief they are that the use of the park by the local public was not “*as of right*”, in the sense required by the legislation; that there is a ‘statutory incompatibility’ between the basis

on which the Council has in fact held the land concerned over the years, and registration under the *Commons Act*; and finally that the Applicants had not identified an appropriate ‘Locality’ [or ‘Neighbourhood’] in respect of whose inhabitants the claim for registration was made. It will however in fact be most convenient if I now consider these three lines of argument in the reverse order to the one in which I have just set them out.

‘Locality’

9. The application had put forward the administrative area of the Gorseinon Town Council as the relevant ‘Locality’. That area is plainly capable of being a ‘locality’, in the rather particular legal sense which the courts have said should be applied in interpreting that term. However the Council as Objector questioned whether that Town Council area had been in existence for the whole relevant 20 year period (November 1995 to November 2015).

10. Material provided in response by the Applicants convinces me, sufficiently for the purposes of this present Advice, that what is now the Town Council has been in existence, covering the same area, since at least 1986, initially calling itself the Gorseinon Community Council. This particular ground of

objection therefore seems to me, on the material provided on paper, not to be a sound one.

Statutory Incompatibility

11. This objection is based on the line taken by the Supreme Court in its relatively recent judgment in the case of *R (Newhaven Port and Properties Ltd) v East Sussex County Council* [2015] AC 1547, [2015] UKSC 7.

That case related to the somewhat unusual factual circumstance of a ‘village green’ claim having been made in respect of a tidal ‘beach’ which was itself within the territory of a working port or harbour. The working of that harbour was both governed and empowered by various pieces of local and more general harbour legislation. It was held by their Lordships in the Supreme Court that registration of the piece of land concerned as a ‘village green’ was incompatible with the statutory empowerment, under other more specific provisions, of the use of the same piece of land as part of a working harbour.

12. I have to say that I do not find the reasoning and explanation of the principal judgment in *Newhaven*, given by Lord Neuberger and Lord Hodge jointly (with Lady Hale and Lord Sumption agreeing), entirely easy

to follow, in terms of the intended scope of any principle that they were laying down. I also note in passing that Lord Carnwath did not agree with the majority on this point. It is clear that a ‘statutory incompatibility’ principle applies when there is an active, statutorily empowered current use (in that case the harbour use) whose continuation is manifestly at odds with registration under the *Commons Act*. But on the other hand, as the Applicants in this present case point out in their Response, Lords Neuberger and Hodge did specifically say (*Newhaven*, para. 101): “*The ownership of land by a public body, such as a local authority, which has statutory powers that it can apply in future to develop land, is not of itself sufficient to create a statutory incompatibility.*”

13. The precise basis on which the Council, and its local government predecessors as owners, have held the various parts of the land at Parc y Werin since their original acquisition (to put it simply) in 1921 and 1924 respectively, has been the subject of considerable, and interesting, comment in the submissions in this case from both the main parties. I do not intend to repeat or report all of that material here. Suffice it to say that on the basis of the written representations so far, there is not in my judgment a clear and compelling argument that a ‘village green’ registration would be incompatible with some general principle to be extracted from the *Newhaven* judgment.

14. I do not reject the argument of the Council as Objector; I merely say that in my judgment, if this were the issue on which the whole case turned, it would need to be argued more fully, on the basis of the clearest possible exposition and understanding of the background historical facts. This may well require the issue of some sort of Directions on the part of the Registration Authority, directing the parties' attention to aspects of the issue on which further submissions and clarification would be encouraged. Whether that would in practice be achievable through a further exchange of written representations, or whether it would in reality require the convening of a local inquiry to consider the arguments and underlying facts more fully, I leave to one side for the moment.
15. I note also that, in part at least, the Objector's argument on this point relies on a purported 'appropriation' of a substantial part of Parc y Werin which was carried out in July 2015 by the Council's Cabinet, which (it seems) was intended to appropriate the relevant land to educational purposes (with a view to building the proposed school) from the purposes for which it had been held by the Council before. July 2015 was of course within (even if only by a few months) the 20 year period to which the Applicants' claim under *Section 15(2)* relates.

16. As a matter of impression, from the documents provided with the Objector's submissions, I am not satisfied that the purported appropriation was carried out properly or effectively; the apparent wording of the Cabinet resolution concerned did not even mention the purposes to which (or indeed from which) the land was being purportedly appropriated from one 'Director' (of Place) to another one (of People). I have considerable reservations about the effectiveness of that as an appropriation, and in my view the Registration Authority ought certainly to seek further submissions and clarification, before there could be any reliance on this 'appropriation' as part of a basis for rejecting the Applicants' application.
17. In summary then, on the 'statutory incompatibility' argument, my advice is that there is not at present a clear basis on which it would be appropriate or right to reject the Applicants' claim, without calling on the parties to provide further submissions, and (where practicable) further evidence in clarification.

“As of Right”

18. Leaving aside the potential argument about statutory incompatibility, the concessions made by the Council as Objector (noted at my paragraph 7 above), together with other aspects of the factual background which appear to be uncontested, would appear to indicate that, on the face of things, all the ingredients of the statutory criteria in **Section 15(2)** have been met here, provided only that use of the park by local people had been ‘*as of right*’. These three words within the statutory criteria have received a great deal of attention from the courts, and indeed their implications for the present case have been quite fully addressed by the parties in their representations.

19. It has been completely clear, since the decision of the Supreme Court in ***R(Barkas) v North Yorkshire County Council*** [2015] AC 195, [2014] UKSC 31 (and was fairly obvious even before that), that where land is owned or provided by a public authority, in circumstances giving rise to a *right* for the public to make use of the land, then such land cannot have been used ‘as of right’, for example by the ‘local public’. In other words ‘*as of right*’ effectively means ‘*as if of right*’; to meet the statutory criterion, local people have to have been using the land concerned *as if* they had the right to do so, but when in fact they did not have the right.

20. Their Lordships in *Barkas* equated having a statutory right to use a piece of land to having *permission* to use it, in the context of the classical definition and understanding of ‘as of right’ use as being use ‘without force, without secrecy, and without permission’. This means that if there is something about the basis on which the Council (or its predecessors) held the land concerned which gave the public a right, or a permission, to use the land, in particular during the relevant 20 year period, then that land *cannot* be registered as ‘town or village green’. It cannot have been used so as to meet the ‘as of right’ test.
21. As far as I can see, there is not any material dispute between the parties as to the basic facts in relation to the original acquisition of the two main parts of the application site at Parc y Werin by the Council’s predecessors. The part acquired as a leasehold in 1921, and then enlarged to a freehold in 1944, appears indisputably to have been acquired under the *Public Health Act 1875*, with the assistance of the *Local Government Act 1894*, for the express purpose of being laid out as ‘public walks or pleasure grounds or a recreation ground’.
22. It is true, as is pointed out for the Applicants, that neither the 1921 Lease nor the 1944 Indenture (making it up to a freehold) expressly mention *Section 164* of the *1875 Act*. The 1921 Lease makes a number of

references to the land being intended for use for public walks or pleasure grounds (or a recreation ground); the 1944 Indenture calls it ‘the Purchaser’s Pleasure or Recreation Ground’; and additionally some 1932 Byelaws refer to Parc y Werin as a ‘pleasure ground’ within the Llwchwr Urban District. Although the Applicants argue against this view, there can in my judgment be no reasonable basis for concluding that the land which both parties have called the ‘1921 Land’ has been held for any other purpose than as a public walk or pleasure ground under *Section 164* of the *Public Health Act 1875*, right through until 2015 at least; and my preliminary view is that it is probably still so held by the Council at the present time.

23. I do not regard the Applicants’ arguments in relation to the 1921 Land as having any cogency. It is simply obvious, in my view, that the land has been held by the Council and its predecessors on a basis which Supreme Court authority says cannot have allowed for ‘as of right’ use by the local public which could have given rise to a successful ‘town or village green’ claim under the *Commons Act*. It follows that, as far as the 1921 Land is concerned, the present application in my judgment cannot possibly succeed. In these circumstances there is no justification (as far as this part of the land is concerned) for holding a public local inquiry to hear further

evidence and argument, in my opinion. The issue can be properly decided on the basis of the material which has already been provided on paper.

24. It seems clear however that the part of the present Parc y Werin that was purchased by the old Swansea RDC under an Indenture of 1924 (the ‘1924 land’) was acquired under different statutory powers, under the *Housing Acts 1890 to 1919*. It is clear from the historic plans produced by both sides that the part of the 1924 land which is in the present application site (and the present Parc y Werin) is only a relatively small proportion of the total land then acquired; presumably the rest of that land was indeed used for the provision of actual housing.
25. I am not however impressed by the Applicants’ argument that the plan to the 1924 Indenture shows that the part of the land within the present application site was specifically envisaged as housing plots, and intended to have actual houses built on it. It seems to me much more probable, indeed almost certain, that the plots shown on the 1924 plan indicated the previous (or previously intended) state of subdivision of the land concerned, rather than having anything to do with the detail of the local authority’s then intended housing development.
26. The Objector’s argument is clearly correct (in my view) that there were statutory powers in the housing legislation (as there still are to this day) to

provide areas within land held for housing purposes, to be used as ‘open spaces’, or ‘places of recreation’. Indeed that was precisely the nature of the piece of land which the Supreme Court were considering in the *Barkas* case.

27. Rather contrary to what the Applicants seem to argue, there does not appear to be any evidence or suggestion that the part of the 1924 land within the application site was ever laid out with actual houses, rather than as part of a park or recreation ground. There is no suggestion, for example, that houses were first built there, and then demolished. On the contrary, the clear impression given by the totality of the material, and not contradicted by any of the evidence which I have seen, is that, to the extent that this land was laid out for anything after 1924, it has always been laid out as part of the larger area of park/recreation ground.

28. In these circumstances, and given that the land has been continuously owned (and maintained it seems) by the relevant local authority throughout, in my view the Objector must be correct in its argument that it can be assumed from the circumstances that the area concerned was properly provided, under statutory powers, as an open space or recreation ground within an overall larger area being developed for housing.

29. As such, it is correct to say that the situation here is effectively on all fours with that considered in the *Barkas* case. The arguments put forward on behalf of the Applicants on this point are not in my view at all convincing. Thus in my judgment the correct conclusion to reach on the largely undisputed facts is that, in the case of the 1924 land as well, recreational/leisure use of the relevant part of Parc y Werin by the local public will have been ‘by right’, not ‘as of right’, during the whole of the period being considered.
30. It follows, in my view, that there is no justification for the convening of a local public inquiry in order to consider the matter further. The application simply cannot succeed, in my judgment as a matter of law, because the use of the application site cannot have been ‘as of right’, in the sense required by the law.
31. I ought perhaps to state, for the benefit of all who read this Advice and my Recommendation, that what I say relates only to the statutory criteria under *Section 15* of the *Commons Act 2006*. The question of what *ought* to happen in the future at Parc y Werin is wholly outside the scope of my consideration, and is a matter for local political decision.

Recommendation

32. My recommendation to the Registration Authority accordingly is that no part of the application site at Parc y Werin should be added to the statutory register of town or village greens, for the reasons given in this Advice, and that this decision can properly be taken without convening a public local inquiry.

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and
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ALUN ALESBURY
19th February 2016

CITY & COUNTY OF SWANSEA

COMMONS ACT 2006, SECTION 15

**APPLICATION TO REGISTER LAND KNOWN AS
PARC Y WERIN, GORSEINON,
AS A 'TOWN OR VILLAGE GREEN'**

ADVICE AND RECOMMENDATION

Mrs Sandie Richards
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Agenda Item 6

CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

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

DATE: 4TH OCTOBER 2016

Bay Area Team Leader Liam Jones - 635735	Area 1 Team Leader: Ian Davies - 635714	Area 2 Team Leader: Chris Healey - 637424
Castle Mayals Oystermouth St Thomas Sketty Uplands West Cross	Bonymaen Clydach Cwmbwrla Gorseinon Landore Llangyfelach Llansamlet Mawr Morryston 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 Planning & City Regeneration



TWO STAGE VOTING

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

The first vote is taken on the officer recommendation.

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

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

Where the officer recommendation is for “refusal” and Members resolve not to accept this recommendation, appropriate conditions should then be debated and confirmed by means of a second vote. For reasons of probity, 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	2016/0662	<p>The Piazza Parc Tawe Swansea SA1 2AL</p> <p>Refurbishment of Retail Park and variation of conditions 3 (to include sale of food), 6, 7 and 8 of planning permission 2013/1815 dated 26th August 2014 and conditions 2 and 4 which were granted on appeal 2nd September 2015.</p>	APPROVE
2	2016/1249	<p>26 Pinewood Road Uplands Swansea SA2 0LT</p> <p>Change of use from residential (Class C3) to HMO for 4 people (Class C4)</p>	APPROVE
3	2016/1416	<p>The Boat Yard, adjacent to Fishmarket Quay, Trawler Road, Maritime Quarter, Swansea SA1 1UP</p> <p>Construction of a four/three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking and bin/bike stores (details of the landscaping (reserved matters) and western elevation pursuant to conditions 1 and 22 of outline planning permission 2015/1498 allowed on appeal on 5th May 2016</p>	APPROVE

ITEM 1

APPLICATION NO.

2016/0662

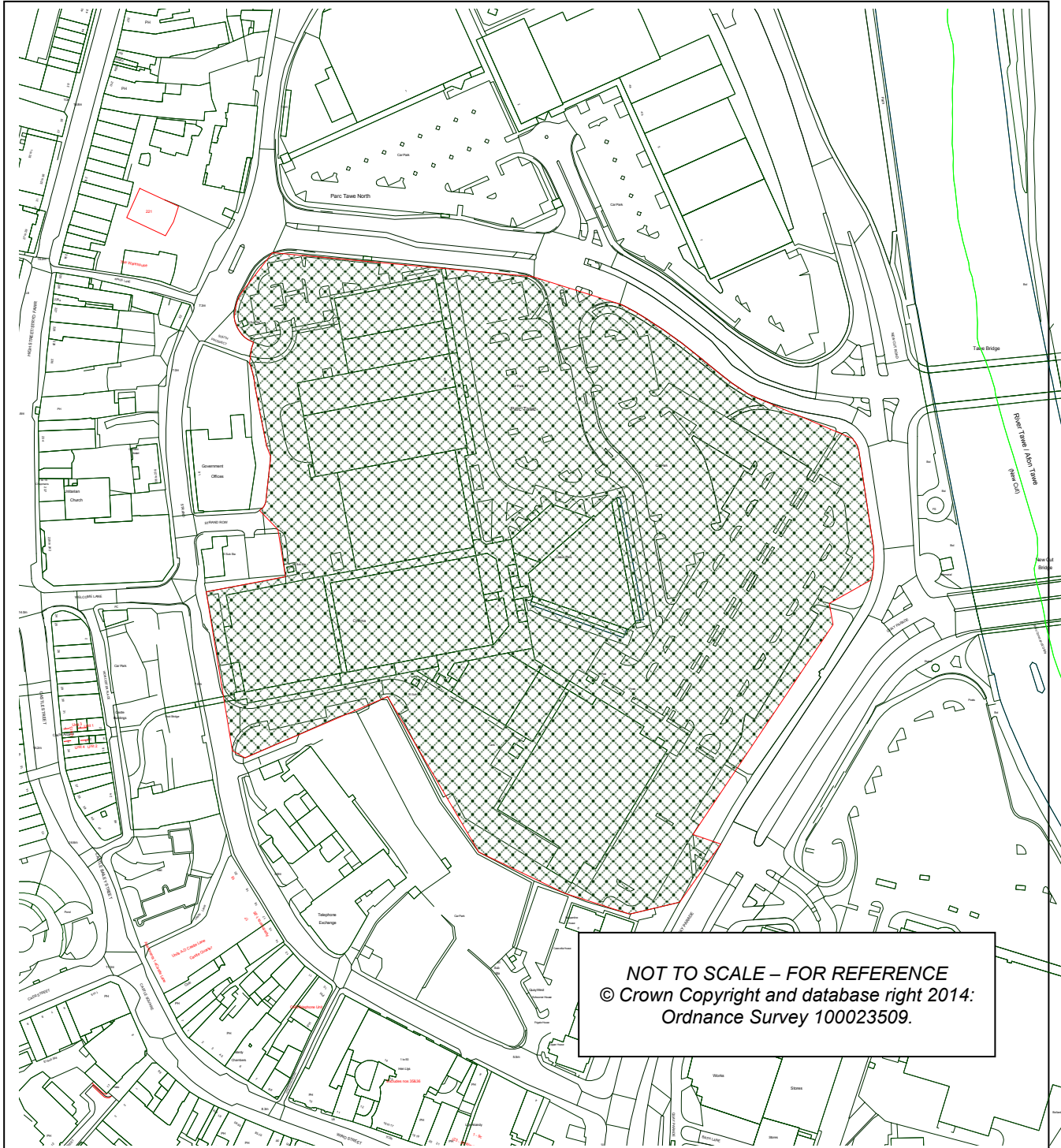
WARD:

Castle

Location: The Piazza Parc Tawe Swansea SA1 2AL

Proposal: Refurbishment of Retail Park and variation of conditions 3 (to include sale of food), 6, 7 and 8 of planning permission 2013/1815 dated 26th August 2014 and conditions 2 and 4 which were granted on appeal 2nd September 2015.

Applicant: Hammerson plc



ITEM 1 (CONT'D)

APPLICATION NO.

2016/0662

BACKGROUND INFORMATION

POLICIES

Planning Policy Wales –January, 2016 Edition 8

Policy	Policy Description
Policy CC1 - UDP	<p>Within the City Centre, development of the following uses will be supported:-</p> <ul style="list-style-type: none"> (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). <p>Subject to compliance with specified criteria. (City & County of Swansea Unitary Development Plan 2008)</p>
Policy CC2 - UDP	<p>New retail development that maintains and enhances the vitality, attractiveness and viability of the City Centre as a regional shopping destination will be encouraged subject to compliance with specified criteria. (City & County of Swansea Unitary Development Plan 2008)</p>
Policy CC3 UDP	<p>The St David's/Quadrant area is defined as the area of highest priority for redevelopment in the City Centre. A comprehensive retail led mixed use regeneration scheme should be brought forward for this area in the short to medium term in order to deliver the necessary revitalisation of the retail core and to enhance the attraction of the City Centre as a regional shopping destination. Any other retail based development, whether within or outside the City Centre, will be evaluated against this aim. Development proposals that would put at risk the comprehensive retail led regeneration of St David's/Quadrant area, or would adversely affect the potential to enhance and redevelop shopping facilities elsewhere within the retail core, will not be supported.</p>
Policy CC4 - UDP	<p>Definition of appropriate uses and floorspace in Parc Tawe (Phase 1), and consideration of other proposal within the Parc Tawe area. (City & County of Swansea Unitary Development Plan 2008)</p>
Policy EC4	<p>All new retail development will be assessed against need and other specific criteria. (City & County of Swansea Unitary Development Plan 2008)</p>
Policy EV1	<p>New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).</p>

PLANNING COMMITTEE – 4TH OCTOBER 2016

ITEM 1 (CONT'D)	APPLICATION NO.	2016/0662
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 EV4	New development will be assessed against its impact on the public realm. (City & County of Swansea Unitary Development Plan 2008)	
Policy EV5	The provision of public art in new developments and refurbishment schemes will be supported. (City & County of Swansea Unitary Development Plan 2008)	
Policy EV6	Scheduled ancient monuments, their setting and other sites within the County Sites and Monuments Record will be protected, preserved and enhanced. (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 and 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 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)	
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)	

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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 AS1	Accessibility - Criteria for assessing location of new development. (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 AS4	Accessibility - Creation and improvement of public rights of way. (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
2/1/87/0656/03	Parc Tawe Retail Park for a leisure and retail development including a multiplex cinema, ten pin bowling, A1 retail units, public toilets and fast food units. Planning Permission June, 1987
2013/1815	Alterations to existing retail park comprising demolition of vacant piazza units, kiosks, and some retail floorspace (A1/A3 Use), substantial demolition of the enclosed walkway, demolition of vacant Class A3 former pizza restaurant, alterations and refurbishment of building facades, physical enhancements to the existing footbridge and associated ramp, creation of 4 no. kiosks (Class A1/A3), use of Units 2A, 2B and 3 for Class A3 purposes, erection of a standalone drive-thru restaurant unit (Class A3), reconfiguration of car parking layout, erection of 3m screen walling; landscaping and public realm works and associated highways works.

- Continued -

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- Continued -
- Appeal against Conditions 2, 4, 8 and 36 Allowed 2 September, 2015 deleting the conditions and substituting them for the following conditions:
- 2) *Unless otherwise agreed in writing by the Local Planning Authority the aggregate floorspace occupied by Use Class A1 at Parc Tawe Phase 1 shall not exceed 13,036 sq m (gross external area), including kiosks 1-4 as defined on submitted Site Plan 9485 P 024 Rev. D. New mezzanine floorspace shall not be permitted in any units of the development.*
- 3) *Notwithstanding Condition 2, Units 1, 5A, 5B, 6A, 6B, 6D hereby permitted at Parc Tawe Phase 1 (as defined in submitted Site Plan 9485 P 024 Rev. D) must not be used for the sale of food.*
- 8) *The units hereby permitted at Parc Tawe Phase 1 (as defined in submitted Site Plan 9485 P 024 Rev. D) must not be subdivided below 700 sq m (gross external area) or further amalgamated above 3,500 sq m (gross external area).*
- 36) *Notwithstanding the details shown on any approved plans, the design and materials of the public realm floor map as shown on drawing number 9845 P-017 Rev. C shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be implemented in accordance with the agreed public realm floor map scheme.*
- 2015/2315 Refurbishment of Retail Park - Discharge of condition 9 (programme of archaeological work) of planning permission 2013/1815 dated 26th August, 2014
- 2015/2353 Refurbishment of Retail Park -Discharge of condition 36 (public realm floor map) of planning permission 2013/1815 granted 26th August 2014 (as varied on appeal allowed 2nd September 2015)
- 2015/2367 Refurbishment of Retail Park -Discharge of conditions 10 external finishes),11 & 12 (elevation details), 17 (Japanese Knotweed), 19 (cycle / motor cycle parking), 20 (disabled parking), 21 (footbridge protection), 26 (CPMP), 27 (site waste management), 29 (ventilation / fume extraction) ,31 (drainage) of planning permission 2013/1815 granted 26th August, 2014
- 2015/2513 Refurbishment of Retail Park - Discharge of conditions 13 (living green walls) and 14 (landscaping) of planning permission 2013/1815 granted 26th August 2014

RESPONSE TO CONSULTATIONS

The application was advertised on site. No public response received.

