

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, 7 March 2017

Time: 2.00 pm

Chair: Councillor Paul Lloyd

Membership:

Councillors: C Anderson, P M Black, D W Cole, A M Cook, M H Jones, E T Kirchner, P B Smith, M Thomas, D W W Thomas, L J Tyler-Lloyd 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

	Page No.
1 Apologies for Absence.	
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 - 6
4 Items for Deferral / Withdrawal.	
5 Public Rights of Way - Creation and Extinguishment Orders in Pennard.	7 - 49
6 Determination of Planning Applications under the Town & Country Planning Act 1990.	50 - 68
7 Planning Application Reference - 2016/1316, Planning Appeal Reference - App/B6855/A/16/3161603 - 105 Rhyddings Terrace, Brynmill, Swansea.	69 - 75

Next Meeting: Tuesday, 4 April 2017 at 2.00 pm

Huw Evans

Huw Evans

Head of Democratic Services

Tuesday, 28 February 2017

Contact: Democratic Services - 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE PLANNING COMMITTEE

HELD AT COUNCIL CHAMBER, GUILDHALL, SWANSEA ON TUESDAY,
7 FEBRUARY 2017 AT 2.00 PM

PRESENT: Councillor P Lloyd (Chair) Presided

Councillor(s)

P M Black
A M Cook
D W W Thomas

Councillor(s)

A C S Colburn
M H Jones
T M White

Councillor(s)

D W Cole
E T Kirchner

Apologies for Absence

Councillor(s): H M Morris, P B Smith and M Thomas

57 **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 E T Kirchner – Minute No. 60 (Agenda Item 5 -Village Green) – Personal – I have family living in the area.

Councillor D W W Thomas – Minute No. 61(Agenda Item 6.3 -2016/1670) – Personal – My sister is due to move into Willow Court shortly.

58 **MINUTES.**

RESOLVED that the Minutes of the Planning Committee held on 10 January 2017 be approved as a correct record.

59 **ITEMS FOR DEFERRAL / WITHDRAWAL.**

None.

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

Sandie Richards, Principal Lawyer presented a report on behalf of the Interim Head of Legal & Democratic Services.

The background history, appraisal of the evidence submitted, objections and representations received, the legal remit and the conclusions of the Inspector were all outlined.

RESOLVED that

- 1) the application for the above registration be GRANTED other than the part of the application land consisting of a length of public highway known as Orchard Drive;
- 2) that the land of the application site OTHER THAN the part of the application land consisting of a length of public highway known as Orchard Drive be added to the Register of Town or Village Greens under Section 15 of the Commons Act 2006;
- 3) that a note be included in the Register of Common Land that the land of the amended application site is also included in the Register of Town or Village Greens, and that a corresponding note be included with the new entry to be inserted in the Register of Town or Village Greens.

61 **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 2016/3401/FUL - 122 Eaton Crescent, Uplands, Swansea

John Thomas (objector) addressed the committee and spoke against the application. Photographs were displayed as part of his objections.

Councillor Nick Davies (Local Ward Councillor) addressed the Committee and spoke against the application.

A visual presentation was provided.

Report Updated as follows:

Page 81 – Application site area incorrectly plotted on committee report circulated. Application site area denoted (red line) as outlined on the update sheet distributed and shown onscreen at Committee and is contained on site location plan received 2 December 2016.

Condition 2 amended as follows:

2. The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan, received 2nd December, 2016; SK/01: Existing floor plans, SK/03: Existing block plan, SK/04: Proposed block plan, received on 15th November 2016, SK/02: Proposed floor plans, SK/05: Existing and proposed front elevations, SK/05A: Existing and proposed rear elevation, received 2nd February 2017
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

Additional Correspondence received

Email received 3 February 2017 making reference to an online petition which was set up on 16 December 2016 to object to the application. A copy of a schedule of 43 names objecting to the development has been provided although no reasons for objection have been specified.

Emails received 6 February 2017 attaching copies of 3 x photographs.

#(Item 3) Planning Application 2016/1670 - Gower Play, Clyne Common, Swansea

Rick Parnell (objector) & Adrian Phillips (agent for objectors) addressed the committee and spoke against the application.

A visual presentation was provided.

- Application **APPROVED**, but for a temporary period of 12 months and subject to a 'time-use' condition. Therefore the following two conditions are added to the initially recommended condition.

2. The climbing frame hereby approved is only permitted for a temporary period of 1 year from the date of this planning permission. At the end of, or before the expiry of this 1 year period, the climbing frame and any associated works shall be removed from the site in its entirety.

Reason: Planning permission is granted for a temporary period only, in order to allow the Local Planning Authority a period of time to assess the noise and disturbance impact generated by users of the structure on the residential amenities of neighbouring occupiers.

3. The climbing frame hereby approved shall only be used between the hours of 10am to 5pm, Mondays to Saturdays. It shall not be used at any other time."

Reason: To protect the amenities of nearby residential occupiers.

2) the undermentioned planning application **BE REFUSED** for the reasons set out below:

#(Item 2) Planning Application 2016/3406/FUL - 57 Ysgol Street, Port Tennant, Swansea

Mike Leonard (objector) addressed the committee and spoke against the application.

Councillors C E Lloyd & J A Hale (Local Members) also addressed the Committee and spoke against the application.

A visual presentation was provided.

Report Updated as follows:

Page 96 – Planning application 2016/3617/FUL for a 5 person HMO at No. 89 Ysgol Street approved by the Council on 3 February 2017.

Additional Correspondence received

Email received 6 February 2017 raising issues relating to there being 7 HMOs in the street, legally or not and raising issues about parking.

Letter received 7 February 2017 raising issues relating to car parking in the street. Acknowledges that it is a personal choice to have a car, but makes suggestions to improve parking on Ysgol Street including limiting the number of HMOs in the street and surrounding areas, make the street one-way and parking spaces on one side of the road with double lines opposite, introduce parking permits and extend the permit only zone.

Application **REFUSED** contrary to officer recommendations for the following reasons: The proposed use by virtue of the form and nature of the HMO accommodation proposed and its location in proximity to existing dwelling houses will result in a significant adverse effect upon the residential amenity of the street and area by virtue of noise, nuisance and disturbance and is contrary to the requirements of Policy HC5 criterion (i).

62 **PLANNING APPLICATION 2016/1604 - 3 LEWIS STREET, ST THOMAS, SWANSEA.**

An updated report was presented on behalf of the Head of Planning & City Regeneration. The application had been deferred under the two stage voting process at the Planning Committee held on 6 December 2016 so that further advice could be provided with regard to the potential reasons for refusal raised by Members. It was also deferred at the Committee held on 10 January 2017 in order that a parking survey could be undertaken and further consideration could be made on the impact of the development upon the amenity of neighbours by virtue of disturbance.

An appeal had now been launched by the applicant for non-determination of the application.

A visual presentation was provided showing the video evidence from the cctv parking survey undertaken on the street was shown to the committee.

It was indicated that the officer recommendation of approval remained unchanged.

Councillors Clive Lloyd and Joe Hale (Local Ward Councillors) addressed the Committee and spoke against the application.

Report Updated as follows:

Paragraph 1.3

- Town and Country Planning (Development Management Procedure) (Wales)(Amendment) Order 2015 (not '1995' as stated).
- The expiry of the four weeks ends on 15 February 2017 (not '7 February 2017' as stated)

Additional Correspondence received

Email dated 4 February 2017 refers to the survey undertaken by the Highway and Transportation Section. States that the Highway Sections opinion that parking congestion is because of people attending the Church is not correct. Refers to examples of activities being used including drama, meetings, voting, martial arts, classes etc and besides the Church Hall refers to events in the church including weddings, christenings, funerals, services etc . Reference is made to the Church Hall and Church being used by different groups at different days and nights which creates a high concentration of parking.

RESOLVED the planning application **BE APPROVED.**

63 **FORMER CENTURY WORKS - APPEAL DECISION.**

The Head of Planning and City Regeneration provided a report outlining the decision of the Planning Inspectorate relating to an appeal by the applicant against the decision of the Planning Committee to refuse an application contrary to officer recommendation.

The Inspectors report, findings and decision to allow the appeal with conditions were outlined in the report.

RESOLVED that the appeal decision be noted.

64 **EXCLUSION OF THE PUBLIC.**

The Committee was requested to exclude the public from the meeting during the consideration of the items of business identified in the recommendations to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exclusion paragraphs of 12A of the Local Government Act 1972, as

amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007, relevant to the item of business as set out in the report.

The Committee considered the Public Interest Test in deciding to exclude the public from the meeting for the items of business where the Public Interest Test was relevant, as set out in the report.

It was **RESOLVED** that the public be excluded for the following item of business.

(CLOSED SESSION)

65 **ENFORCEMENT ACTION.**

The Head of Planning & City Regeneration presented a report which outlined the background details and history to the issues surrounding a development at the location outlined in the report.

The initial planning decision of refusal, the subsequent re-application and refusal and the decision of the Planning Inspector to support refusal following an appeal were all outlined in the report.

The report required a Committee decision as it involved the loss of a residential unit.

RESOLVED that in light of the appeal decision, Enforcement Action be authorised to secure the cessation of the use as two dwellings and require alterations to the building to reinstate the property as one dwelling.