Highway Observations – No highway observations

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APPRAISAL

Introduction

This is an application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary conditions 2, 3 (to include the sale of food), 6, 7 and 8 of planning permission 2013/1815 and conditions 2 and 4 which were granted on appeal 2nd September.

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. The approval of a Section 73 effectively grants a new planning permission and the Local Planning Authority may decide that planning permission should be granted subject to conditions differing from those subject to the previous planning permission. As outlined above, Conditions 2, 4, 8 and 36 were substituted following an Appeal decision and since then several details have been submitted in order to discharge conditions of the original scheme, notably conditions 9, 10, 11, 12, 13, 14, 16, 18, 19, 20, 21, 25, 26, 28, 30 and 35. It is therefore appropriate to update the relevant conditions to reflect this situation for clarity allowing a comprehensive decision notice to be issued.

Approved Scheme

The approved development for the alterations to existing retail park comprised:

- Demolition of vacant piazza units, kiosks, and some retail floorspace (A1/A3 Use);
- Substantial demolition of the enclosed walkway;
- Demolition of vacant Class A3 former pizza restaurant adjacent to Plantasia,
- Alterations and refurbishment of building facades;
- Physical enhancements to the existing footbridge and associated ramp;
- Creation of 4 no. kiosks (Class A1/A3);
- Use of units 2A, 2B and 3 for Class A3 purposes;
- Erection of a standalone drive-thru restaurant unit (Class A3);
- Reconfiguration of car parking layout;
- Erection of 3m screen walling;
- Landscaping and public realm works and associated highways works.

Broadly, the building structure of the remaining units in the north and south retail terraces and the leisure units would be retained and refurbished. This comprises recladding of key elevations including Quay Parade and the retail frontages; and repainting of secondary elevations such as the service yard areas. A new 186 sqm standalone drive-thru restaurant (Class A3) unit is proposed within the existing car park towards the north east corner of the park.

Revised Proposals

Following a review of the approved layout by the developer, a revised site layout plan is submitted under this Section 73 application which seeks to accommodate future tenant needs and in an effort to improve the design of the approved scheme. The principal changes are as follows:

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- Existing Unit 5 (Use Class A1) divided into 3 rather than 2 units (whilst remaining in accordance with Condition 7);
- Existing Unit 2 (Use Class A3) divided into 3 rather than 2 units;
- Condition 2 amended to allow a mezzanine in Unit 6B;
- Condition 3 amended to allow the sale of food in a single unit;
- Condition 7 amended to have specific regard to the Class A1 units;
- Discharge landscape details submitted under condition 22;
- 'Goal post' entrances features replaced;
- Inclusion of 4 kiosk units;
- The Odeon's units roof has been lowered;
- Unit 3 has a chamfered corner to enhance the public realm area;
- Revised car parking layout (856 car parking spaces including 50 disabled spaces in accordance with Condition 19);
- Revised hard and soft landscaping scheme;

Background

Whilst Parc Tawe is situated within the City Centre Action Area where UDP Policy CC1 supports retailing and associated uses (including A1 and A3), in determining planning application ref:2013/1815, there was concern that the refurbishment of the retail park would pose a threat to the Council's aspirations to enhance the vitality, attractiveness and viability of the City Centre as a regional shopping destination, and in particular securing the future comprehensive redevelopment and enhancement of the retail core at St Davids / Quadrant. The LPA therefore considered that the use of restrictive conditions were necessary to avoid an unrestricted Class A1 and A3 planning permission which potentially would lead to unacceptable impacts on the city centre retail core, contrary to UDP Policies EC4, CC1, CC2 and CC3. The applicant contended that the use of such conditions would render the permitted scheme unviable and appealed the conditions, in particular Conditions 4 and 8 which sought firstly to restrict the sale of a range of retail items and secondly, to prohibit the amalgamation or sub-division of the retail units. The Appeal Inspector concluded that Condition 4 was not necessary to protect the vitality and viability of the city centre retail core and would not put the regeneration of the St David's / Quadrant area at significant risk and that Condition 8 was unreasonable and amended the condition to prevent subdividing the retail units below 700 sq m or further amalgamated above 3,500 sq m.

Condition 2

Condition 2 was amended on appeal to read:

2. *Unless otherwise agreed in writing by the Local Planning the aggregate floorspace occupied by Use Class A1 at Parc Tawe shall not exceed 13,036 (gross external area), including kiosks 1 – 4 as defined in submitted Site Plan 9485 P024 Rev D. New mezzanine floorspace shall not be permitted in any units of the development.*

The applicants indicate that Mothercare the existing tenant in Unit 5 are proposing to relocate to proposed Unit 6B as set out in the updated Site Plan (ref: 9485 P-024 Rev U), and that Mothercare require 300 sq m of mezzanine floorspace in Unit 6b.

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The inclusion of a mezzanine comprising 300 sq m in addition to the proposed 1,394 sq m for Unit 6B, would create an overall proposed floorspace of 1,694 sq m. Condition 2 seeks to prevent the aggregate floorspace occupied by Use Class A1 in Parc Tawe 1 from exceeding 13,036 sq m. However, the additional 300 sq m floorspace would result in an increased amount of 12,965 sq m floorspace as opposed to 12,665 sq m in the originally proposed scheme and therefore would not exceed the limit set by Condition 2 and would be acceptable. It is therefore proposed to amend Condition to read:

2. *Unless otherwise agreed in writing by the Local Planning the aggregate floorspace occupied by Use Class A1 at Parc Tawe shall not exceed 13,036 (gross external area), including kiosks 1 – 4 as defined in submitted Site Plan 9485 P024 Rev U. New mezzanine floorspace shall not be permitted in any units of the development apart from Unit 6B as approved in the aforementioned drawing.*

Condition 3

Condition 3 was amended on Appeal to read:

3. *Notwithstanding Condition 2, Units 1, 5A, 5B, 6A, 6B, 6C, 6D hereby permitted at Parc Tawe Phase 1 (as defined on submitted Site Plan 9485 P-024 Rev D) must not be used for the sale of food.*

Reason: In accordance with UDP Policies CC2 and CC3 and the Swansea City Centre Strategic Framework SPG and to protect the vitality and viability of the city centre retail core and the aspirations of the Local Planning Authority for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.

The applicants indicate that they are in the process of attracting new potential tenants to the proposed refurbished retail park and that this process has identified that foodstore operators would be interested in occupying a unit at Parc Tawe. The application therefore seeks to amend Condition 3 to allow any one on the retail units (i.e. Units 1, 5A, 5B, 5C, 6A, 6B, 6C & 6D) to be occupied for up to 1,860 sq m (20,000sq ft) for the sale of food, allowing for example the applicants to attract a food discount operator to Parc Tawe.

The Appeal Inspector retained through condition the restriction on the sale of food at Part Tawe. There is, however, no explanation given in her report as to why. It is noted, however, that the original 1987 permission was subject to conditions which prevented the sale of food. Planning Policy Wales advises:

10.3.1 When determining a planning application for retail, leisure or other uses best located in a town centre, including redevelopment, extensions or the variation of conditions, local planning authorities should take into account, compatibility with any community strategy or up-to-date development plan strategy; need for the development/extension, unless the proposal is for a site within a defined centre or one allocated in an up-to-date development plan; sequential approach to site selection; impact on existing centres; amongst other issues.

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Having regard to the inclusion of Parc Tawe within the City Centre Action Plan area, within the context of PPW and the Swansea UDP Policies EC4, CC2 & CC4 it may be argued that it is not necessary to assess the proposal against the need for the development or adopt a sequential approach to the proposal. Moreover, as the proposal relates to a change of use of less than 2,500 sq m, as Parc Tawe is located within a sequentially preferred location for retail floorspace in compliance with PPW and TAN 4, there is no planning policy requirement to demonstrate quantitative retail need or to assess the retail impact of the proposal. However, the modification of the condition to allow the sale of food should have regard to whether there would be any material adverse impact upon the attractiveness, vitality and viability of the City Centre in accordance with UDP Policies CC2 and CC3 in particular and whether any development proposals would put at risk the comprehensive retail led regeneration of St David's / Quadrant area. It should also be borne in mind that Policy CC4 indicates the appropriateness of retail (A1) in Parc Tawe Phase 1.

The Swansea Central Area: Regeneration Framework (Feb. 2016) suggests that the St David's / Quadrant scheme should *deliver a retail leisure led scheme of quality, scale and critical mass for the wider regeneration of the central area and provide quality anchors and a quality offer to encourage retailers to Swansea*. The applicants argue that a food store would not meet these regionally ambitious objectives. It is further highlighted that the Unilateral Undertaking (UU) related to the existing permission (Ref:2013/1815) identifies a number of 'restricted' retailers which were agreed as being potentially damaging to the retail core and that the St David's / Quadrant proposal. For example, these include the likes of Marks and Spencer who also have a food offer but would not be able to relocate to any unit on Parc Tawe as part of these restrictions for the duration of the UU (i.e. 5 years or 7 years, dependent upon whether they are currently trading from the retail core – the period intended to allow St David's Quadrant scheme to get underway). However, the existing UU would not be enforceable against the current Section 73 application which would constitute a new planning permission, therefore the Section 73 application would need to include a new UU/Deed of Variation which the applications have indicated a willingness to complete. Therefore, subject to amending Condition 3 to allow any one of the A1 units to be used for the sale of food with such a use being restricted to a single user for up to 1,860 sq m (gross external area), then it is not considered that this would adversely affect the attractiveness, vitality and viability of the City Centre nor put at risk the development proposals for the comprehensive retail led regeneration of St David's / Quadrant project. It is therefore proposed to amend Condition 3 to read:

3. *Notwithstanding Condition 2, Units 1, 5A, 5B, 5C, 6A, 6B, 6C, 6D, K1, K2 ,K3 and K4 hereby permitted at Parc Tawe Phase 1 (as defined in submitted Site Plan 9485 P-024 Rev U) may also be used for the sale of food but such use shall be restricted to a single user for up to 1,860 sq m floorspace (gross external area).*

Reason: In accordance with UDP Policies CC2 and CC3 and the Swansea City Centre Strategic Framework SPG and to protect the vitality and viability of the city centre retail core and the aspirations of the Local Planning Authority for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.

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Other Conditions

As indicated above, several of the details under the conditions of the original planning permission have been approved and the wording of the conditions recommended below have been updated to reflect the current situation. In particular with reference to the condition discharge application references and also to the updated Site Plan (9485 P-024 Rev U). Additionally, Condition 7 (original Condition 9) has been amended to have specific regard to the Class A1 units, and the landscape details submitted as part of this application to improve the pedestrian linkages would also discharge the requirements of original Condition 22.

External Alterations

The proposal is to upgrade the existing buildings via two means; re-cladding of key elevations including Quay Parade and the retail frontages; and repainting of secondary elevations such as the service yard areas. The approved scheme involved the installation of 'goal post' entrance features incorporating proposed signage zones, however, it is now proposed to replace these approved elements and provide a simplified glazed shop frontage to each unit with projecting glazed entrance canopy with space for new tenant signage above each entrance (precise signage details will require separate advertisement consent.)

The re-cladding to the retail unit frontages would predominantly comprise the installation of new 'Anthracite' coloured composite cladding panels. This is considered acceptable and typical of contemporary retail park vernacular, and the removal of the existing walkways would result in improved legibility to the retail units. Overall, it is considered that the design rationalisation and use of materials to the retail frontages would amount to a significant improvement to the existing buildings and will significantly enhance the appearance of the retail park buildings and public realm and as such comply with the provisions of UDP Policies EV1, EV2, EV4, EV5, EV9 and CC5 of the Council's adopted UDP.

Approval is therefore recommended.

RECOMMENDATION

APPROVE, subject to the completion of a new Section 106 Unilateral Undertaking (UU)/Deed of Variation re-instigating the existing provisions of the UU submitted under the Appeal to Planning Permission Ref: 2013/1815 and subject to the following conditions:

- 1 The development shall be commenced not later than the expiration of 5 years from the date of this planning permission.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.

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- 2 Unless otherwise agreed in writing by the Local Planning Authority the aggregate floorspace occupied by Use Class A1 at Parc Tawe 1 shall not exceed 13,036 sq m (gross external area), including kiosks 1-4 as defined in submitted Site Plan 9485 P 024 Rev. U. New mezzanine floorspace shall not be permitted in any units of the development apart from Unit 6B as approved in the aforementioned drawing.
Reason: In accordance with UDP Policies CC2, CC3 and CC4, to protect the vitality and viability of the city centre retail core and to ensure that the development does not undermine the Council's aspirations for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 3 Notwithstanding Condition 2, Units 1, 5A, 5B, 5C, 6A, 6B, 6C, 6D, K1, K2 ,K3 and K4 hereby permitted at Parc Tawe Phase 1 (as defined in submitted Site Plan 9485 P-024 Rev U) may also be used for the sale of food but such use shall be restricted to a single user for up to 1,860 sq m (gross external area).
Reason: In accordance with UDP Policies CC2 and CC3 and the Swansea City Centre Strategic Framework SPG and to protect the vitality and viability of the city centre retail core and the Council's aspirations for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 4 Unless otherwise agreed in writing by the Local Planning Authority, the aggregate floorspace occupied by Use Class A3 at Parc Tawe Phase 1, including mezzanines, shall not exceed 1,300 sq metres (gross external area), excluding kiosks 1 - 4, as defined on submitted Site Plan 9485 P-024 Rev U.
Reason: In accordance with UDP Policies CC2, CC3 and CC4, to protect the vitality and viability of the city centre retail core and to ensure that the development does not undermine the aspirations of the Local Planning Authority for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 5 Use Class A3 at Parc Tawe Phase 1 shall be accommodated solely within Units 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4 hereby permitted (as defined on submitted Site Plan 9485 P-024 U) and within no other unit at the site.
Reason: In accordance with UDP Policies CC2 and CC3 and the Swansea City Centre Strategic Framework SPG and to protect the vitality and viability of the city centre retail core and the aspirations of the Local Planning Authority for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 6 Units 2A, 2B, 2C, 3 and 8 hereby permitted at Parc Tawe Phase 1 (as defined on submitted Site Plan 9485 P-024 Rev U) shall be used exclusively for uses in Class A3 and for no other purpose (including any other purpose within the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order with or without modification).

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- ITEM 1 (CONT'D) APPLICATION NO. 2016/0662
- 6 Reason: In accordance with UDP Policies CC2 and CC3, to ensure an appropriate mix of food and non-food units at the development and to ensure that the scale of development does not undermine the aspirations of the Local Planning Authority for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 7 The A1 retail use class units hereby permitted at Parc Tawe Phase 1 (as defined on submitted Site Plan 9485 P-024 Rev U) must not be sub-divided below 700 sq m (gross external area) or further amalgamated above 3,500 sq m (gross external area).
Reason: In accordance with UDP Policies CC2 and CC3 and the Swansea City Centre Strategic Framework SPG and to protect the vitality and viability of the city centre retail core and the Council's aspirations for the future comprehensive redevelopment and enhancement of the retail core at St David's/Quadrant.
- 8 The construction of the 'drive-thru' restaurant facility on Unit 8 shall be undertaken in accordance with the Written Scheme of Investigation for an Archaeological Watching Brief approved under condition discharge ref:2015/2315. Following completion of the construction phase of works a report shall be submitted to the Local Planning Authority outlining the findings of the completed archaeological work.
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.
- 9 The external finishes, (including new shop fronts, doors and external security measures) and repainting of existing cladding and the precise pattern and distribution of the external finishes shall be implemented in accordance with the approved details under condition discharge ref:2015/2367.
Reason: In the interests of visual amenity.
- 10 The final design and treatment of the western elevation of Unit 7 (ten pin bowling alley) and Parc Tawe entrance from The Strand elevation shall be implemented in accordance with the approved details under condition discharge ref:2015/2367.
Reason: In the interests of visual amenity.
- 11 The final design and treatment of the newly exposed western and north western elevations to Plantasia shall be implemented in accordance with the approved details under condition discharge ref:2015/2367.
Reason: In the interests of visual amenity.
- 12 The living green walls to the southern elevation of Unit 4, the north western elevation of Plantasia and to the northern edge of the service access road, shall be completed in accordance with the approved scheme under condition discharge ref: 2015/2513.
Reason: In the interests of visual amenity.

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- 13 The approved landscaping scheme under condition discharge ref:2015/2513 shall be carried out by the developer using all reasonable endeavours including any necessary consents from the local authority prior to beneficial use of any of the Units at 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4. Any trees or shrubs planted in accordance with this condition which are removed shall be replaced by trees or shrubs of similar size and species to those originally required to be planted. Any trees or shrubs planted in accordance with this condition which die or become seriously diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
- Reason: To ensure that the site is satisfactorily landscaped having regard to its location and the nature of the proposed development, and to accord with Section 197 of the Town and Country Planning Act 1990 and to accord with the City and County Council's policy of encouraging the provision of public art features on appropriate sites.
- 14 The landscaping bund to Quay Parade shall be retained at its current height unless otherwise indicated within the approved scheme under condition discharge ref:2015/2513 (provided that the developer after using reasonable endeavours obtains any necessary consents from the local authority). The existing trees and vegetation and any new planting within the bund shall be retained in perpetuity (except where expressly authorised by the approved landscaping scheme).
- Reason: To ensure that the site is satisfactorily landscaped and to provide screening to the surface car park from this highly prominent and important gateway location.
- 15 No trees, shrubs or vegetation within the application site shall be removed, felled or cut back in any way, except where expressly authorised by the landscaping scheme as approved by the Local Planning Authority. Any trees, shrubs or vegetation removed without such authorisation, or dying, or being seriously damaged or diseased during the implementation of the development shall be replaced by plants of a size and species as may be agreed with the Local Planning Authority.
- Reason: In the interests of visual amenity.
- 16 The development shall be implemented in accordance with the Japanese Knotweed Management Plan approved under condition discharge ref:2015/2367 prior to the commencement of work on site.
- Reason: In the interests of the ecology and amenity of the area.
- 17 The development shall be implemented in accordance with the recommendations of Waterman Parc Tawe, Swansea - Ecological Building Inspections Report (EED13992-100_R_1_1_2_LM).
- Reason: In the interests of ecology.

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ITEM 1 (CONT'D)

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- 18 The cycle and motor cycle parking shall be laid in accordance with the Proposed Site Plan 9485 P 024 Rev U approved under condition discharge ref:2015/2367 (provided that the developer using reasonable endeavours obtains any necessary consents from the local authority) prior to beneficial use of the refurbished scheme by any operator not currently located at the retail park.
Reason: In the interests of highway safety.
- 19 The 50 disabled parking spaces shall be laid out in accordance with the Proposed Site Plan 9485 P Rev U approved under condition discharge ref:2015/2367 (provided that the developer using reasonable endeavours obtains any necessary consents from the local authority) prior to beneficial use of the refurbished scheme by any operator not currently located at the retail park.
Reason: In the interests of accessibility.
- 20 The proposed scheme for the protection works to the existing footbridge linking the site to Worcester Place, shall be implemented prior to the commencement of the refurbishment works to the footbridge in accordance with the scheme approved by the Local Planning Authority under condition discharge ref:2015/2367 (provided that the developer using reasonable endeavours obtains any necessary consents from the local authority).
Reason: In the interests of highway safety.
- 21 The existing at grade pedestrian linkages between the site and the Parc Tawe Link Road shall be widened in accordance with the details indicated on the landscape plan (ref:2375/15/B/1G) and the site plan (ref:9485 P-024 Rev U)(provided that the developer using reasonable endeavours obtains any necessary consents from the local authority) prior to beneficial use of any of the Units at 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4.
Reason: To improve pedestrian and cyclist permeability.
- 22 The new at grade pelican crossing on the Strand (as per Vectos drawing 131086/A/05) shall be completed under a section 278 Agreement with the Highway Authority prior to beneficial use of any of the Units at 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4 (provided that the developer using reasonable endeavours obtains any necessary consents from the local authority).
Reason: In the interests of highway safety.
- 23 The development shall operate in accordance with a car parking management plan to be submitted to and agreed in writing with the Local Planning Authority (such approval not to be unreasonably withheld or delayed) prior to beneficial use of any of the Units at 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4.
Reason: In the interests of sustainability and to ensure that the parking provision is being properly managed and contained within the site.

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- ITEM 1 (CONT'D) APPLICATION NO. 2016/0662
- 24 The development shall operate in accordance with a Travel Plan to be submitted to and approved in writing with the Local Planning Authority (such approval not to be unreasonably withheld or delayed) prior to beneficial use of any of the Units at 2A, 2B, 2C, 3, 8, K1, K2, K3 and K4.
Reason: In the interests of sustainability and to prevent unacceptable highway congestion.
- 25 The demolition and construction works on the application site (including all access roads) shall be implemented in accordance with the Construction Pollution Management Plan (CPMP) approved under condition discharge ref:2015/2367.
Reason: To ensure minimal nuisance impact on local residents / businesses from construction activities.
- 26 The development shall be implemented in accordance with the site waste management approved under condition discharge ref:2015/2367.
Reason: To assist the developer /contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money.
- 27 If, during the course of development, contamination not previously identified is found to be present at the site, no further development (unless 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.
- 28 The modifications to the ventilation / fume extraction to the Odeon Mechanical Plan shall be implemented in accordance with the approved details under condition discharge 2015/2367. Any new or replacement ventilation/ fume extraction systems to each A3 unit / kiosk shall be in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Such works that form part of the approved scheme shall be completed before the associated premises are occupied, unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interests of general amenity.
- 29 A scheme for protecting any nearby retail/domestic premises from noise generated by any new or replacement external plant/machinery shall be submitted to and approved in writing by the Local Planning Authority prior to the beneficial occupation of the associated Unit(s). The scheme shall demonstrate that the combined noise levels from all such plant units measured as an LAeq (1hour) will meet Noise Rating NR50. The assessments will be made at 1 metre from the facade of the closest retail/ domestic premises. Such works that form part of the approved scheme shall be completed before the associated premises are occupied and thereafter properly maintained, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To protect existing and future and residents and other commercial operators from noise disturbance from the plant servicing the proposed development.

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- 30 The detailed drainage strategy indicated on drg. Nos. WB03257 C 1502 - 1505 approved under condition discharge ref:2015/2367 showing how the foul water, surface water and land drainage shall be implemented prior to the construction of any impermeable surfaces draining to the system, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To reduce the risk of pollution to controlled waters and to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.
- 31 Foul water and surface water discharges shall be drained separately from the site.
Reason: To protect the integrity of the public sewerage system.
- 32 No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
- 33 Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.
- 34 The development site is crossed by a 1650mm public combined sewer as marked on the Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. Unless otherwise agreed in writing by the Local Planning Authority, no part of the building will be permitted within 8 metres either side of the centreline of the public sewer.
Reason: To protect the integrity of the public sewer and avoid damage thereto.
- 35 The design and materials of the public realm floor map shall be implemented in accordance with drawing number 9845 P 031 Rev E and 9485 P 041 Rev F as approved under condition discharge ref:2015/2353.
Reason: To accord with the City and County Council's policy of encouraging the provision of public art features on appropriate sites.

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: (UDP Policies CC1, CC2, CC3, CC4, EC4, EV1, EV2, EV3, EV4, EV5, EV6, EV9, EV33, EV34, EV35, EV36, EV38, EV40, AS1, AS2, AS4, AS5 & AS6)
-

PLANNING COMMITTEE – 4TH OCTOBER 2016

ITEM 2

APPLICATION NO.

2016/1249

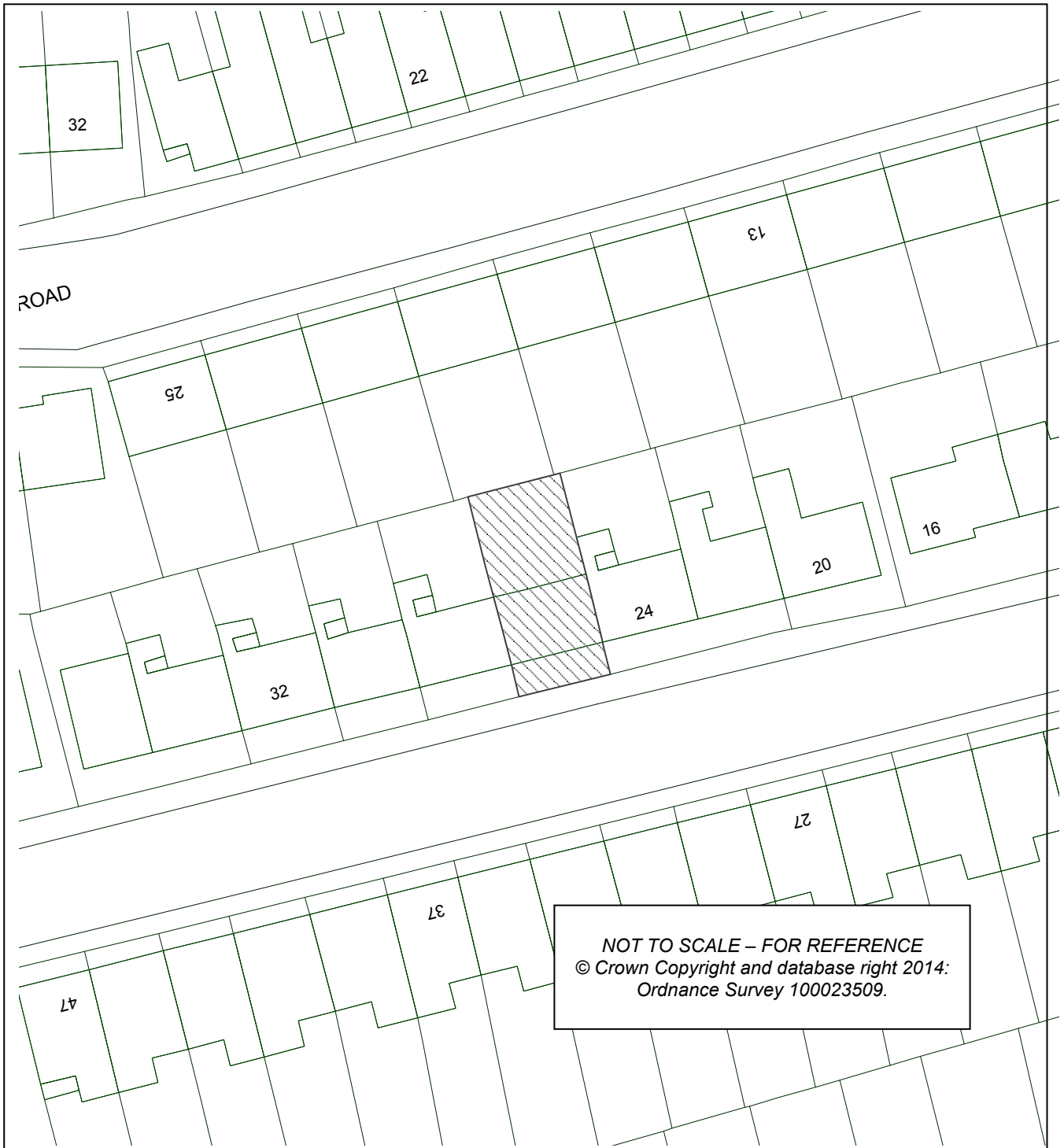
WARD:

Uplands

Location: 26 Pinewood Road Uplands Swansea SA2 0LT

Proposal: Change of use from residential (Class C3) to HMO for 4 people (Class C4)

Applicant: Mrs Sharon Davies



ITEM 2 (CONT'D)

APPLICATION NO.

2016/1249

BACKGROUND INFORMATION

POLICIES

Policy	Policy Description
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

NO RELEVANT PLANNING HISTORY

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 4 individual neighbouring properties and through display of a site notice dated 1st July 2016. 30 individual letters of objection were received and a petition of 75 signatures received raising concerns relating to:

1. Too many HMO's.
2. Parking issues.
3. Noise.
4. Litter problems.
5. Anti-social behaviour.
6. Community is in decline.
7. Need for the development.
8. Decline in the care of properties.
9. High turnover of residents has a detrimental impact on area.
10. Bins and recycling issues.
11. Properties not looked after which affects house prices.
12. Letting signs are being left up all year around.
13. Bus issues with navigating the streets.
14. Impact approval would have on Councils drive for City Centre regeneration.
15. Character of area is moving away from families to slums.
16. Concern over the quality of the report.
17. Discrepancies within the report.
18. Accessibility of cycle storage.

ITEM 2 (CONT'D)

APPLICATION NO.

2016/1249

Dwr Cymru/Welsh Water: No objection.

Highways: Change of use from residential (Class C3) to HMO for 4 people (Class C4)

No car parking is available but there is a rear yard area which could provided cycle storage.

I recommend that no highway objections are raised to the HMO for 4 persons, subject to cycle parking being erected in accordance with details to be submitted to the LPA, and implemented prior to beneficial occupation of the HMO.

Pollution Control: No objection.

APPRAISAL:

This application is reported to Committee for decision at the request of Councillor Nick Davies due to concerns relating to the concentration of HMOs in the area and in light of the fact there is a petition in excess of 30 individual signatures.

Description

Full planning permission is sought for the change of use of No 26 Pinewood, Uplands 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. Uplands is a suburban area of Swansea. The area comprises a mix of rows of traditionally designed terraced properties and large detached 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 relates 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 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 some parts of Swansea 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 2 (CONT'D)

APPLICATION NO. 2016/1249

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 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 as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house.

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.

ITEM 2 (CONT'D)

APPLICATION NO.

2016/1249

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 are a number of houses in multiple occupation in and around Pinewood Road. The street comprises a mixture of rows of terraced properties, semi-detached and detached properties. Pinewood Road is situated towards the northern end of Uplands Ward and runs horizontally east to west through the area. The street is also crossed vertically by Glanmor Park Road, Llythrid Avenue, Le Breos Avenue and Hawthorne Avenue. Using evidence held by our Environmental Health Department (accessed 15th September 2016) there are currently 4 HMO licenses active between No's 1 and 69 Pinewood Road (approximately 63 properties) which is approximately 6% of dwellings within this road. These properties being No's 1, 4, 28 and 55 Pinewood Road.

It is clear that approval of the application would result in the addition of a further HMO into the Uplands Ward 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 terms of the street it can be noted that a low percentage of properties would be occupied as HMO's as a result of the approval of the application (8%).

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

ITEM 2 (CONT'D)

APPLICATION NO. 2016/1249

Having consulted the Head of Transportation and Engineering it is acknowledged that there is no car parking available to support this application. However, the absence of car parking in itself is not a reason for refusal of a planning application. There is a need to demonstrate that the lack of car parking results in harm to highway safety within the immediate area.

It can be noted that the site is located in a sustainable location with access to amenities and public transport. It is not considered the use of the premises for up to 4 residents (or 6 residents within a C4 Use Class) would result in significant additional parking demand over and above the extant consent. A condition will be added to ensure the provision of cycle parking as an alternative means of sustainable transport is provided.

Therefore subject to an appropriately worded condition the proposal to provide for sustainable transport it 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 that appropriate refuse storage arrangements can be provided and agreed via an appropriately worded condition.

Response to Consultations

Notwithstanding the above 30 individual letters of objection and a petition of 75 objections were received which raised concerns relating to the number of HMOs in the area, parking issues, community impact, impact on character of an area, bins and recycling, highway safety. The issues pertaining to which have been addressed above.

Further concerns were raised with respect of litter, noise and anti-social behaviour orders. 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.

In terms of the 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.

Concern has been raised with respect discrepancies within the Officer report which was reported to Committee on the 6th September 2016. Officers acknowledged that there were errors within the report and these have been addressed. It should be noted that the errors contained within the report had no bearing upon the decision reached and as such the application is reported to Committee for decision with a recommendation of approval.

ITEM 2 (CONT'D)

APPLICATION NO.

2016/1249

With respect the cycle storage to the rear, the Local Planning Authority cannot force residents to cycle to their place of work or study etc, however it can offer alternative means of transport which Condition No 3 seeks to achieve.

Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 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: Site Plan received 22nd June, Existing and Proposed Plan and Site Location Plan received 27th June 2016.
Reason: To define the extent of the permission granted.
- 3 Details of facilities for the secure and undercover storage of four 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 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 and AS6.
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
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PLANNING COMMITTEE – 4TH OCTOBER 2016

ITEM 3

APPLICATION NO.

2016/1416

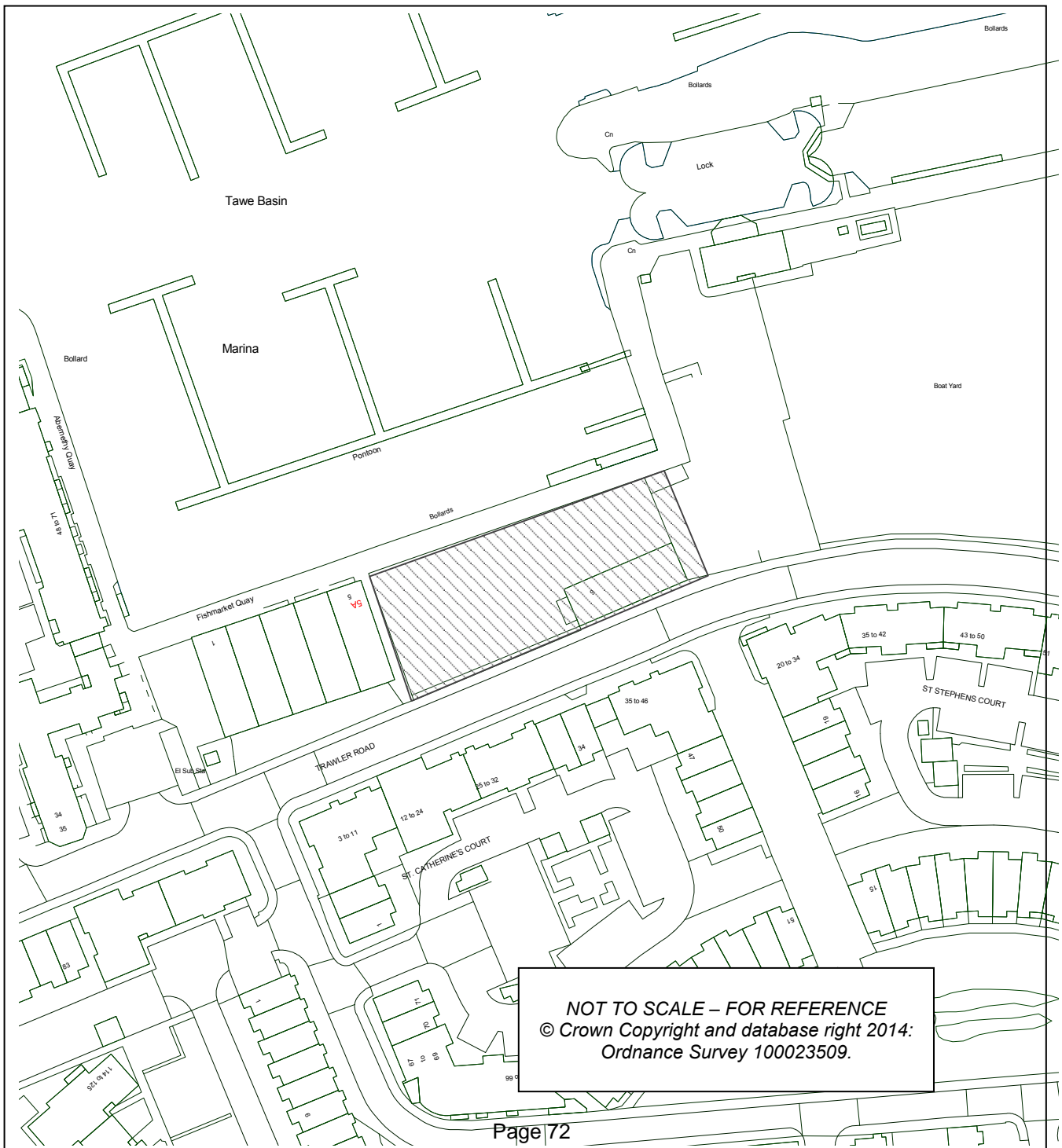
WARD:

Castle

Location: The Boat Yard, adjacent to Fishmarket Quay, Trawler Road, Maritime Quarter, Swansea SA1 1UP

Proposal: Construction of a four/three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking and bin/bike stores (details of the landscaping (reserved matters) and western elevation pursuant to conditions 1 and 22 of outline planning permission 2015/1498 allowed on appeal on 5th May 2016

Applicant: Waterstone Homes Ltd



ITEM 3 (CONT'D)

APPLICATION NO.

2016/1416

BACKGROUND INFORMATION

RELEVANT PLANNING POLICIES

Swansea Unitary Development Plan

- Policy EV1 New development shall accord with a defined set of criteria of good design.
- 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.
- Policy EV3 Accessibility criteria for new development.
- Policy EV4 Creating a quality public realm
- Policy HC2 Proposals for housing developments within the urban area will be supported where the site has been previously developed or is not covered by conflicting plans policies or proposals.

Planning Policy Wales (PPW) (January, 2016 8th Edition)

With regard to housing, PPW seeks to ensure that previously developed land is used in preference to Greenfield sites; is well designed; meets national standards for the sustainability of new homes and makes a significant contribution to promoting community regeneration.

Relevant Planning History

- 2012/1226 Construction of a four / three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking (outline - including details of access, appearance, layout and scale)
Refused 3 July, 2014 for the following reasons:
1. *The introduction of a residential use in close proximity to existing business uses would be detrimental to the residential amenity that future residents of the proposed development could reasonably expect to enjoy by virtue of the noise, smells and air pollution generated by the existing business operations. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*

ITEM 3 (CONT'D)

APPLICATION NO.

2016/1416

- 2 *The introduction of a residential use within close proximity to existing business activities, namely the marina boatyard (including the boat hoist operation) and commercial fish market would likely result in nuisance complaints from future occupiers of the proposed residential apartments, which in turn could unduly impact on the operations of those existing businesses, which are of strategic importance to the City and County of Swansea and its adopted vision to make Swansea a vibrant, attractive and distinctive 21st century Waterfront City which capitalises on its waterfront location. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*
- 3 *The proposed development fails to provide any off-street car parking for visitors to the development which will lead to an increase in parking on the adjoining highway network to the detriment of highway safety. The proposal is therefore contrary to Policies EV1, EV3, AS6 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*

2015/1498

Construction of a four / three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking (outline - including details of access, appearance, layout and scale)

Refused 22 October, 2015 for the following reasons:

1. *The introduction of this intensive form of residential development in close proximity to existing business uses would be detrimental to the residential amenity that future residents of the proposed residential apartments could reasonably expect to enjoy, by virtue of the noise, smells and air pollution generated by the existing business operations. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*
2. *The introduction of this intensive form of residential development within close proximity to existing business activities, namely the marina boatyard (including the boat hoist operation) and commercial fish market would likely result in nuisance complaints from future occupiers of the proposed residential apartments, which in turn could unduly impact on the operations of those existing businesses, which are of strategic importance to the City and County of Swansea and its adopted vision to make Swansea a vibrant, attractive and distinctive 21st century Waterfront City which capitalises on its waterfront location. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*

Appeal Allowed 5 May, 2016

ITEM 3 (CONT'D)

APPLICATION NO.

2016/1416

RESPONSE TO CONSULTATIONS

The application was advertised on site. No response

Highway Observations – no highway objections

APPRAISAL

This application is reported to Committee for decision as the development meets the Alternative Development Threshold set out in the Council's Constitution.

Introduction

Planning Permission for the construction of four/three storey block containing 50 residential apartments (Class C3) and 1 no. ground floor retail unit (Class A1) with associated undercroft car parking and bin/bike stores was allowed on Appeal on 5th May 2016 (Ref:2015/1498) (Appeal Decision appended).

Planning Application 2015/1498

The original planning application was reported to Planning Committee on 13th October 2015. The Officer Report set out the key considerations of the application and resolved to recommend approval of the application subject to conditions. Whilst noting the objections submitted it was considered that the overall urban design solution was acceptable in terms of scale, building mass and detailed elevational design. There was considered to be adequate car parking and it was not considered that the development would result in an unacceptable loss of residential amenity to any existing residential property. Concerns had been raised in relation to the introduction of noise sensitive residential apartments in close proximity to existing business operations, however, officers considered that suitable conditions could be imposed to control acoustic amenity of future residents and that refusal of the application would be unsustainable.

Contrary to the advice of Officers Members of the Planning Committee resolved to refuse the planning application on the basis of concerns relating specifically to the impact of the development upon residential amenity of future residents and noise nuisance with likely future complaints with the following 2 reasons being given for refusal as set out on the decision notice:

- 1. The introduction of this intensive form of residential development in close proximity to existing business uses would be detrimental to the residential amenity that future residents of the proposed residential apartments could reasonably expect to enjoy, by virtue of the noise, smells and air pollution generated by the existing business operations. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*

ITEM 3 (CONT'D)

APPLICATION NO. 2016/1416

- 2. The introduction of this intensive form of residential development within close proximity to existing business activities, namely the marina boatyard (including the boat hoist operation) and commercial fish market would likely result in nuisance complaints from future occupiers of the proposed residential apartments, which in turn could unduly impact on the operations of those existing businesses, which are of strategic importance to the City and County of Swansea and its adopted vision to make Swansea a vibrant, attractive and distinctive 21st century Waterfront City which capitalises on its waterfront location. The proposal is therefore contrary to Policies EV2, EV40, HC2 and CC1 of the City and County of Swansea Unitary Development Plan (2008).*

The Appeal Decision – Appeal Ref APP/B6855/A/15/3139369

In dealing with the appeal against the refusal of the planning application the appointed Planning Inspector considered that the main issues were whether the proposed development would provide acceptable living conditions for future occupiers in terms of noise, odour and air pollution, with regard to its location in proximity to existing businesses in addition to the effect of the proposed development on the operations of existing businesses.

In relation to noise impacts the Planning Inspector noted that the evidence presented by the appellant (Noise Impact Assessment – NIA) on noise indicated that readings taken predominantly fall within Noise Exposure Category B of Planning Guidance (Wales) Technical Advice Note (Wales) 11, Noise – October 1997. Category B is noise which should be taken into account when determining planning applications, and where appropriate, conditions imposed to ensure an adequate level of protection. The Inspector noted that whilst one survey measuring point indicated a reading that just falls within Category C (where permission should not normally be granted) nonetheless noted that the overwhelming majority of recordings were within Category B. The Inspector further noted that the Councils Head of Public Protection, Housing and Health had accepted the conclusions of the evidence and agreed that a suitably acoustically insulated window design imposed via a planning condition would safeguard future residential amenity. The Inspector goes on to consider issues raised in relation to a noisy fan from the adjacent fish wholesaler, potential noise from the marina boat hoist as well as potential noise from the boatyard in relation to delivery of boats, use of power tools and general noise activity although considered that there was no reason to disagree with the conclusions of the NIA subject to appropriate conditions. In relation to Odour and Air Quality concerns the Inspector again considered that appropriate conditions could be utilised to deal with potential concerns.

In relation to the second reason for refusal, the impact upon existing businesses, the Inspector concluded that the location of the proposed development in proximity to the existing businesses would not be likely to give rise to any significant or undue detriment as a result of odour nuisance to future occupiers of the apartments, and would not be subject to an significant and demonstrate adverse noise impacts.

Other issues raised as part of the appeal have been addressed by the Planning Inspector who concludes that the application was acceptable and imposed a range of conditions as set out in the decision notice dated 5th May 2016.

ITEM 3 (CONT'D)

APPLICATION NO. 2016/1416

Description

The development granted planning permission comprised an outline planning application, whereby full details of access, appearance, layout and scale were provided, although detail related to any proposed landscaping was left to be considered as a reserved matter.

The Planning Inspector granted planning permission, in outline, subject to a 24 conditions, one of which requires details of the proposed landscaping (a reserved matter) to be agreed in writing by the Local Planning Authority prior to commencing the development.

Condition 1 of the permission reads:

- 1. Details of the landscaping of the site (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.*

This current application therefore relates to the details of the landscaping of the site.

Additionally, Condition 22 requires elevational drawings of the western elevation of the building to be submitted for approval and was deemed necessary in the interests of visual amenity. The western elevation drawing was not submitted under ref: 2015/1498. Condition 22 reads:

- 22. Prior to the commencement of development, elevation drawings of the western elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. The approved development shall be carried out in accordance with the approved elevational drawings.*

This application therefore seeks reserved matters approval for the landscaping of the site pursuant to Condition 1 and also seeks approval of the submitted details of the western elevation pursuant to Condition 22.

Main Issues

The main issues for consideration in this application therefore relate to whether the proposed landscaping and proposed elevational detailing to the western elevation is acceptable having regard to the Swansea Unitary Development Plan and any material considerations. Given the appeal decision the Local Planning Authority is unable to revisit matters of principle.

Landscaping and Visual Amenity

The landscape plan submitted (Drawing AS.05) indicates a soft planting area which is restricted to shrubs / climbers on the Trawler Road frontage in order to soften/ screen the undercroft parking area with external paving to hard landscaped areas essentially restricted to circulation area and along Fishmarket Quay. The scope for landscaped areas within the development are severely restricted to those indicated and the proposed soft / hard landscaping details are considered to be acceptable for the development within its context of the surrounding area. Overall, it is considered that the proposals would provide a good standard of landscape design in accordance with Policy EV1 of the Swansea Unitary Development Plan.

ITEM 3 (CONT'D)

APPLICATION NO. 2016/1416

The submitted western elevation drawing (Drawing AE.02) essentially indicates a 'blank' three storey rendered elevation with a central full height window area finished in aluminium double glazed windows which illuminates the internal access corridor. The approved floor plans indicate the windows are set back from the western elevation. The elevational treatment of the western elevation would be visually acceptable and the omission of any habitable room windows adjacent to Fishmarket Quay is considered appropriate.

Conclusions

In conclusion, having regard to all material considerations, including the Human Rights Act., the proposal would represent a satisfactory form of development which complies with the criteria of Policies EV1, EV2, EV3 & EV4 of the Unitary Development Plan and would have an acceptable impact on the residential and visual amenities of the area. Approval is therefore recommended.

RECOMMENDATION

APPROVE, subject to the following condition:

- 1 The development shall be carried out in accordance with the following approved plans and documents: Site location plan - AS.15, Elevation 04 - AE.02, Landscape Plan - AS.05
Received 13 July, 2016.

Reason: To define the extent of the permission granted.

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: (UDP Policies EV1, EV2, EV3 & EV4)
-

Report of the Head of Economic Regeneration and Planning

Planning Committee – 4 October 2015

PLANNING ANNUAL PERFORMANCE REPORT

1.0 Background

- 1.1 The Annual Performance Report (APR) is seen by Welsh Government as an important mechanism for monitoring Local Planning Authority performance against a key set of National performance indicators and as a means of driving its agenda for modernising the planning system in Wales. It also represents an important tool for benchmarking the performance of Authorities across Wales and importantly must also be seen in the context of Welsh Government proposals to intervene where Local Planning Authorities exhibit consistent underperformance.
- 1.2 This year's draft APR, reviewing performance for the Authority for the period 2015-16, is attached to this report as Annex A, for Member consideration. The APR must be formally submitted to Welsh Government by the end of October 2016.

2.0 Context

- 2.1 The Authority underwent a significant change process during 2014-15, partly as a result of budgetary pressures, and partly in response to Welsh Government proposals associated with the Planning (Wales) Act 2015.
- 2.2 In this respect the Planning Control Service was restructured to accommodate the implications of ER/VR and a comprehensive review of its enforcement function and planning application process was also undertaken following the introduction of the Idox electronic document management system (EDMS). The Planning Control Service is also currently in the process of replacing its M3 Northgate back office system with Idox Uniform, and refining its business processes further, to provide greater integration with its existing EDMS and improve efficiency.
- 2.3 The Authority's Committee structures and scheme of delegation were also amended in January 2015 to broadly align with the recommendations of Welsh Government contained within its consultation document entitled 'Planning Committees, Delegation and Joint Planning Boards (October 2014)'.
- 2.4 The service is currently in the process of undergoing its Commissioning Review which will identify further service improvements, cost savings, income generation and efficiency opportunities.

3.0 Performance:

- 3.1 The positive changes introduced during 2014-15 have significantly improved the Authority's development management performance in both qualitative and quantitative terms.
- 3.2 The average time taken to determine all planning applications at 61 days was significantly below the Welsh average of 77 days. The percentage of all applications determined within required timescales also showed a significant improvement increasing from 71% in 2014-15 to 84% well above the Welsh average of 77%. Significantly, for the delivery of the Council's regeneration agenda, the percentage of all major planning applications determined within required timescales has increased from 6% in 2014-15, which was the lowest performance in Wales, to 36% in 2015-16, which is above the Welsh average.
- 3.3 Ongoing progress on reducing the backlog of outstanding historic enforcement cases continues, however, to influence performance relating to the speed of investigation and resolution of cases.
- 3.4 The percentage of Member made decisions contrary to officer advice has reduced from 23% in 2014-15 to 10% in 2015-16 equating to 0.3% of all planning application decisions being made against officer advice compared to 0.6% across Wales. The quality of such Committee decisions has also improved significantly with 5 of the 7 subsequent appeals made in respect of applications refused contrary to officer advice being dismissed at appeal. A summary of the relevant appeals is provided at Annex B for Member consideration.
- 3.5 Significant progress in LDP preparation has been made over the past year. The Deposit LDP has been written, agreed by Council and consulted upon. The representations received are in the process of being assessed and a consultation report is being prepared with the intention to submit the Plan for Examination in early Spring 2017. A revised LDP Delivery Agreement has been agreed with Welsh Government and an independent LDP Programme Officer appointed. A Strategic Environment Assessment and a Habitats Regulations Assessment of the Deposit Plan have been undertaken. The Affordable Housing Viability Study in support of the Plan has been updated. An independent study of the viability and deliverability of Strategic Development Areas has also been carried out. Officers from Strategic Planning and Development Management Control have been provided with viability assessment training and Strategic Site Masterplanning work remains an ongoing series of projects.

4.0 Conclusion

- 4.1 This year's APR provides a useful tool to benchmark the Authority's performance against other Authorities in Wales and to monitor progress in future years. It also demonstrates that the Authority has already made significant progress in addressing areas of performance that were in need of improvement and in embracing the Welsh Government's agenda for the modernisation of the planning system in Wales.

4.2 Moving forward the Local Planning Authority faces continued budgetary pressures at a time of transformational change for the City and its region and it is inevitable that difficult decisions will have to be made as part of the ongoing Commissioning Review regarding the Authority's priorities and service levels in the future.

Background papers:

City & County of Swansea APR 2014-15:

<http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=493&MId=6629&Ver=4&LLL=-1>

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Swansea LPA

PLANNING ANNUAL PERFORMANCE REPORT (APR) – 2016-17

PREFACE

I have the pleasure of introducing the second Annual Performance Report (APR) for the City and County of Swansea's Planning Service. APR's have been introduced as part of Welsh Government proposals, embodied with the Planning (Wales) Act 2015, to modernise the planning system and improve local delivery of planning services. The Council's Planning Service is responsible for protecting the amenity and environment of our city and countryside in the public interest and facilitating sustainable development and the economic regeneration of our urban and rural areas. This is achieved through having an up to date planning policy framework in place which sets out a clear vision for future growth and development of the City and County against which planning applications can be determined. The Council's planning policy framework is currently being reviewed and, at a time of transformational change in the Swansea Bay and City Region, the APR provides a mechanism for ensuring that the Planning Service is responding positively to the challenges of evolving national planning guidance and the goals of sustainable development. The Planning Service presents the most tangible means of translating the Council's corporate objectives and regeneration agenda into development on the ground with the overall aim of improving the quality of life for local residents and building more sustainable communities.

CONTEXT

- 1.0 This section sets out the planning context within which the local planning authority operates.**
- 1.1 The City and County of Swansea covers an area of 378 square kilometres (about 2% of the area of Wales), approximately 66% of which is rural and 34% urban. The City is the second largest in Wales and the regional centre for South West Wales.
- 1.2 Latest population estimates stand at 242,400 (mid-2015, ONS estimates), which represents almost 8% of the total population of Wales with a population density of 638 people per sq. km. The population is growing by around 1300 per annum.
- 1.3 Swansea contains around 110,400 dwellings, with 67% of all stock owner-occupied. The 2014 Welsh Index of Multiple Deprivation identified 12% of Swansea's local areas as falling within the top 10% most deprived in Wales.
- 1.4 Swansea is a centre of learning - home to Swansea University, University of Wales Trinity St. David and Gower College Swansea, which in total support around 21,000 full-time students.
- 1.5 GVA (Gross Value Added) per head in Swansea stands at £18,326, (2014, ONS); 4.3% above the Wales level but 25.6% below the UK average. 74.8% of Swansea's working age residents are economically active and 104,800 in employment (December 2015, ONS), mostly in the service sectors 88.7%), with 29.7% employed in the public sector. 27,700 people commute into Swansea each day (2014, ONS/WG)..
- 1.6 Estimates suggest 4.47 million people visited Swansea Bay in 2014 spending £390 million (Scarborough Tourism Economic Activity Model).

2.0 Planning background, including previous adopted or abandoned development plans.

2.1 City and County of Swansea Unitary Development Plan (UDP) adopted 2008, covers the period 2001 to 31st December 2016.

2.2 The replacement Local Development Plan (LDP), currently at Deposit Stage, will provide the future policy context for the period up to 2025

3.0 Place and fit within the community strategy and/or wider strategic and operational activity of the authority.

3.1 A Single Integrated Plan (SIP) known as the One Swansea Plan has replaced the community strategy and the plans for community safety; health, social care and wellbeing; and children and young people. The SIP, which is reviewed and updated annually by the Swansea Local Service Board, has adopted the LDP vision as its vision for Swansea as a place to live, work and visit. The planning system is specifically identified as the mechanism for delivering this vision.

3.2 The SIP has six identified outcomes linked to services and projects, all of which are supported by the planning system, including ensuring people have good places to live and work, have a decent standard of living and can live healthy, safe and independent lives.

3.3 The current UDP and emerging LDP also seek to deliver the land use objectives expressed in other Council strategies, plans and programmes, whilst the evidence gathered for the LDP, such as household projections, retail impact assessment, strategic transport modelling, etc is being used to inform other strategies and wider corporate action, such as the Local Housing Strategy, City Centre Strategic Framework Review, and the Local Transport Plan.

4.0 Existing and previous major influences on land use (e.g. heavy industrial, agricultural, energy, transport).

4.1 Swansea had a pioneering role in Britain's Industrial Revolution. It was a world leader in the smelting of copper, and a centre for the mining of coal and manufacture of tinplate, steel and other metals. Since the decline of these heavy industries, the area has suffered a loss of identity.

4.2 National policy supports employment growth within the Swansea Bay region, and there is a requirement to align jobs with housing and infrastructure to reduce the need to travel, especially by car. Current local policy focuses on generating wealth by diversifying the economy away from public sector employment and growing a higher value knowledge economy (life sciences, technology and engineering) that offers higher skilled and better paid employment opportunities. There are a number of projects to help deliver these objectives which are likely to be continued throughout the LDP period, with initiatives such as the ongoing transformation of Swansea's Fabian Way corridor by two universities, plans for the redevelopment of the City Centre and Waterfront area, together with the Tidal Lagoon and new super-hospital proposals.

4.3 Between 2001 and 2011 the average property price in Swansea rose by 124.8%. The West of the County now contains some of the more expensive dwellings in South Wales, whilst the North and East of the County contain generally much lower house prices. Since 2006, the average house price to average household income/earnings ratio in Swansea has reduced from over 7 times income to less than 6. However, despite this improvement, the lower availability of mortgage finance for first time buyers means that aspiring households still cannot afford to buy. In March 2016, the average house sale price in Swansea was £114,427 - average for Wales £122,221 (Land Registry). Almost half of the 35% of households in Swansea that are non-homeowners have annual incomes of under £10,000, and three-quarters have incomes of less than £20,000 per annum. These households can realistically only afford social rented accommodation and in most cases need Housing Benefit support to meet the cost of social rent.

4.4 As a result, many developers have put schemes on hold and/or scaled down their building activities. In recent years new house build completions are down by around a third of the average for the past decade. Combined with this, a shortfall in supply of market and affordable housing across Wales has resulted in an intensification of needs, the growth of the private rented sector in response to the fall in supply of other sectors and increasing numbers of conversions of existing housing stock to HMOs.

5.0 Historic/landscape setting of the area, including AONBs, conservation areas etc.

5.1 Over 50% of the County's area is identified as being of significant ecological interest. Nearly 70% of the habitats and at least 20% of species identified as being of importance for biodiversity conservation in the UK can be found in the County, and approximately 17% of the County's area is protected by designations at a European (SAC, SPA, RAMSAR) or National (SSSI, NNR) level.

5.2 The landscape is of critical importance within the County, as it provides a striking setting for the City and at least 40% of the County (the Gower AONB) is recognised as being landscape of national importance. Most of the AONB coastline is also designated as Heritage Coast which extends for 59km. Gower attracts large numbers of visitors and tourism is very important for the local economy.

5.3 There are currently 31 Conservation Areas and 519 Listed Buildings within the County, many of which are characterised as having good authentic surviving historic features that still contribute to the distinctive, special character of the area. However, some Conservation Areas have been degraded in character due to inappropriate alterations to the external features of buildings, or new developments that are out of keeping with the character of the area. The character and size of Conservation Areas can vary greatly, from very small rural hamlets with a cluster of buildings around a church, to urban areas of buildings originally constructed for industrial and commercial purposes.

5.4 Most of Swansea's Conservation Areas were designated in the late 1960's and 1970's and therefore, the published documentation supporting these earlier Conservation Areas is often limited. This limits the amount of information available upon which development management decisions in Conservation Areas can be based. A programme of Conservation Areas Review is therefore underway

6.0 Urban rural mix and major settlements.

- 6.1 The County can be broadly divided into four physical areas: the open moorlands of the Lliw Uplands in the north; the rural Gower Peninsula in the west, containing a number of rural villages, contrasting coasts and the Gower Area of Outstanding Natural Beauty (AONB); the suburban area stretching from the edge of Swansea towards settlements in the west and along the M4 corridor; and the coastal strip around Swansea Bay, which includes the City Centre and adjacent District Centres.
- 6.2 Some two-thirds of the County's boundary is with the sea - the Burry Inlet, Bristol Channel and Swansea Bay.
- 6.3 Most of the population live within the urban areas radiating from the City Centre and in the surrounding nearby urban settlements. There are also rural / semi-rural settlements in and around the edges of Gower and to the North.
- 6.4 The Northern, Eastern and Central parts of the County have historically supported significant levels of housebuilding. The regeneration of the retail heart of the City Centre through mixed use development, including the reintroduction of residential units into the central area, has been seen as a particularly important means of breathing life back into the City. There has been major investment in infrastructure and environmental improvements, and these areas are well located for access to a wide range of employment opportunities. Development has been encouraged within the Maritime Quarter, SA1 and Lower Swansea Valley riverfront areas to reinforce the image and role of Swansea as a 'Waterfront City'.
- 6.5 Within the North West part of the County development has been concentrated on the settlements of Gorseinon, Loughor, Penllergaer and Pontarddulais in support of regeneration initiatives and local employment centres. This has included significant levels of housebuilding over the past decade.
- 6.6 West Swansea was the focus for the greatest boom in post war building and is now largely built-out to its environmental limits. Beyond this area the Gower Fringe is characterised by rural and semi-rural areas, including the settlements of Penclawdd, Crofty, Dunvant, Three Crosses, Upper Killay and Bishopston, where development has historically been limited to infill and small scale rounding off. Within the Gower AONB restrictive housing policies have historically been applied, however small-scale affordable housing development required to satisfy the overriding economic or social needs of a local community may be permitted.

7.0 Population change and influence on LDP/forthcoming revisions.

- 7.1 The County has a population of 242,400 (mid-2015, ONS estimates), - the second largest unitary authority in Wales. Official estimates suggest that between 2005 and 2015, Swansea's population increased by 13,000 - an average annual growth of around 1,300 people (0.6%). 105,600 households live in Swansea (2014, WG), with an average household size of approximately 2.24 people (Wales 2.29). A falling average household size can be attributed to the significant rise of single-person households who now account for a third of all households.

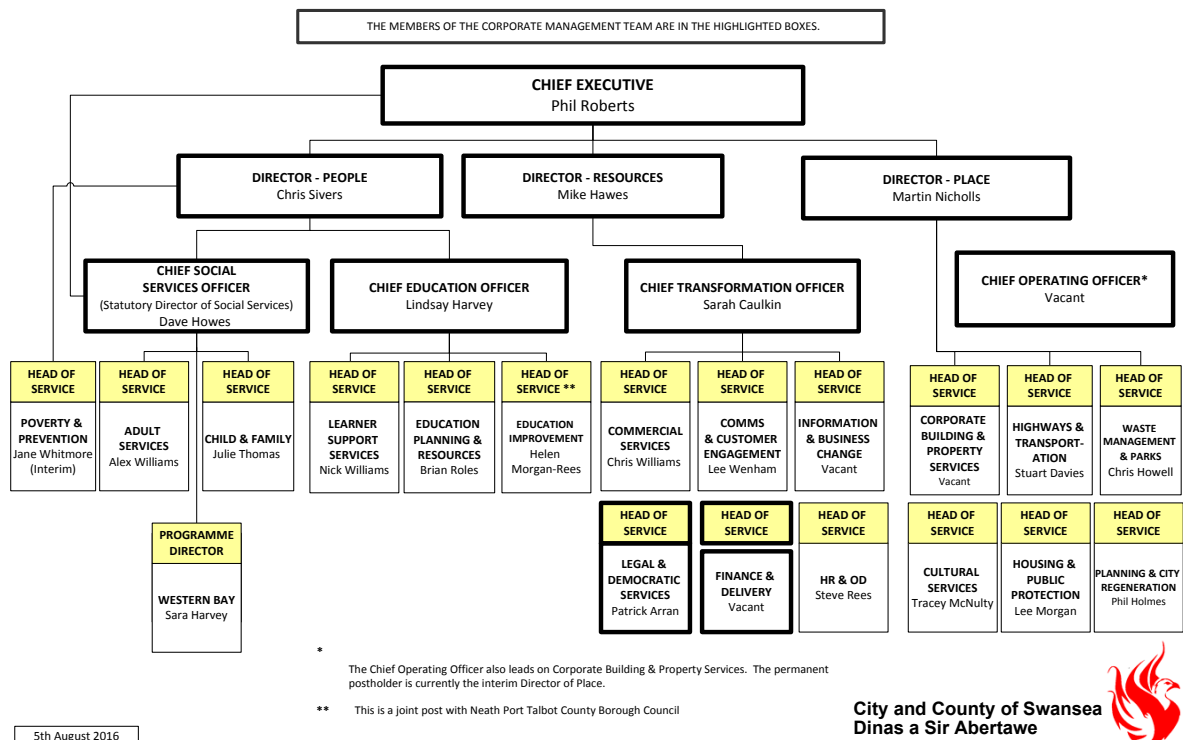
- 7.2 Comparison of the age structure for Swansea against the Wales average shows a higher proportion of young adults, which is largely associated with the significant local student population. Numbers of those of pensionable age are comparable with the Welsh average; however the older population is projected to grow as a result of better health and associated improvements in life expectancy. Life expectancy at birth in Swansea now stands at 78.0 years for males (Wales 78.5) and 82.4 for females (Wales 82.3) (2012-14, ONS).
- 7.3 78% of the population were born in Wales, with 11.4% of people aged three and over able to speak Welsh. The latest official estimates suggest a non-white ethnic population of around 14,300 - 6.0% of Swansea's total population. 33.8% of Swansea's residents (aged 16-64) are qualified to NVQ level 4 (Degree level) and above (December 2015, ONS), slightly above the Wales figure (33.6%).
- 7.4 The population of Swansea is projected to grow to over 250,000 by 2025 as a result of birth rates exceeding death rates and net in-migration. The County will need sufficient new homes, additional employment opportunities and improved infrastructure and community facilities to support this level of growth and raise standards of living.
- 7.5 Key influences on the LDP include:
- The link between housing land supply and support for local economic growth - the LDP seeks to provide for over 17000 new dwellings and support 14000 new jobs,
 - Supply of new house building not keeping pace with demand as the local population grows,
 - A shortfall of affordable housing across the County with the recession increasing the demand for such housing,
 - Need for greater variety of size and tenure mix within new housing developments to contribute towards sustainable balanced communities,
 - The age and condition of the current social, and to a lesser extent, private housing stock means that substantial improvement is required, particularly in relation to energy efficiency,
 - Designing houses to meet the needs of an increasingly elderly population to live independently for as long as possible,
 - The lack of suitable alternative accommodation for the elderly,
 - The number of conversions of housing stock to HMOs and the geographical spread.

PLANNING SERVICE

- 8.0 Setting within wider organisation, including organisation chart. How is the department structured? What is the reporting line to the Chief Executive? Are the development management and forward planning team co-located? Are they headed by a single separate head of service? If not, do they report along the same lines?**

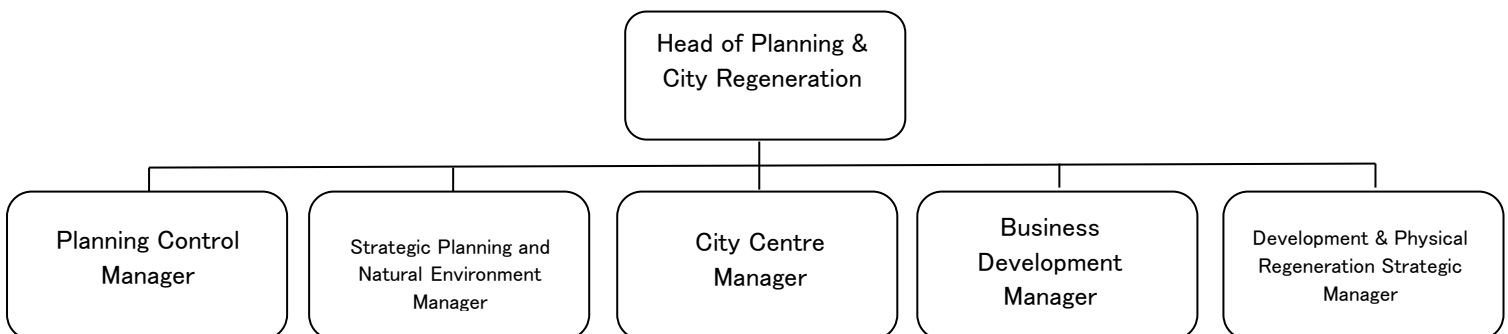
Chart 1 - Organisational Structure

SENIOR MANAGEMENT TEAM - CURRENT STRUCTURE : AUGUST 2016



- 8.1 The Council is organised into three Corporate Directorates reporting directly to the Chief Executive Officer, as detailed in Chart 1 above. Both the development management and forward planning functions sit within the Planning and City Regeneration Service under a single Head of Service who reports to the Director of Place.
- 8.2 As detailed in Chart 2 below the Planning and City Regeneration Service, itself, is organised into 5 separate service areas namely Planning Control Service, Strategic Planning and Natural Environment, City Centre Management, Business Development and Development and Physical Regeneration.

Chart 2 – Organisational Structure



- 9.0 Wider organisational activities impacting on the service – how has the department responded to financial constraints imposed during budget setting? What cross departmental activities has the department been involved in or been affected by, e.g. closer joint working in advance of Williams implementation, IT changes, real estate rationalisation?

- 9.1 The planned budget savings target for Planning and City Regeneration Service for the period 2014/15-2017/18 is £1,190,000. The Service as a whole is also currently in the process of undergoing a Commissioning Review which will identify further Service improvements, cost savings, income generation and efficiency opportunities. The above savings targets, therefore, are currently under review with the aim of providing further savings of up to 50% over the next 3 financial years.
- 9.2 The Strategic Planning and Natural Environment Section is continuing to undergo a review of its structure in response to these budgetary pressures to meet identified budget savings of £80k. Over the past year this has involved the loss of two principal officer posts and 1 senior officer post. Two vacant posts have also not been filled. Commercialisation of services within the Section has brought in income of £20k and an anticipated overspend of £100k by the Gower Landscape Partnership has been recovered through restructure and redeployment of staff coupled with greater collaboration with the Council's European Unit.
- 9.3 With a view to meeting savings targets the Planning Control Service has also undergone a significant change process in an attempt to address current planned budgets savings of in excess of £460,000 over the same period.
- 9.4 This includes an ongoing year on year reduction of staff costs in the Planning Control service of £230k including, to-date, the loss of a Team Leader post, a senior enforcement officer, 4 Administration Officer posts and a Conservation Officer in the Urban Design and Conservation Team. Fee income targets in the budget have been increased for planning applications (+£50k) and fees were introduced for pre-application advice (+£50k target) and S106 monitoring (+£10k target) on 1st April 2015. Costs associated with the loss of the Planning Improvement Fund grant (£70k) have also been absorbed within the budget. In addition to efficiency savings detailed below, press advertising costs have also been reduced through contract re-negotiation (£25k saving). One part time Senior Planning Officer post is currently funded on a part time basis by Planning Performance Agreement.
- 9.5 Within the Planning Control Service an electronic document management system has been introduced to improve efficiency and processes and procedures have been reviewed using "Systems Thinking" methodology to remove blockages and double handling in the system.
- 9.6 The Planning Control Service was also restructured in August 2014 and job descriptions were rationalised to accommodate staff savings and ER/VR and to provide flexible working for example, planning and enforcement officers now have the same job descriptions, as do all technicians and all administrative staff on the same grade.
- 9.7 Historically the Service area was organised into two separate Area Development Control Teams, a Major Projects Team, a separate Enforcement and Appeals Team, a team of Technicians, DC Admin and General Admin Teams, together with an Urban Design and Conservation Team.
- 9.8 The new structure detailed in Chart 4 at paragraph 11.1 below comprises of three self-contained Area Teams incorporating development control, enforcement and technical staff, a single Business Support Team providing administrative support and a rationalised Urban Design and Conservation Team.

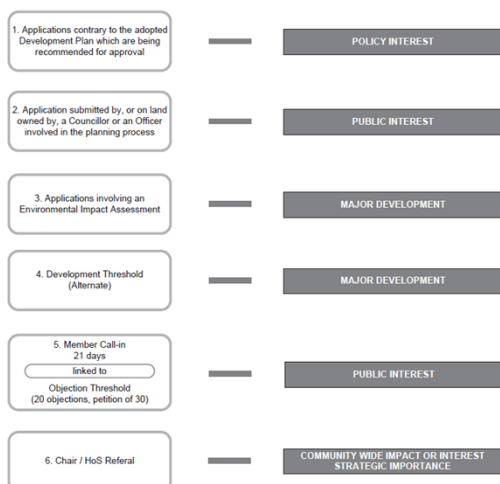
9.9 The Council’s Committee structure was also amended in January 2015 to align with the recommendations of Welsh Government contained within its consultation document entitled “Planning Committees, Delegation and Joint Planning Boards (October 2014)”. In this respect the two former Area Planning Control Committees, the Rights of Way Sub-Committee and the Development, and Management and Control Committee comprising of all 72 Councillors have been amalgamated to form one single Planning Committee of 12 members dealing with all planning, common land, TPO and rights of way issues.

9.10 In addition the Authority’s scheme of delegation has also been amended broadly in line with the National Scheme of Delegation recommended in the above referenced Welsh Government consultation document and as detailed in Chart 3 below. The Chair of Planning Committee, however, has referral and veto powers in certain circumstances and the Head of Service can also refer applications of strategic significant to Committee for decision.

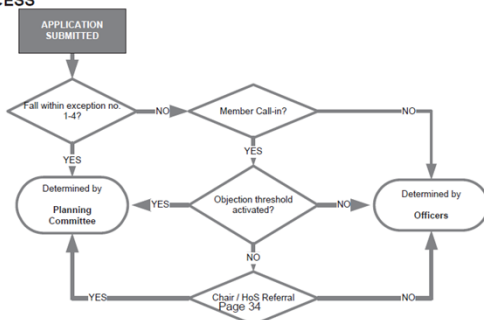
Chart 3 – Scheme of Delegation

Member Call-In linked to objection threshold:

STRUCTURE



PROCESS



9.11 The Authority has been working with Neath Port Talbot BC (NPT) following the procurement of the same replacement back office system (Idox Uniform) by both Authorities with shared hosting facilities. Swansea went live with this system in October 2016 and it is anticipated that this will provide further opportunities for efficiency savings and shared working. Neath Port Talbot are working towards go live within a different timeframe.

10.0 Operating budget – including budget trend over 3 years, and fee income. Does the planning department retain fee income? Is this used to calculate its operating budget? Has a discrepancy between expected fee income and actuals affected the forward planning or operational activity of the department?

- 10.1 The operating budget dedicated specifically to the development management and forward planning functions is difficult to establish as staff within the Planning Control Service and Planning Policy and Environment Service areas input into a range of functions including central administration for the Section as a whole, Rights of Way, Sustainability, Ecology and AONB functions and land charges for which fee income is not retained within the service area.
- 10.2 Whilst the overall budget for Planning Control Service and Planning Policy and Environment has reduced over the past three years fee income has risen since 2010/11 as illustrated in Table 1 below:

Table 1 – Planning Application Fee Income

Income (£)	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Target	1,010,000	780,000	639,000	639,000	689,000	787,600	847,600
Actual	870,572	589,069	670,199	908,679	841,171	957,352	906,526

- 10.3 Fee income is retained within the Planning Control Service budget which is, however, set demanding fee income targets for each financial year to cover a growing proportion of the costs of the Service. This places a heavy emphasis on fee income as a means of sustaining the core business of the Service and represents a significant risk to service delivery should fee income fall or fee income targets be increased further to accommodate budget savings.
- 11.0 Staff issues – what is the current staffing level of the department? What are the current plans for staff skills development and succession planning? Are any vacancies being carried? Has the service had to manage with redundancies (with reference to budget section above)? Has a loss of skills through sickness absence or other reasons, adversely affected the department? What are the coping mechanisms for this?**
- 11.1 The current staffing structure for Planning Control Service and Planning Policy and Environment is summarised in Chart 4 and 5 below respectively:

Chart 4 – Planning Control Service Structure

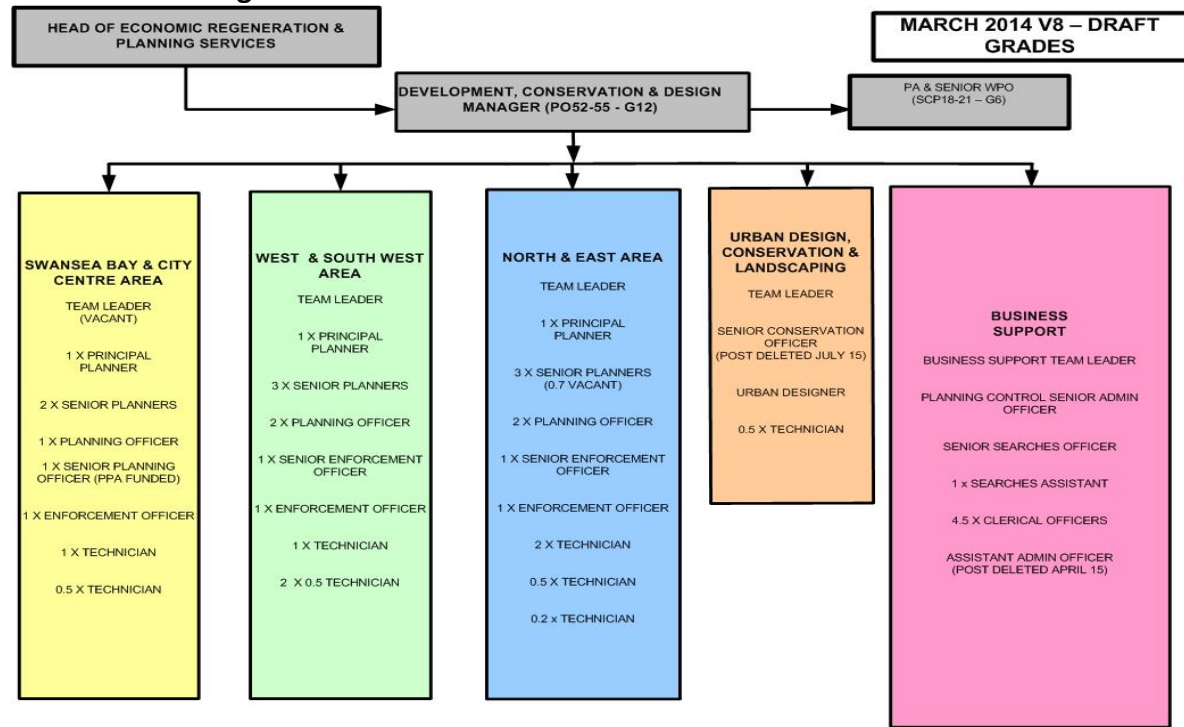
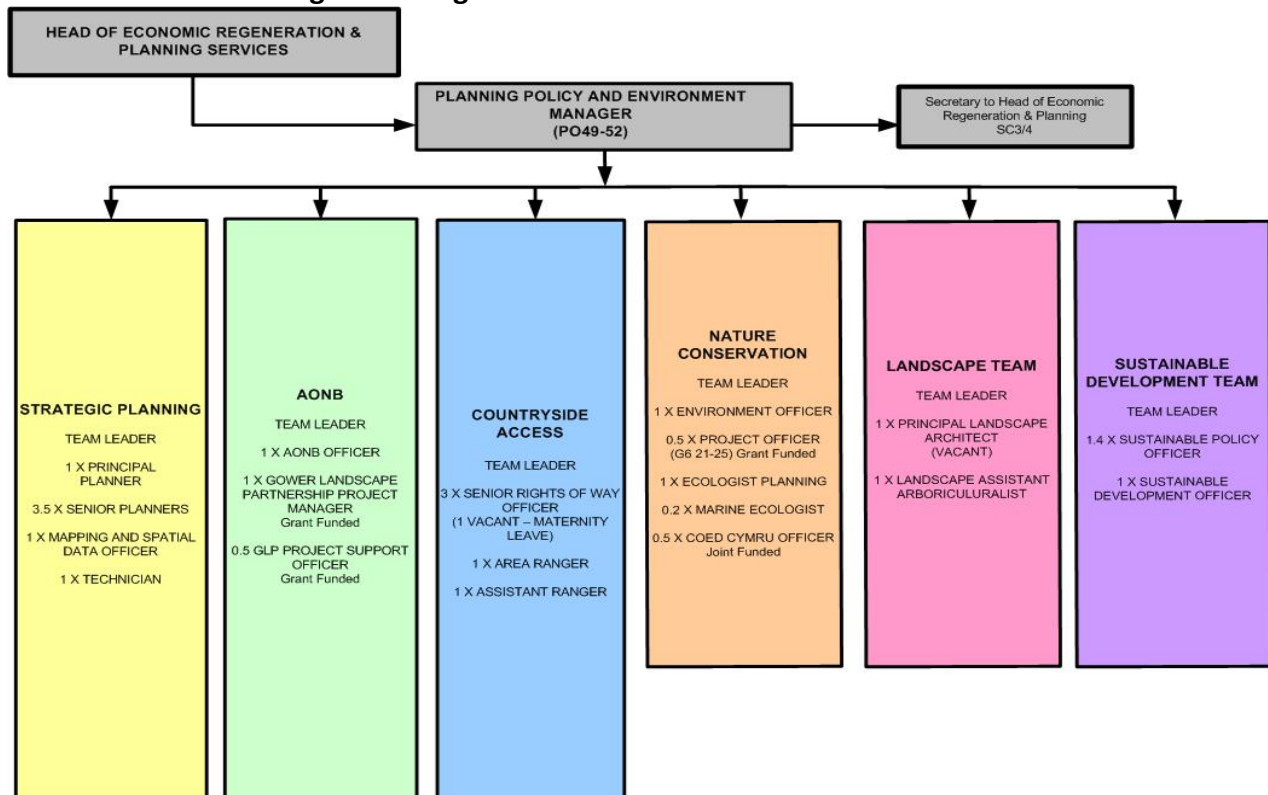


Chart 5 – Strategic Planning & Natural Environment Structure



11.2 As part of previous rounds of budget savings the Planning Control Service carries a vacancy provision in its budget equivalent to 12.5% of its total staff costs to be met through holding posts vacant on an ongoing basis. It currently has no vacant posts due to the limited turnover of staff and the contraction of the establishment as a result of previous budget savings. A number of staff members are, however, working reduced or family friendly hours. This is reflected in Chart 4 above. The bulk of this vacancy provision, therefore, has to be absorbed within the Section’s budget.

- 11.3 As detailed above the Section has been restructured and job descriptions rationalised to provide more flexible working. Through on the job training, staff from previously discrete teams e.g. DC Admin. and General Admin. carry out a much wider range of functions. An Urban Design post and a Buildings Conservation Officer post was merged in 2015 to form a single post with the loss of heritage skills now being carried by the Team Leader.
- 11.4 Responsibility and authority has also been delegated further down the staff structure to accommodate a reduction in Team Leaders as a result of restructuring and to help facilitate change.
- 11.5 Upskilling and reskilling of staff in this way is an ongoing process but remains a robust mechanism to manage the risk to the Service as ongoing budget cuts bite deeper and harder.

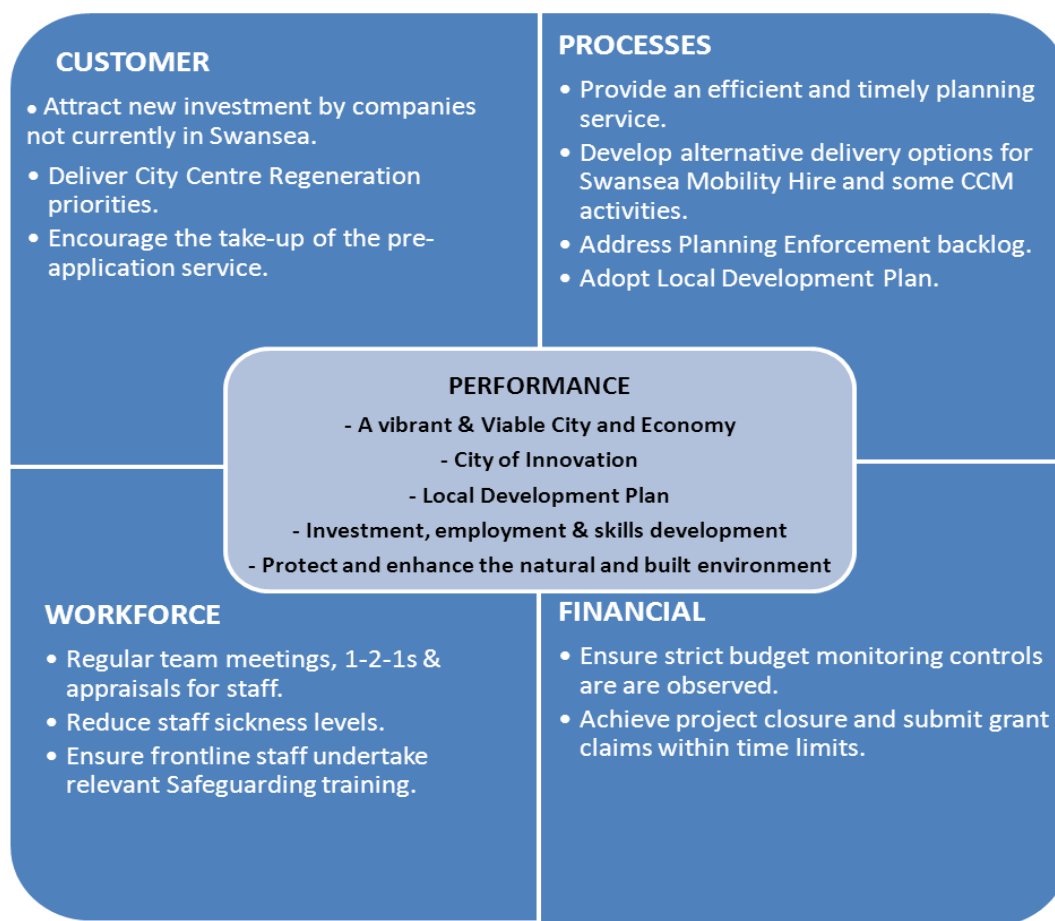
YOUR LOCAL STORY

- 12.0 Workload. What are the current planning pressures the service is facing? What is the status of the LDP? Is development/monitoring/revision proceeding as planned? What is the impact on support of development management services, e.g. for master planning? What is the DM workload per officer?**
- 12.1 Development management pressures stem from a year on year increase in the number of planning applications received from 1482 in 2012/13 to 1846 in 2015/16 reflecting both an upturn in the development industry but also the additional number of applications submitted under the new non material amendment procedure introduced by Welsh Government. This has had the effect of increasing applications but reducing fee income for some developments which would previously have required the submission of a revised planning application. The number of planning applications received per case officer (FTE) was 148 per annum in 2015/16. This excludes the provision of pre-application advice, and appeals and input into the change process described above, appeals, enforcement cases, corporate projects and initiative and policy/SPG formulation.
- 12.3 There has also been a review of the enforcement service by Scrutiny Working Group and significant political pressure to resolve an historic underinvestment in the enforcement service which had resulted in a build up of a significant enforcement backlog, with 674 outstanding cases being investigated by the Authority in July 2014.
- 12.4 Unpredictable workload associated with the submission of NSIP applications such as the Swansea Bay Tidal Lagoon and Abergelli Power and significant appeals has also had a significant impact upon available staff resources and the Planning Control budget.
- 12.5 Significant planning policy pressures include the current UDP approaching the end of the plan period; the lack of a five year housing land supply; advancing strategic LDP sites ahead of adoption of the plan; and the viability of introducing a Community Infrastructure Levy (CIL).

- 12.6 The UDP covers the period until the end of 2016, after which time, and until the adoption of the LDP (anticipated late 2017), there will be a local planning policy vacuum. Coupled with a housing land supply shortage, this could potentially result in speculative planning applications being submitted for housing development on currently unallocated greenfield land outside settlement boundaries. To attempt to address this, a guidance note for developers on 'departure' applications was approved by the Authority at Planning Committee in November 2015. It puts in place a clear strategy for dealing with the housing land shortfall and prioritises early applications on appropriate LDP Sites, and in particular on Strategic Sites and sites for affordable housing.
- 12.7 Most of the Strategic Sites will deliver wider physical infrastructure improvements and are in the process of being master-planned. However there may be some gaps in infrastructure provision, particularly in relation to highways improvements that may need to be funded by CIL. Further research needs to be undertaken to establish whether CIL would be viable.
- 13.0 Reference to the Annual Monitoring Report (as an attachment). In the absence of an AMR, the authority should report on its progress towards adoption of the LDP, and any key issues arising in the year.**
- 13.1 Over the past year the Deposit LDP has been written, agreed by Council and consulted upon. The responses are currently being assessed and a consultation report is being prepared which is due to be reported back to Council in January 2017 prior to consultation on Focussed Changes. The intention is to submit the Plan for examination in early Spring 2017.
- 13.2 A revised LDP Delivery Agreement has been agreed with Welsh Government and an independent LDP Programme Officer appointed. A Strategic Environment Assessment and a Habitats Regulations Assessment of the Deposit Plan have been undertaken. The Affordable Housing Viability Study in support of the Plan has been updated. An independent study of the viability and deliverability of Strategic Development Areas has also been carried out and this work is ongoing. Officers from Strategic Planning and Development Management Control have been provided with viability assessment training. Strategic Site Masterplanning work remains an ongoing series of projects along with mediation with site promoters.
- 14.0 Current projects. Any specific items of research, best practice development or other initiatives being undertaken within the planning service. Examples could include a "development team" approach to major applications, work on a Local Development Order or process reviews.**
- 14.1 There are around 1,600 licensed HMOs in the County. However, many HMOs do not require licensing since only Mandatory Licensing applies in most Wards. Welsh Government research has estimated there could be as many as 2,700 HMOs in the County. Most are located in Uplands and Castle Wards, close to the Universities and leisure, retail and employment opportunities in the City Centre, Uplands and Brynmill. Very high HMO concentrations have been recorded in many parts of these Wards. Research has suggested that around two-in-three licensed HMOs are occupied by full-time students, but HMOs also provide an important source of flexible and affordable tenancies for other people.
- 14.2 Research has highlighted that Uplands and Castle experience significant community cohesion issues due to harmful HMO concentrations similar to problems identified in some other towns and cities. St Thomas Ward has also been highlighted as a concern due to the new Higher Education developments in the Fabian Way Corridor running through it.

However, there is a lack of comprehensive up to date information available on the number and distribution of HMOs in this Ward as only Mandatory Licensing can currently be enforced.

- 14.3 In Wales, amendments have recently been made to the Use Classes Order to create a new Use Class C4 (broadly defined as HMOs of between 3 and 6 occupants) and a new requirement for any proposed change of use to Use Class C4 to require planning permission. It is significant that additional controls on what is considered an acceptable HMO density or otherwise have not formed part of the above national legislation changes. This is a matter for Local Planning Authorities (LPAs) to consider the relative acceptability of proposals and where appropriate set through local policy.
- 14.4 Consequently SPG is being prepared to assist with the determination of planning applications regarding purpose built student residential accommodation and Houses in Multiple Occupation (HMOs) (whether occupied by students or other occupiers). The work will provide an evidence based definition of harmful concentration or intensification, how it will be calculated and the geographical areas within which policy will be applied.
- 14.5 The SPG will also help ensure that student needs are met as far as possible by modern purpose built and managed schemes with the space and facilities more suited to students' needs in appropriate Central Area locations with good access to services, facilities and public transport to University buildings.
- 14.6 SPG will augment the policy firstly for the UDP and subsequently the future LDP and it is anticipated this work will be completed by March 2017.
- 15.0 Local pressures. Major applications or other planning issues having a disproportionate impact on the efficiency of the service. Could include specific development pressures, enforcement issues such as major site restoration issues, monitoring compliance of conditions with non-devolved consents (e.g. wind energy applications) or applications of national significance (e.g. LNG storage site).**
- 15.1 Responding to the Swansea Bay Tidal Lagoon NSIP application continued to have a significant impact on the Service and the Authority as whole in 2015-16.
- 15.2 The costs of furnishing a single appeal which was considered at inquiry was in excess of £100,000 and had a significant impact upon the existing Section budget.
- 16.0 Service improvement. What were the recommendations of the previous service improvement plan? In future years, this will also refer to actions identified in the previous Annual Performance Report (ideally they will share actions). For each of these:**
- 1. Have they been implemented?**
 - 2. If no, what are the obstacles and what is being done to overcome them?**
 - 3. If yes, have positive changes been observed as a result?**
 - 4. Have any secondary or new issues emerged to be addressed?**
 - 5. What are the next steps, if any?**
- 16.1 The Services Business Plan identified a number of key priorities and objectives for the Planning and Economic Development Section in the diagram below:



16.2 Objectives, outcomes, performance measures, targets and actual outcomes for Planning Control Service and Strategic Planning & Environment are detailed below:

Objectives	Outcomes	Performance Measures	Targets	Actual Outcome
Improve Customer Satisfaction (including pre-application service)	There is measurably improved customer experience / satisfaction when dealing with the Council	% of all applicants satisfied or very satisfied with the planning applications service	90% satisfaction response	Not achieved: 85% of respondents were either satisfied or very satisfied with the planning application service.
Reduce demand	Customers will be enabled to serve themselves wherever possible. A fundamental shift in customer	A reduction in non-digital face-to-face contacts.	Increase in take up of online planning applications. Establish baseline to inform future targets 2106	Achieved: The percentage of online applications has increased to 50%.

	contact to 'digital by default' will have occurred.			
Increase income and commercialisation	New income streams and opportunities are identified leading to increased income Maximised existing income streams by achieving full cost recovery	Increase income or identify new income streams Operations at full-cost recovery	As identified in budget saving targets	Achieved: Fee charging for pre-application enquiries were introduced in April 2015 with a fee income of £45.5K for 2015/16.
Provide an efficient and timely planning service in accordance with national & local PIs	Efficient planning applications service	% of all planning applications determined within 8 weeks % of planning enforcement cases resolved during year within 12 weeks	80% 55%	Achieved: Performance increased from 71% in 2014/15 to 84% in 2015/16
Monitor & take action to address the Planning Enforcement backlog	Reduced backlog and improved performance.	Number of backlog cases	Reduced to 350 backlog March 16	Achieved: historic backlog reduced below 350. Total outstanding cases reduced to 460.
Adopt Local Development Plan	Planning policy supports sustainable communities	Progress adoption of the Swansea Local Development Plan (LDP)	Submit plan for Examination-2016 Adopt Plan - 2017	Not achieved: Progression of LDP to submission for independent Examination by December 2016 is not likely to be achieved. A revised LDP Delivery Agreement

				has been agreed with the Welsh Government.
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- 16.3 Whilst customer satisfaction was below target, 85% of applicants were either satisfied or very satisfied with the planning service. Out of 100 respondents to the Authority’s customer satisfaction survey distributed with all decision notices, only 15 respondents were dissatisfied or very dissatisfied. Of these 15 only 12 provided a written explanation of their concerns with the majority relating to officer contact, the planning process itself and its requirements and speed of determination. 13 of the 15 applications were, however, determined within statutory timescales. The Authority is in the process of developing an improved web based interface through the introduction of the Idox Uniform back office system together with improved online information and sign posting to improve public understanding and manage expectations.
- 16.4 The percentage of application submitted via the planning portal has increased to 50%. The Authority is in the process of introducing an Accreditation Scheme for agents to encourage on-line submission in an agreed format to facilitate the speed of the validation process.
- 16.5 A charge for the provision of pre-application advice was introduced by the Authority in April 2015. This generated a fee income of £45.5K for 2015/16. Whilst a statutory pre-application advice system was subsequently introduced by Welsh Government the Authority also provides a non-statutory system providing a more bespoke service and encourages the use of Planning Performance Agreements which it is anticipated will increase fee income, manage expectations and improve the quality of service.
- 16.6 The Planning Improvement Services Project included the restructuring of the Service which was complete in August 2014 and the introduction of revised business processes which were completed by January 2015. This has facilitated continued improvement to key elements of performance of the development management and enforcement functions in 2015/16.
- 16.7 The Authority’s democratic processes were also reviewed, structures amended and scheme of delegation changed in January 2015 broadly in line with Welsh Government recommendations contained within its consultation document entitled “Planning Committees, Delegation and Joint Planning Boards (October 2014)”. External training was also provided for Members of the new Planning Committee. This has facilitated an increase in delegation, improved performance in terms of speed of determination and improved decision making, in terms of the number of decisions made contrary to officer advice and subsequent successes at appeal.
- 16.8 LDP preparation is progressing behind the dates specified in the original Delivery Agreement, however, an amended Delivery Agreement was agreed with Welsh Government and a target of March 2017 has been set to ensure that there is consultation on Focussed Changes before submission of the Deposit Pan.
- 17.0 Performance Framework. What are the identified areas for improvement set out in Annex A? What steps will the authority take to address these? How will they be resourced? How will success be measured?**

- 17.1 Progression of LDP to submission for independent Examination by December 2016 is not likely to be achieved. A revised LDP Delivery Agreement has been agreed with the Welsh Government and a target of March 2017 has been set to ensure that Focussed Changes are consulted on before submission of the Deposit Plan. A Programme Officer has been appointed to assist with the administration of this process.
- 17.2 As stated last year it is not possible to recover a position where the LDP is being progressed more than 18 months later than the dates specified in the original Delivery Agreement (DA). It is however being progressed in accordance with the most recent Delivery Agreement which is considered a more relevant measure as it is the latest DA that will be considered by the Inspectorate at Examination. The original DAs were bound by a four year timescale for plan preparation which was never realistic.
- 17.3 SPG was due to be prepared in relation to holiday accommodation opportunities. However this has been superseded by the preparation of SPG in relation to HMOs and student accommodation, the need for which is more pressing.
- 17.4 The housing land supply remains at less than 4 years, however negotiations with developers in accordance with the Council's agreed strategy for advancing planning applications on LDP Strategic Development Areas has resulted in the submission of one scheme, whilst applications are imminent on two other SDAs
- 17.5 In efficiency terms the Authority has seen a significant improvement in performance with the percentage of all applications determined within required timescales increasing from 71% to 84% and the average time taken to determine all applications reducing from 64% to 61%.
- 17.6 The Authority sets a local target of 13 weeks for the determination of major applications which is considered to be a more realistic target given the average time to determine major applications in Wales in 2015/16 was 247 days. Significantly, for the delivery of the Council's regeneration agenda, the percentage of all major planning applications determined within required timescales has increased from 6% in 2014-15, which was the lowest performance in Wales, to 36% in 2015-16, which is above the Welsh average.
- 17.7 Restructuring and a move away from a small Major Projects team, more accurate recording of timescales in relation to applications subject to S106 Planning Obligations and taking fuller advantage of provisions for agreeing extensions of time has helped improve performance against this measure.
- 17.8 The Authority is currently carrying out a further review of its processes and procedures as part of the introduction of a replacement back office system in October 2016. Whilst this may have a short term impact upon performance it is anticipated that this will reduce the administrative burden associated with current incompatible systems and bring about opportunities further efficiency savings.
- 17.9 As detailed above the Authority amended its Committee structures and scheme of delegation in January 2015 to broadly align with Welsh Government proposals. This has resulted in an increase in delegation and a reduction in the total number of decisions made contrary to officer advice.

- 17.10 In this respect the percentage of Member made decisions contrary to officer advice has reduced from 23% in 2014-15 to 10% in 2015-16 equating to 0.3% of all planning application decisions being made against officer advice compared to 0.6% across Wales. The quality of such Committee decisions has also improved significantly with 5 of the 7 subsequent appeals made in respect of applications refused contrary to officer advice being dismissed at appeal.
- 17.11 Enforcement performance has been under significant scrutiny by the Authority and through the Authorities Scrutiny Working Group following the build-up of a significant backlog of enforcement cases as a result of historic under resourcing of the function.
- 17.12 Following restructuring in August 2014 additional staff resources have been allocated to the enforcement of planning control resulting in a significant reduction in the backlog of outstanding enforcement cases from in excess of 650 cases in August 2014 to some 500 in April 2015. This has had an impact upon the percentage of cases resolved within the required timescales. The loss of a Senior Enforcement Officer post in February 2016, however, has had some impact upon the enforcement function although it is anticipated that moving forward additional temporary resources will be allocated from fee income.
- 17.13 The enforcement process and procedures are, however, also currently subject to further review as a result of changes to the Authority's back office system in October 2016.
- 17.15 Moving forward, as part of the current Commissioning Review, difficult decisions will have to be made regarding Service priorities to accommodate budget savings, with improvement measured against the existing suite of measures and PI's.

WHAT SERVICE USERS THINK

In 2015-16 we conducted a customer satisfaction survey aimed at assessing the views of people that had received a planning application decision during the year.

The survey was sent to 393 people, 9% of whom submitted a whole or partial response. The majority of responses (51%) were from local agents. 19% were from members of the public. 24% of respondents had their most recent planning application refused.

We asked respondents whether they agreed or disagreed with a series of statements about the planning service. They were given the following answer options:

- Strongly agree;
- Tend to agree;
- Neither agree nor disagree;
- Tend to disagree; and
- Strongly disagree.

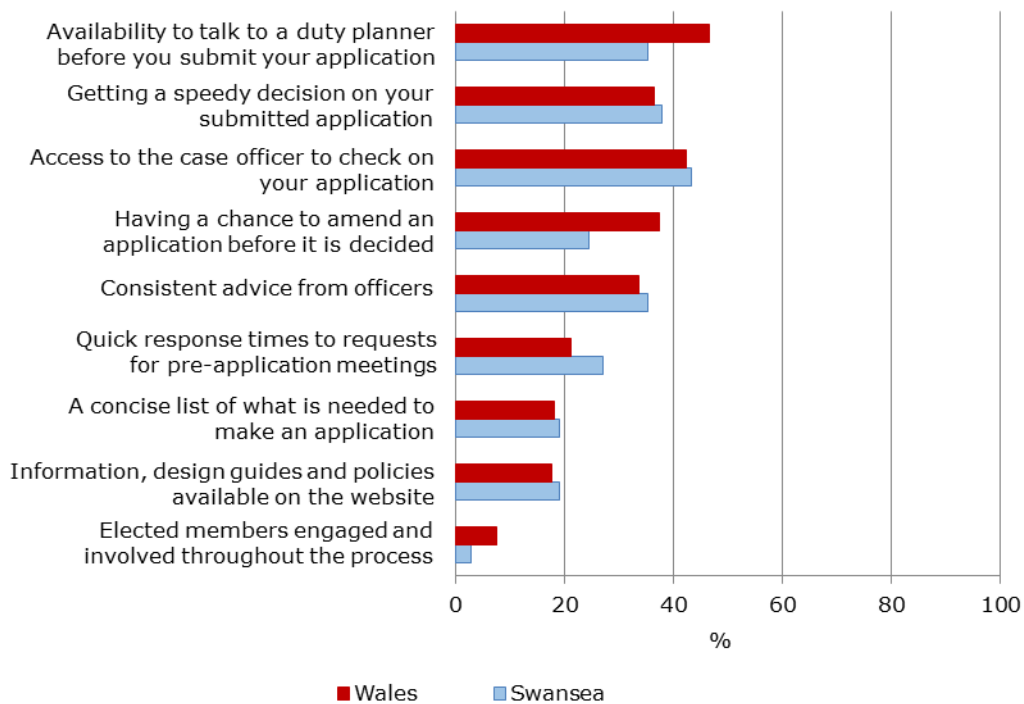
Table 1 shows the percentage of respondents that selected either 'tend to agree' or 'strongly agree' for each statement for both our planning authority and Wales.

Table 1: Percentage of respondents who agreed with each statement, 2015-16

Percentage of respondents who agreed that:	%	
	Swansea LPA	Wales
The LPA enforces its planning rules fairly and consistently	45	47
The LPA gave good advice to help them make a successful application	69	58
The LPA gives help throughout, including with conditions	43	49
The LPA responded promptly when they had questions	60	58
They were listened to about their application	55	57
They were kept informed about their application	31	49
They were satisfied overall with how the LPA handled their application	55	61

We also asked respondents to select three planning service characteristics from a list that they thought would most help them achieve successful developments. Figure 1 shows how often each characteristic was selected as a percentage of the total number of selections. For us, 'having access to the case officer to check on applications' was the most popular choice.

Figure 1: Characteristics of a good planning service, Swansea LPA, 2015-16



Comments received include:

Swansea were very helpful throughout the process from pre application, to validation, to determination of the planning application

I find Swansea to be a good LPA to deal with. Officers seem competent, professional and their advice fairly consistent.

Sending out request for additional information by email doesn't work if the email is not received. [sic]

OUR PERFORMANCE 2015-16

This section details our performance in 2015-16. It considers both the Planning Performance Framework indicators and other available data to help paint a comprehensive picture of performance. Where appropriate we make comparisons between our performance and the all Wales picture.

Performance is analysed across the five key aspects of planning service delivery as set out in the Planning Performance Framework:

- Plan making;
- Efficiency;
- Quality;
- Engagement; and
- Enforcement.

Plan making

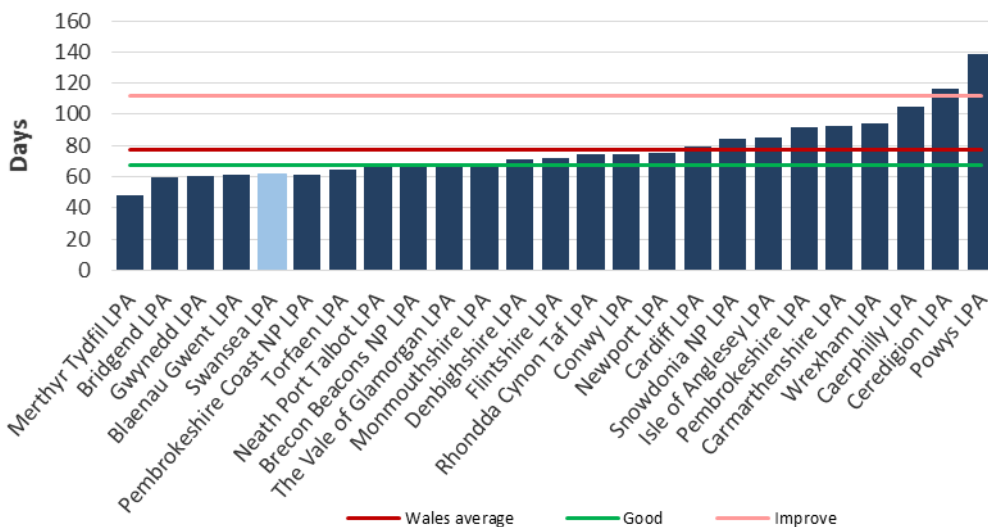
As at 31 March 2016, we were one of 22 LPAs that had a current development plan in place. We are currently working towards adopting our LDP/updating our LDP. So far, we are 36 months behind the dates specified in the original Delivery Agreement.

During the APR period we had 3 years of housing land supply identified, making us one of 17 Welsh LPAs without the required 5 years supply.

Efficiency

In 2015-16 we determined 1846 planning applications, each taking, on average, 61 days (9 weeks) to determine. This compares to an average of 77 days (11 weeks) across Wales. Figure 2 shows the average time taken by each LPA to determine an application during the year.

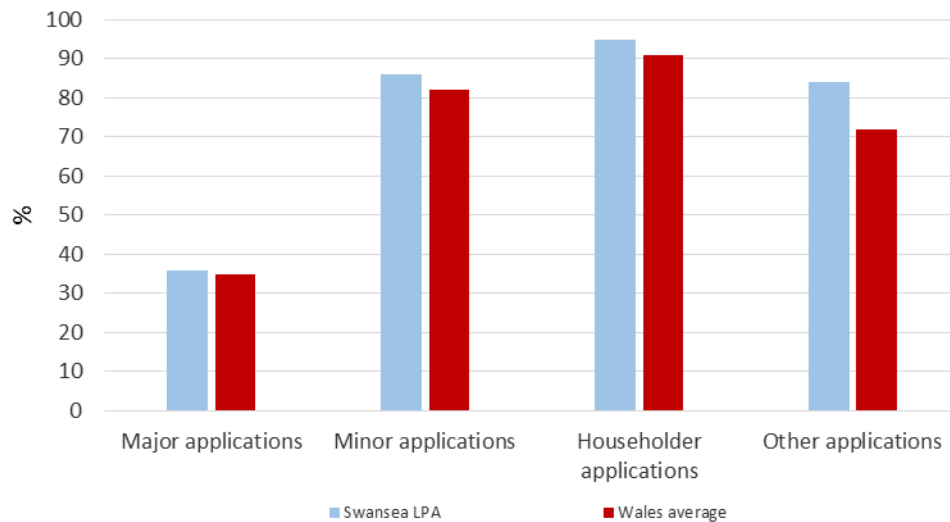
Figure 2: Average time taken (days) to determine applications, 2015-16



84% of all planning applications were determined within the required timescales. This compared to 77% across Wales and we were one of 8 LPAs that had reached the 80% target.

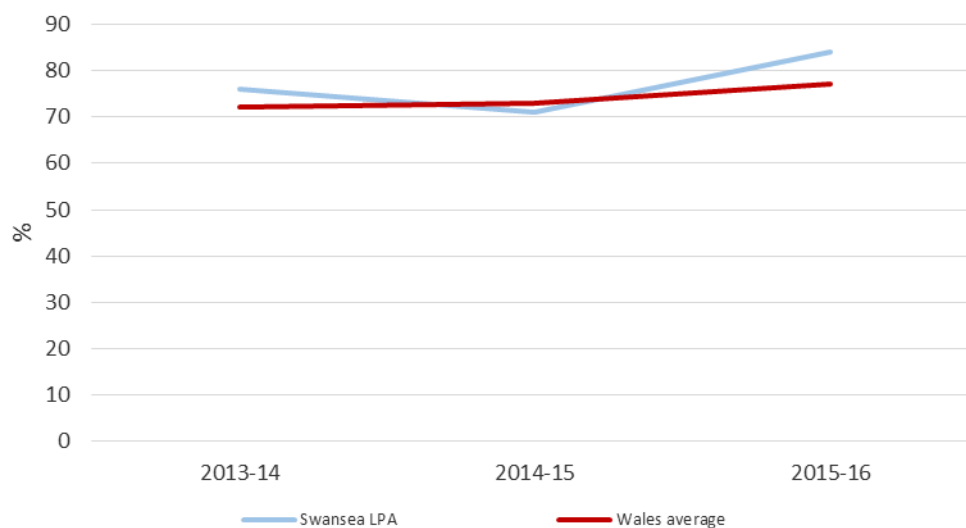
Figure 3 shows the percentage of planning applications determined within the required timescales across the four main types of application for our LPA and Wales. It shows that we determined 95% of householder applications within the required timescales.

Figure 3: Percentage of planning applications determined within the required timescales, by type, 2015-16



Between 2014-15 and 2015-16, as Figure 4 shows, the percentage of planning applications we determined within the required timescales increased from 71%. Wales also saw an increase this year.

Figure 4: Percentage of planning applications determined within the required timescales



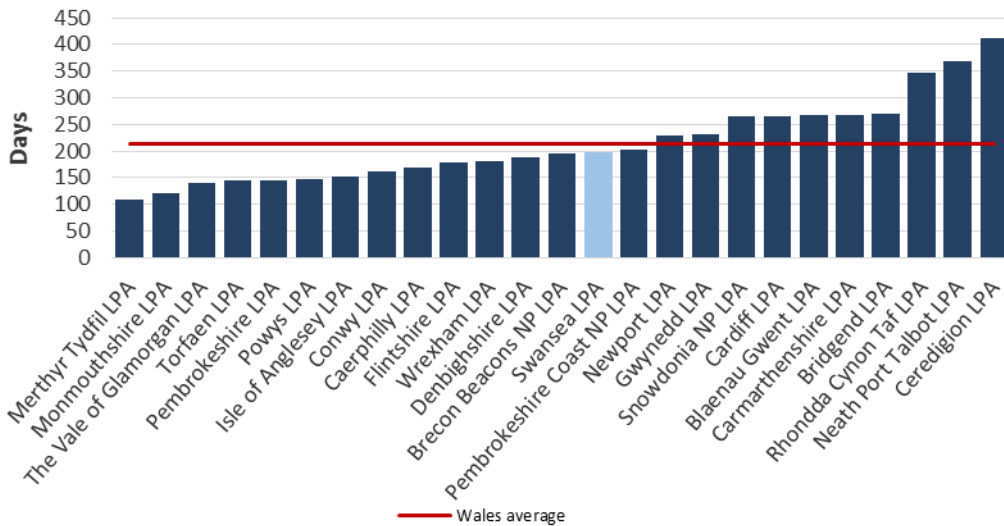
Over the same period:

- The number of applications we received increased;
- The number of applications we determined increased.

Major applications

We determined 42 major planning applications in 2015-16, none of which were subject to an EIA. Each application took, on average, 197 days (28 weeks) to determine. As Figure 5 shows, this was shorter than the Wales average of 213 days (30 weeks).

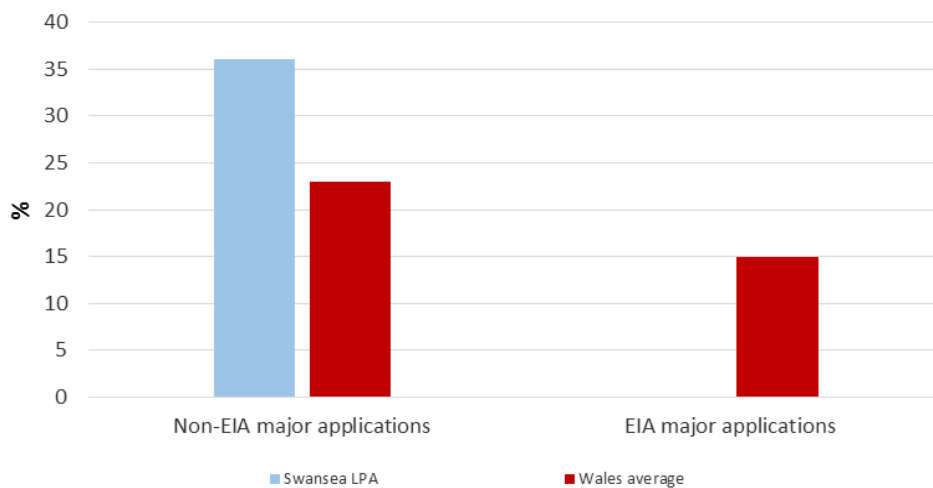
Figure 5: Average time (days) taken to determine a major application, 2015-16



36% of these major applications were determined within the required timescales, compared to 35% across Wales.

Figure 6 shows the percentage of major applications determined within the required timescales by the type of major application. 36% of our ‘standard’ major applications i.e. those not requiring an EIA, were determined within the required timescales during the year.

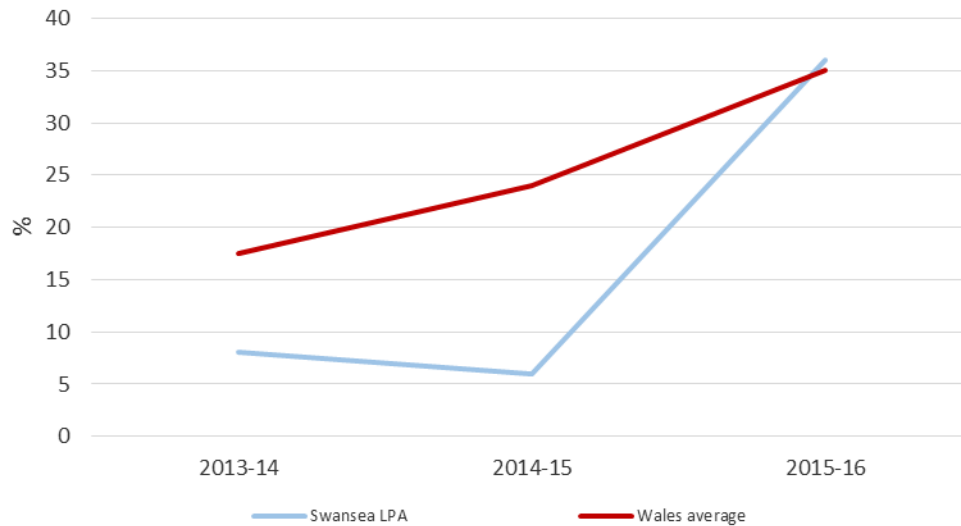
Figure 6: Percentage of Major applications determined within the required timescales during the year, by type, 2015-16



Since 2014-15 the percentage of major applications determined within the required timescales had increased from 6%. Similarly, the number of major applications determined increased while the number of applications subject to an EIA determined during the year decreased.

Figure 7 shows the trend in the percentage of major planning applications determined within the required timescales in recent years and how this compares to Wales.

Figure 7: Percentage of major planning applications determined within the required timescales



Over the same period:

- The percentage of minor applications determined within the required timescales increased from 70% to 86%;
- The percentage of householder applications determined within the required timescales increased from 81% to 95%; and
- The percentage of other applications determined within required timescales increased from 77% to 84%.

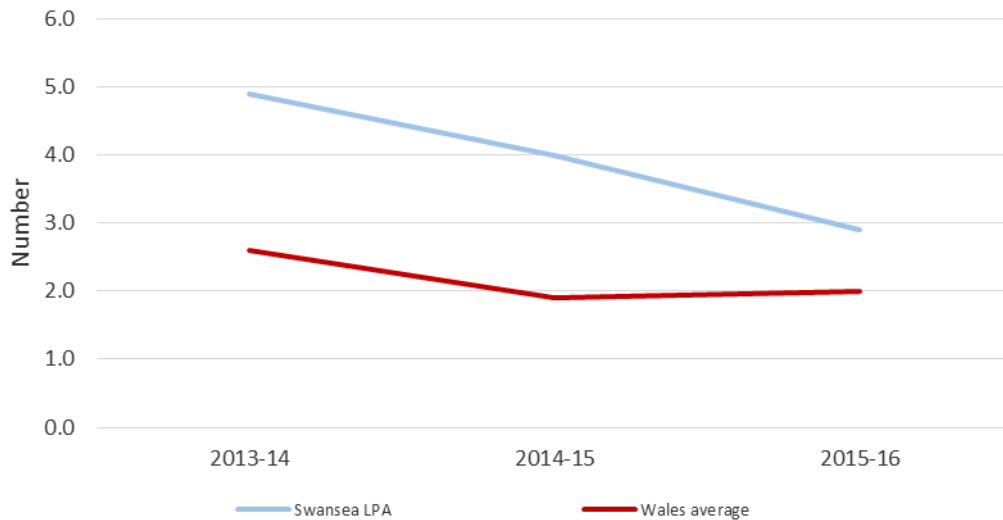
Quality

In 2015-16, our Planning Committee made 61 planning application decisions during the year, which equated to 3% of all planning applications determined. Across Wales 7% of all planning application decisions were made by planning committee.

10% of these member-made decisions went against officer advice. This compared to 9% of member-made decisions across Wales. This equated to 0.3% of all planning application decisions going against officer advice; 0.6% across Wales.

In 2015-16 we received 57 appeals against our planning decisions, which equated to 2.9 appeals for every 100 applications received. This was the second highest ratio of appeals to applications in Wales. Figure 8 shows how the volume of appeals received has changed since 2014-15 and how this compares to Wales.

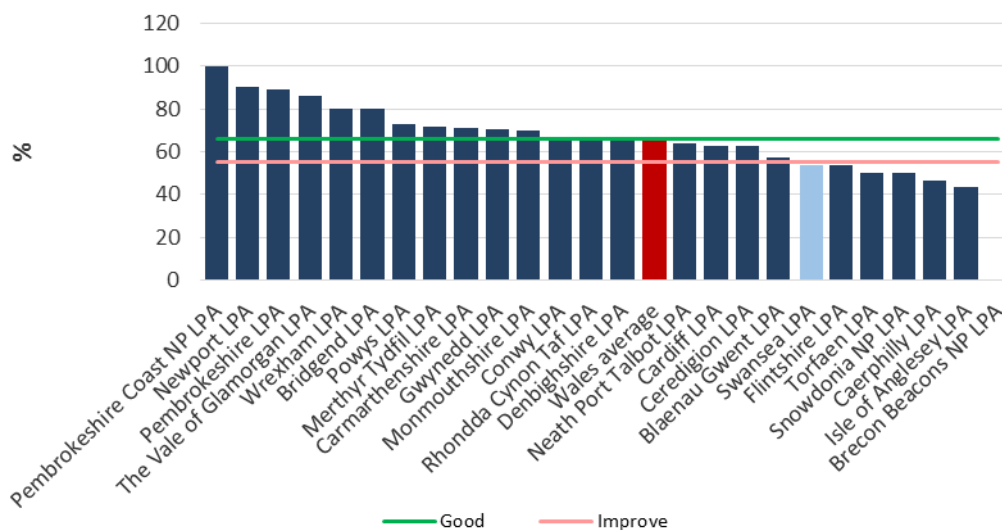
Figure 8: Number of appeals received per 100 planning applications



Over the same period the percentage of planning applications approved remained at 85%.

Of the 66 appeals that were decided during the year, 55% were dismissed. As Figure 9 shows, this was comparable with the percentage of appeals dismissed across Wales as a whole.

Figure 9: Percentage of appeals dismissed, 2015-16



During 2015-16 we had no applications for costs at a section 78 appeal upheld.

This appeal performance, however, is heavily influenced by one individual inspector who determined 27% of all appeals within the Authority during 2015-16 of which 65% were allowed. This compares to 29% of cases allowed by all other inspectors having an overall performance for the dismissal of appeals of some 71%.

Engagement

We are:

- one of 24 LPAs that allowed members of the public to address the Planning Committee; and
- one of 20 LPAs that had an online register of planning applications.

As Table 2 shows, 69% of respondents to our 2015-16 customer satisfaction survey agreed that the LPA gave good advice to help them make a successful application.

Table 2: Feedback from our 2015-16 customer satisfaction survey

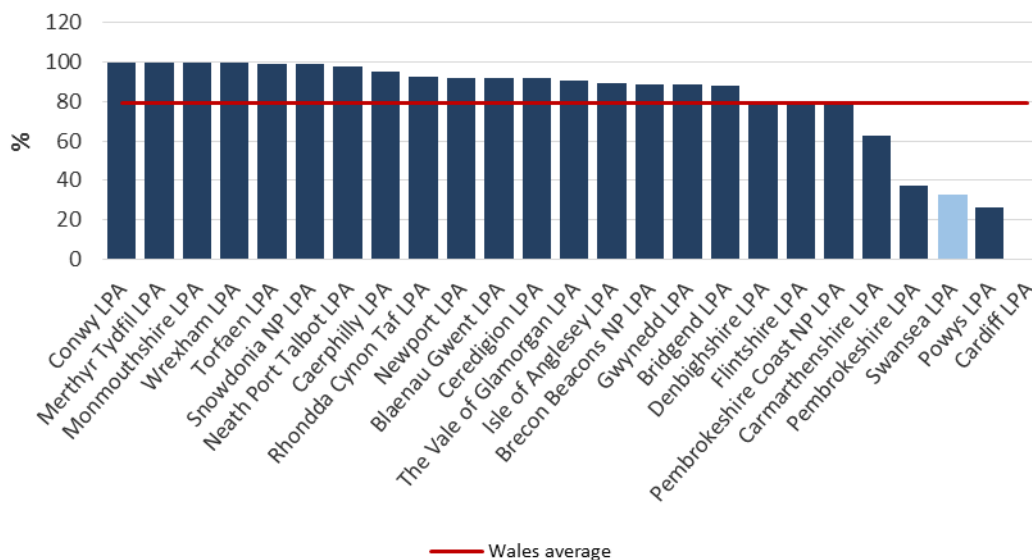
Percentage of respondents who agreed that:	%	
	Swansea LPA	Wales
The LPA gave good advice to help them make a successful application	69	58
They were listened to about their application	55	57

Enforcement

In 2015-16 we investigated 472 enforcement cases, which equated to 1.9 per 1,000 population. This compared to 1.9 enforcement cases investigated per 1,000 population across Wales. We took, on average, 171 days to investigate each enforcement case.

We investigated 32% of these enforcement cases within 84 days. Across Wales 79% were investigated within 84 days. Figure 10 shows the percentage of enforcement cases that were investigated within 84 days across all Welsh LPAs.

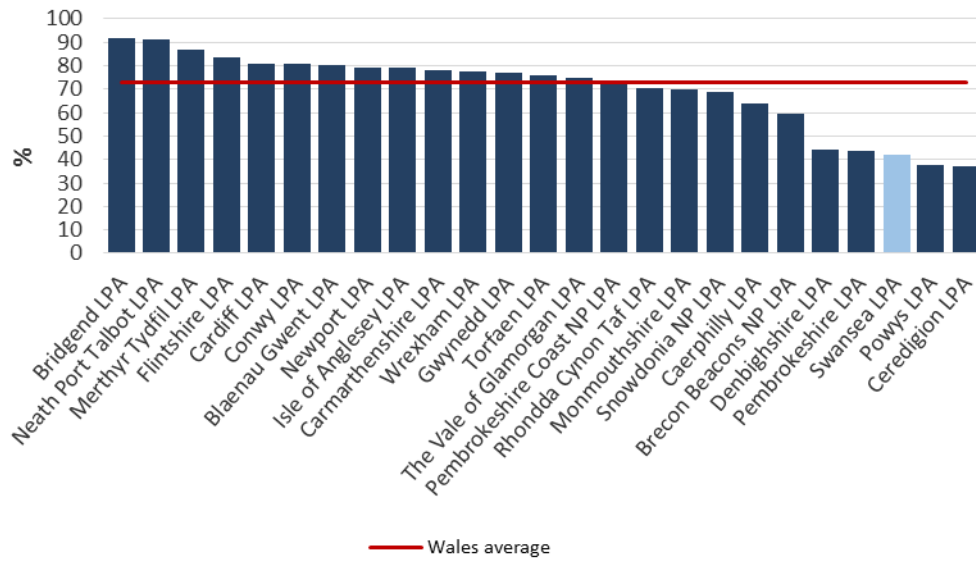
Figure 10: Percentage of enforcement cases investigated within 84 days, 2015-16



Over the same period, we resolved 81 enforcement cases, taking, on average, 272 days to resolve each case.

42% of this enforcement action was taken within 180 days from the start of the case. As Figure 11 shows this was the third lowest percentage in Wales

Figure 11: Percentage of enforcement cases resolved in 180 days, 2015-16



ANNEX A - PERFORMANCE FRAMEWORK

OVERVIEW

MEASURE	GOOD	FAIR	IMPROVE	WALES AVERAGE	Swansea LPA LAST YEAR	Swansea LPA THIS YEAR
Plan making						
Is there a current Development Plan in place that is within the plan period?	Yes		No	Yes	Yes	Yes
LDP preparation deviation from the dates specified in the original Delivery Agreement, in months	<12	13-17	18+	47	30	36
Annual Monitoring Reports produced following LDP adoption	Yes		No	Yes	N/A	N/A
The local planning authority's current housing land supply in years	>5		<5	3.9	2.7	3.0
Efficiency						
Percentage of "major" applications determined within time periods required	Not set	Not set	Not set	35	6	36
Average time taken to determine "major" applications in days	Not set	Not set	Not set	213	247	197
Percentage of all applications determined within time periods required	>80	60.1-79.9	<60	77	71	84
Average time taken to determine all applications in days	<67	67-111	112+	77	64	61
Quality						
Percentage of Member made decisions against officer advice	<5	4.9-8.9	9.0+	7	23	10
Percentage of appeals dismissed	>66	55.1-65.9	<55	67	55	55
Applications for costs at Section 78 appeal upheld in the reporting period	0	1	2	0	0	0
Engagement						
Does the local planning authority allow members of the public to address the Planning Committee?	Yes		No	Yes	Yes	Yes
Does the local planning authority have an officer on duty to	Yes		No	Yes	-	Yes

MEASURE	GOOD	FAIR	IMPROVE
provide advice to members of the public?			
Does the local planning authority's web site have an online register of planning applications, which members of the public can access, track their progress (and view their content)?	Yes	Partial	No
Enforcement			
Percentage of enforcement cases investigated (determined whether a breach of planning control has occurred and, if so, resolved whether or not enforcement action is expedient) within 84 days	Not set	Not set	Not set
Average time taken to investigate enforcement cases	Not set	Not set	Not set
Percentage of enforcement cases where enforcement action is taken or a retrospective application granted within 180 days from the start of the case (in those cases where it was expedient to enforce)?	Not set	Not set	Not set
Average time taken to take enforcement action	Not set	Not set	Not set

WALES AVERAGE	Swansea LPA LAST YEAR	Swansea LPA THIS YEAR
Yes	Yes	Yes
79	34	32
88	114.5	171
73	53	42
210	184	272

SECTION 1 – PLAN MAKING

Indicator	01. Is there a current Development Plan in place that is within the plan period?	
“Good”	“Fair”	“Improvement needed”
A development plan (LDP or UDP) is in place and within the plan period	N/A	No development plan is in place (including where the plan has expired)

Authority’s performance	Yes
The adopted Unitary Development Plan is up to date and covers the period until 31 st December 2016.	

Indicator	02. LDP preparation deviation from the dates specified in the original Delivery Agreement, in months	
“Good”	“Fair”	“Improvement needed”
The LDP is being progressed within 12 months of the dates specified in the original Delivery Agreement	The LDP is being progressed within between 12 and 18 months of the dates specified in the original Delivery Agreement	The LDP is being progressed more than 18 months later than the dates specified in the original Delivery Agreement

Authority’s performance	36
<p>The LDP is being prepared in accordance with the latest Delivery Agreement which was reviewed in 2016.</p> <p>Each year until the LDP is adopted the Authority’s performance will fall a further 12 months behind the dates specified in the original Delivery Agreement. It is not possible for improvement to be achieved.</p>	

Indicator	03. Annual Monitoring Reports produced following LDP adoption	
“Good”		“Improvement needed”
An AMR is due, and has been prepared		An AMR is due, and has not been prepared

Authority’s performance	N/A
N/A	

Indicator	04. The local planning authority's current housing land supply in years	
“Good”		“Improvement needed”
The authority has a housing land supply of more than 5 years		The authority has a housing land supply of less than 5 years

Authority’s performance	3
<p>The Council has been actively seeking to bring forward sites identified in the Deposit LDP to increase the housing land supply, including sites that represent a departure to the adopted UDP policy framework which will not prejudice the Council’s future growth strategy.</p>	

SECTION 2 - EFFICIENCY

Indicator	05. Percentage of "major" applications determined within time periods required	
"Good"	"Fair"	"Improvement needed"
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority's performance	36
Since 2014-15 the percentage of all major planning applications determined within required timescales has increased from 6% in 2014-15, which was the lowest performance in Wales, to 36% in 2015-16, which is above the Welsh average.	

Indicator	06. Average time taken to determine "major" applications in days	
"Good"	"Fair"	"Improvement needed"
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority's performance	197
Each application took, on average, 197 days (28 weeks) to determine. This was shorter than the Wales average of 213 days (30 weeks) and represents a significant improvement on the performance for 2014-15 which was 247 days compared to a Welsh average of 206 days.	

Indicator	07. Percentage of all applications determined within time periods required	
"Good"	"Fair"	"Improvement needed"
More than 80% of applications are determined within the statutory time period	Between 60% and 80% of applications are determined within the statutory time period	Less than 60% of applications are determined within the statutory time period

Authority's performance	84
The percentage of all applications determined within required timescales showed a significant improvement increasing from 71% in 2014-15 to 84% well above the Welsh average of 77%. The Authority is one of only 8 Local Planning Authorities in Wales to meet the 80% target.	

Indicator	08. Average time taken to determine all applications in days	
"Good"	"Fair"	"Improvement needed"

Less than 67 days	Between 67 and 111 days	112 days or more
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Authority's performance	61
<p>In 2015-16 we determined 1846 planning applications, each taking, on average, 61 days (9 weeks) to determine. This compares to an average of 77 days (11 weeks) across Wales. This represents an improvement on 2014-15 when the average time to determine all applications was 64 days. Whilst the Welsh average has increased during this period from 73 days in 2014-15.</p>	

SECTION 3 - QUALITY

Indicator	09. Percentage of Member made decisions against officer advice	
"Good"	"Fair"	"Improvement needed"
Less than 5% of decisions	Between 5% and 9% of decisions	9% or more of decisions

Authority's performance	10
<p>The percentage of Member made decisions contrary to officer advice has reduced from 23% in 2014-15 to 10% in 2015-16 equating to 0.3% of all planning application decisions being made against officer advice compared to 0.6% across Wales.</p> <p>As detailed above the Authority amended its Committee structures and scheme of delegation in January 2015 to broadly align with Welsh Government proposals. This has resulted in an increase in delegation and a reduction in the total number of decisions made contrary to officer advice.</p>	

Indicator	10. Percentage of appeals dismissed	
"Good"	"Fair"	"Improvement needed"
More than 66% (two thirds) of planning decisions are successfully defended at appeal	Between 55% and 66% of planning decisions are successfully defended at appeal	Less than 55% of planning decisions are successfully defended at appeal

Authority's performance	55
<p>Of the 66 appeals that were decided during the year, 55% were dismissed. As Figure 9 shows, this was comparable with the percentage of appeals dismissed across Wales as a whole.</p> <p>This appeal performance, however, is heavily influenced by one individual inspector who determined 27% of all appeals within the Authority during 2015-16 of which 65% were allowed. This compares to 29% for all other inspectors having an overall performance for the dismissal of appeals of some 71%.</p>	

Indicator	11. Applications for costs at Section 78 appeal upheld in the reporting period	
“Good”	“Fair”	“Improvement needed”
The authority has not had costs awarded against it at appeal	The authority has had costs awarded against it in one appeal case	The authority has had costs awarded against it in two or more appeal cases

Authority’s performance	0
No comment required.	

SECTION 4 – ENGAGEMENT

Indicator	12. Does the local planning authority allow members of the public to address the Planning Committee?	
“Good”		“Improvement needed”
Members of the public are able to address the Planning Committee		Members of the public are not able to address the Planning Committee

Authority’s performance	Yes
No comment required.	

Indicator	13. Does the local planning authority have an officer on duty to provide advice to members of the public?	
“Good”		“Improvement needed”
Members of the public can seek advice from a duty planning officer		There is no duty planning officer available

Authority’s performance	Yes
Office cover is provided at all times. The Authority also provide a “Householder Surgery” on a Wednesday afternoon for members of the public only to obtain advice from a professional planning officer so that they are informed before engaging with an architect and/or agent.	

Indicator	14. Does the local planning authority's web site have an online register of planning applications, which members of the public can access track their progress (and view their content)?	
"Good"	"Fair"	"Improvement needed"
All documents are available online	Only the planning application details are available online, and access to other documents must be sought directly	No planning application information is published online

Authority's performance	Yes
The current search engine will be upgraded with enhanced functionality as part of ongoing work to replace the Authority's current back office system.	

SECTION 5 – ENFORCEMENT

Indicator	15. Percentage of enforcement cases investigated (determined whether a breach of planning control has occurred and, if so, resolved whether or not enforcement action is expedient) within 84 days	
"Good"	"Fair"	"Improvement needed"
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority's performance	32
Ongoing progress on reducing the backlog of outstanding historic enforcement cases continues to influence performance relating to the speed of investigation.	

Indicator	16. Average time taken to investigate enforcement cases	
"Good"	"Fair"	"Improvement needed"
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority's performance	171
Ongoing progress on reducing the backlog of outstanding historic enforcement cases continues to influence performance relating to the speed of investigation.	

Indicator	17. Percentage of enforcement cases where enforcement action is taken or a retrospective application granted within 180 days from the start of the case (in those cases where it was expedient to enforce)	
“Good”	“Fair”	“Improvement needed”
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority’s performance	42
Ongoing progress on reducing the backlog of outstanding historic enforcement cases continues to influence performance relating to the speed of resolution.	

Indicator	18. Average time taken to take enforcement action	
“Good”	“Fair”	“Improvement needed”
Target to be benchmarked	Target to be benchmarked	Target to be benchmarked

Authority’s performance	272
Ongoing progress on reducing the backlog of outstanding historic enforcement cases continues to influence performance relating to the speed of resolution.	

SECTION 6 – SUSTAINABLE DEVELOPMENT INDICATORS

The purpose of the Sustainable Development Indicators is to measure the contribution the planning system makes to sustainable development in Wales.

The Sustainable Development Indicators will be used to measure the progress against national planning sustainability objectives, set out in Planning Policy Wales, and can be used to demonstrate to our stakeholders the role and scope of the planning system in delivering wider objectives. The information will also be useful to local planning authorities to understand more about the outcomes of the planning system and help inform future decisions.

Authority's returns	<i>[How complete were your responses?]</i>
<ul style="list-style-type: none">• <i>[What are the reasons for missing data?]</i>• <i>[What actions are being taken to provide full returns?]</i>• <i>[When will complete data returns be provided?]</i>	

Indicator	SD1. The floorspace (square metres) granted and refused planning permission for new economic development on allocated employment sites during the year.
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Granted (square metres)	
Authority's data	0

Refused (square metres)	
Authority's data	0

[Comments on data for the indicator above]

Indicator	SD2. Planning permission granted for renewable and low carbon energy development during the year.
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Granted permission (number of applications)	
Authority's data	1

Granted permission (MW energy generation)	
Authority's data	4

[Comments on data for the indicator above]

Indicator	SD3. The number of dwellings granted planning permission during the year.
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Market housing (number of units)	
Authority's data	305 (not including small sites)

Affordable housing (number of units)	
Authority's data	40 estimated

[Comments on data for the indicator above]

The latest JHLAS confirms 305 dwellings have been built on sites with a capacity of 10+ dwellings. Estimated number of dwellings built on small sites (less than 10 unit capacity) is around 120 units. The final figure will be agreed by the JHLAS Group together with confirmation of the number of affordable housing units.

Indicator	SD4. Planning permission granted and refused for development in C1 and C2 floodplain areas during the year.
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Number of residential units (and also hectares of non-residential units) that DID NOT meet all TAN 15 tests which were GRANTED permission	
Authority's data	0

Number of residential units (and also hectares of non-residential units) that did not meet all TAN 15 tests which were REFUSED permission on flood risk grounds	
Authority's data	0

Number of residential units (and also hectares of non-residential units) that MET all TAN 15 tests which were GRANTED permission	
Authority's data	0

[Comments on data for the indicator above]

Indicator	SD5. The area of land (ha) granted planning permission for new development on previously developed land and greenfield land during the year.
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Previously developed land (hectares)	
Authority's data	6

Greenfield land (hectares)	
Authority's data	1

[Comments on data for the indicator above]

Indicator	SD6. The area of public open space (ha) that would be lost and gained as a result of development granted planning permission during the quarter.
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Open space lost (hectares)	
Authority's data	1

Open space gained (hectares)	
Authority's data	0

[Comments on data for the indicator above]

Indicator	SD7. The total financial contributions (£) agreed from new development granted planning permission during the quarter for the provision of community infrastructure.
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Gained via Section 106 agreements (£)	
Authority's data	0

Gained via Community Infrastructure Levy (£)	
Authority's data	0

[Comments on data for the indicator above]

ANNEX B

1. Planning Application: 2014/0876

Location: Webbsfield, Nr Brookvale, Ilston, Swansea

Proposal: Ground mounted solar array; capacity up to 1MW, ancillary infrastructure including access track, fencing, security cameras, inverter kiosks and substation building.

Appeal Decision: Appeal Dismissed

Summary:

The main issues for consideration with this application were the impacts of the proposed solar park on the visual amenity of the area and AONB, upon residential amenity, highway safety, and upon ecology & habitats, assessed against the need to provide renewable energy, supported in principle by national and local planning policy. This application was reported to Committee with a recommendation of approval as it was considered that on balance, the scheme was appropriate in terms of its scale and design and would not cause unacceptable loss of amenity to neighbouring properties or surrounding land. There would not be significantly adverse visual impact on landscapes, open spaces and the general locality from the site and there would be no significantly adverse or detrimental impact on the ecology, habitats, highway safety or land drainage in the area.

Committee did not accept the recommendation and refused the planning application for the following reasons:

1 The proposal by virtue of its scale and nature would have a detrimental impact upon the character and appearance of the area and the natural beauty of Gower AONB contrary to the provisions of Policies EV1, EV2, EV21, EV22, EV26 and R11 of the City & County of Swansea Unitary Development Plan (2008).

2 Approval of this application would set a dangerous precedent for the consideration of similar applications within the area the cumulative impact of which would have a seriously detrimental impact upon the character, appearance and natural beauty of the countryside and Gower AONB contrary to the provisions of Policies EV22 and EV26 of the City & County of Swansea UDP (2008).

An appeal against the refusal was considered by way of a hearing and the Inspector considered the main issue to be the effect of the development on the character and appearance of the Gower AONB.

In reaching his decision, the Inspector considered that the amount of renewable energy that would be generated by the scheme, which would equate to the needs of 300 households (some 20% of dwellings on Gower) was a significant consideration that weighs in favour of the scheme. However, this must be weighed against the landscape harm as a result of the proposal, especially in areas where the landscape

is of national importance. He considered that the proposed development would constitute features out of scale and character with the countryside surroundings that would be readily noticeable and incongruous from parts of the highway network. The harm caused by this visual impact was considered to outweigh the benefits of the scheme and the appeal was dismissed.

2. Planning Application: 2014/1461

Location: 11 Caswell Road, Llangland, Swansea

Proposal: Removal of condition 04 of planning permission 2008/2092 dated 28/06/2010 to allow the completion of the build without installing the Louver system

Appeal Decision: Appeal Allowed

Summary

The application sought planning permission for the removal of Condition 04 of the previously granted planning permission, No.2008/2092, at No.11 Caswell Road Llangland. The original permission was for a two storey side extension, two storey part single storey rear extension, detached garage, boundary wall up to 2.3 metres in height, trellis structure and chimney. Condition 4 stated:

Condition 04:

Prior to the first floor element of the two storey rear extension being brought into beneficial use the proposed louver system, as shown on Drawing No. C108/PL/013 received on 24th February 2010, shall be erected and attached to the building in accordance with the approved plans and shall thereafter be retained as such.

Reason: To safeguard the privacy of the occupiers of neighbouring residential properties.

The original planning permission had an additional condition relating to the rear first floor window, requiring the installation of unopenable and obscure glazing to a height of 1.5m. This condition was complied with and prevented prevented some of the overlooking impacts from the window; however it is possible to see over the obscured glazing. It was considered that on balance, the removal of the requirement for the louvered vents would allow some negative overlooking to occur. However this could be prevented by increasing the obscured glazing to a height of 1.7m. and it was recommended that the application be approved with a condition to secure the increase in the height of the obscure glazing.

Committee did not accept this recommendation and refused the application for the following reason:

'The removal of Condition 4 of planning permission 2008/2092 would result in a lack of adequate mitigation measures being in place to protect the privacy of the neighbouring occupiers, contrary to Policies EV1 and HC7 of the City and County of

Swansea Unitary Development Plan 2008 and the Council's Supplementary Planning Guidance entitled 'A Design Guide for Householder Development'.

In considering the appeal, the Inspector accepted that obscurely gazing the window to a height of 1.5m was not sufficient to adequately protect the neighbour's privacy. However, he considered that increasing the height of the obscure glazing to 1.7m would adequately mitigate the impacts of overlooking and make condition 4 unnecessary. The appeal was allowed.

3. Planning Application: 2014/1184

Location: 49 Higher Lane, Langland, Swansea

Proposal: Retention and Completion of front patio

Appeal Decision: Appeal Dismissed

Summary

The main issues were the impact of the development on the residential amenity of neighbouring occupiers and the visual impact on the streetscene. It was not considered that the development would have an unacceptable overbearing or overshadowing impact on adjoining property nor would it be generally visible within the streetscene. It was considered that a condition requiring the provision of a screen along the boundary with the adjoining property would prevent overlooking and as a result the application was recommended for approval.

Committee did not accept this recommendation and refused the application for the following reason:

'The front patio, by reason of its elevated ground level and close proximity to the common boundary with 51 Higher Lane, will give rise to users of the patio overlooking this neighbouring property, resulting in a loss of privacy to the neighbouring occupiers, contrary to Policies EV1 and HC7 of the City and County of Swansea Unitary Development Plan and the Council's Design Guide for Householder Development'

The Inspector considered that without effective screening, there would be a serious adverse effect on neighbours' privacy and harm to their living conditions. However, as details of a permanent screen were not submitted with the appeal, and neighbours had not had a chance to comment on any proposed screen, the Inspector could not comment on whether a 1.8m fence would be acceptable. He considered that the Local Planning Authority would need to consider details of the fence in the first instance and consequently dismissed the appeal. A subsequent application for retention of the patio and fence was approved by Planning Committee in 2015.

4. Planning Application: 2014/1678

Location: 114 Castle Road, Mumbles, Swansea

Proposal: Two storey part single storey rear extension, rear dormer, and front bay window (amendment to planning permission 2013/0249 granted 23 April 2013)

Appeal Decision: Appeal Allowed

Summary

This application sought planning permission for an amendment to a previously approved planning application for the above development. The extension had a slightly larger footprint than the originally approved extension and the fenestration detail for the rear dormer varied slightly. It was considered that the impact of the development as constructed was not significantly different to the impacts from the approved scheme and approval was recommended. Committee did not accept this recommendation and refused the application for the following reason:

'The proposed amendment to the originally approved application (Ref 2013/0249) would have a significant incongruous and detrimental impact on the adjoining property at No 116 Castle Road, by virtue of its siting and inadequate separation distance from the access steps to the neighbouring property, and therefore fails to comply with Policy HC7 of the City and County of Swansea Unitary Development Plan'

The Inspector considered that the minor amendments effected by the proposal would have a negligible impact on the living conditions of the neighbours. Furthermore, the Inspector commented that whilst the proposal would close off an entrance to a side passageway that enables access to the rear of the adjacent property, access is retained to the rear through the property and the right of access is a legal dispute, and any private legal rights would not be prejudiced by the planning decision. The appeal was allowed.

5. Planning Application: 2014/0761

Location: Land at Pencefnarda Uchaf Farm, Pencefnarda Road, Gorseinon

Proposal: Installation of ground mounted solar array; capacity up to 3.6 megawatts; ancillary infrastructure including fencing, security cameras, inverter kiosks, construction compound and laydown areas, cabling, substation building and screening/landscaping

Appeal Decision: Appeal Dismissed

The main issues for consideration with this application were the impacts of the proposed solar park on the visual amenity of the area, upon residential amenity, highway safety, and upon ecology & habitats, assessed against the need to provide renewable energy, supported in principle by national and local planning policy. This

application was reported to Committee with a recommendation of approval as it was considered that on balance, the scheme was appropriate in terms of its scale and design and would not cause unacceptable loss of amenity to neighbouring properties or surrounding land. There would not be significantly adverse visual impact on landscapes, open spaces and the general locality from the site and there would be no significantly adverse or detrimental impact on the ecology, habitats, highway safety or land drainage in the area.

Committee did not accept the recommendation and refused the planning application for the following reason:

The proposal is considered to constitute inappropriate development which would neither conserve nor enhance the character of the countryside or the openness of the green wedge and which would have an adverse visual impact when viewed from the residential properties within Pencefnarda Road, contrary to Policies EV1, EV23 and R11 of the City and County of Swansea Unitary Development Plan.

In reaching his decision, the Inspector concluded that the development was inappropriate development within the green wedge and very exceptional circumstances did not exist to clearly outweigh the harm caused. Whilst recognising that national planning policy encourages the provision of renewable energy, he heard no compelling evidence that the use of the land for the generation of electricity outweighed the harm caused to the area. In addition, he considered the development would cause unacceptable harm to the character and appearance of the area, and be detrimental to the outlook of adjacent residential properties. The appeal was dismissed.

6. Planning Application: 2014/1620

Location: Gwenlais Uchaf Farm, Pontlliw, Swansea.

Proposal: Construction of a 4MW solar farm comprising of 12,934 individual panels and associated structures and works

Appeal Decision: Appeal Dismissed

Summary

The main issues for consideration with this application were the impacts of the proposed solar farm on the visual amenity of the area, upon residential amenity, highway safety, ecology & habitats and the impact on the setting of the Grade II listed buildings on site.

In essence, the scheme assessment and decision outcome was essentially a balance between the national and international will for a future with renewable energy, supported by regional and local policy in principle, against the impact of such schemes on the landscape and environment in which they are sited.

The application was considered appropriate in terms of its scale and design and would not cause unacceptable loss of amenity to neighbouring properties or surrounding land. It was not considered there would be a significant adverse visual

impact on landscapes and the general locality from the site, and there would be no significantly adverse or detrimental impact on the ecology, habitats, highway safety or land drainage in the area. An additional prime consideration was the impact on the setting of the Grade II listed buildings. However, the mitigation measures proposed, including a reduced management regime for those hedgerows where visible impacts might occur, to enable them to reach 2.5m in height should adequately mitigate the issues of visual impact on the Listed Building and its curtilage. Approval was recommended.

Committee did not accept the recommendation and refused the application for the following reason:

'The proposal is considered to constitute inappropriate development in the countryside which cannot be satisfactorily incorporated into the landscape and would have an adverse visual impact particularly when viewed from the public right of way known as the Gower Way, and nearby residential properties, contrary to Policies EV1, EV22 and R11 of the City and County of Swansea Unitary Development Plan (2008).'

The appeal Inspector considered the main issues to be the visual impact of the proposal and its effect on the setting of listed buildings within the site. He considered that the benefits of the proposal including a significant contribution to meeting government renewable energy targets, short term construction jobs and income to the landowners to enable maintenance of the listed buildings and their land within an SSSI and SINC are substantial and weighed in favour of the proposal. However, he considered that the adverse effects on the users of the Gower Way and local residents in terms of the visual impact of the proposal and on the setting of the listed buildings were not outweighed by the benefits of the proposal. Proposed mitigation in the form of planting would take some years to be effective in screening the proposal. The appeal was dismissed.

7. Planning Application: 2015/0701

Location: Plot 22 Ladysmith Road, Treboeth.

Proposal: Retention and alteration of detached dwelling house and garage on Plot 22.

Appeal Decision: Appeal Dismissed

Summary

Planning permission had been granted in 2007 for the construction of a dwelling on this site as part of a wider residential development. The dwelling was not built in accordance with the approved plans. This application sought amendments to the as built dwelling to overcome previous reasons for refusal on the site and the Planning Inspector's reasons for the dismissal of previous appeals. It was considered that the proposed alterations would not be detrimental to the visual amenity of the area and had addressed previous concerns regarding the impact on the residential amenity of neighbouring residents. Approval was recommended.

Committee did not accept the recommendation and refused the application for the following reason:

'The proposal by virtue of its size, height and close proximity to Nos. 57 and 59 Gelli Aur will have a significant overbearing impact which is to the detriment of the residential amenity of the occupiers of those dwellings and is contrary to Policies EV1 and HC2 of the City and County of Swansea Unitary Development Plan (2008) and the Supplementary Planning Guidance 'Places to Live : Residential Design Guide 2014'.

The Inspector considered that the proposed changes would reduce the visual impact of the dwelling when viewed from Gelli Aur and the main issue was whether or not it would be acceptable in terms of the effects on the amenity of those neighbouring properties. He considered that the dwelling would still appear dominant and overbearing from properties in Gelli Aur. He considered the impact of the his decision on the Human Rights of the occupiers of the property and determined that the dismissal of the appeal was necessary in a democratic society in furtherance of the legitimate aims stated in the relevant Articles of the European Convention on Human Rights. The appeal was dismissed.