The meeting ended at 3.48 pm

CHAIR

Report of the Head of Planning and Economic Regeneration

Planning Committee – Tuesday 7 March 2017

PUBLIC RIGHTS OF WAY – CREATION AND EXTINGUISHMENT ORDERS IN PENNARD

Purpose:	To decide the most appropriate course of action regarding extinguishment and creation orders for footpaths and bridleways in Pennard that have received objections
Policy Framework:	The Countryside Access Plan 2007-2017
Statutory Test:	s26, s118 and s119 of the Highways Act 1980
Reason for Decision:	Under the constitution only the Planning Committee can decide on the outcome of challenged extinguishment and creation orders
Consultations:	Completed at an earlier stage
Recommendation:	To withdraw the current orders and then to publish amended orders
Report Author:	Chris Dale
Finance Officer:	Nuri Begum
Legal Officer:	Sandie Richards
Access to Services Officer:	Phil Couch

1 Background

- 1.1 Pennard Burrows and the cliffs at Southgate are very busy areas for walkers and horse riders. On certain days of the year thousands of visitors and residents will make use of the area for walking and riding.
- 1.2 However, the network of bridleways and footpaths in the area does not reflect this level of use, with many well used routes not recorded as public paths and others crossing the played areas of the golf course.
- 1.3 The Wales Coast Path passes through the area and it is Authority policy for the Coast Path to follow public paths or, if necessary, roads in order to better provide for its protection. The project to develop the Wales Coast Path provided an opportunity to create a public footpath

or bridleway along the cliffs at Pennard for the Coast Path to follow and also to create, upgrade and divert other, associated paths.

- 1.4 In addition Pennard Golf Club applied to divert a bridleway and a footpath across the golf course.
- 1.5 Extensive informal consultations were carried out via notices at a number of locations on site and letters to user groups, the community council etc.. These resulted in amendments to the original proposal.
- 1.6 At a Rights of Way and Commons Sub-Committee on 17th July 2013 it was therefore decided to pursue a number of changes to the footpath and bridleway network via a single extinguishment order and a creation order (under the Highways Act 1980) to reflect the needs of the users and the Golf Club. The Committee report can be seen in appendix 1.

2 Publication of concurrent extinguishment and creation orders

- 2.1 Following the Committee decision referred to above, the extinguishment and creation orders were published on 2 September 2013. The orders are appended to this report in appendix 2.
- 2.2 Unfortunately, despite the extensive informal consultations prior to making the orders, a small number of objections to the orders were received. These prevent the Authority from confirming the orders. The objections are appended to this report in appendix 3.
- 2.3 There are two options for the Authority in these circumstances.
 1. The Authority can choose to submit the orders, with objections, to the Planning Inspectorate for confirmation. This would probably result in a public inquiry. The objections are likely to result in the Inspector at an Inquiry not confirming either the part of the order to which the objection refers or not confirming the whole order.
 2. The Authority can decide to withdraw the whole order and start the process again, but with amended proposals and producing a number of Therefore, should any further objections be made only part of the overall proposals will be affected.
- 2.4 As it is likely that at least part of the current orders will fail following a public inquiry, it would be both more cost effective and quicker to withdraw the orders and then to produce new orders with amendments that are agreed by all parties to reduce the chances of further objections. The chances of objection can be further reduced if, instead of placing all the proposed changes into just two large orders, a number of smaller orders are produced over a period of time, which propose changes to just one or two paths per order.

3 Financial Considerations

- 3.1 Minor works will be required, which will be funded from the Council's annual Coast Path grant.

4 Equality and Engagement Implications

- 4.1 There are no implications to this report

Background Papers: Pennard Burrows diversions

Appendices

Appendix 1 – Committee report 17 July 2013

Appendix 2 – Extinguishment and creation orders

Appendix 3 – Objections to the orders

APPENDIX 1

Report of the Head of Legal, Democratic Services and Procurement

Rights of Way and Commons Sub-Committee – 17th July 2013

PUBLIC RIGHTS OF WAY ON EAST CLIFF, WEST CLIFF AND PENNARD BURROWS, COMMUNITY OF PENNARD – CONCURRENT PUBLIC PATH ORDERS

Purpose:	To regularise and improve the public rights of way network from East Cliff to Pennard Burrows, Pennard, as part of the Coastal Access Improvement Programme.
Policy Framework:	The Coastal Access Improvement Programme (national) and the Countryside Access Plan 2007-2017 (local).
Reason for Decision:	The proposals will significantly improve the rights of way network from East Cliff to Pennard Burrows, Pennard, as part of the Coastal Access Improvement Programme, and the legal tests for making the orders can be satisfied.
Consultation:	Legal, Finance, Countryside Access, Local Members, Community Council, Byways and Bridleways Trust, The Ramblers Association and Local Representative, British Horse Society and Local Representative, The Open Spaces Society, Countryside Council for Wales, the Green Openspaces and Heritage Alliance and the relevant landowner/s, as well as public notices on site.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1) Concurrent public path extinguishment and creation orders be made to realign and add various public rights of way from East Cliff to Pennard Burrows, as shown in plans 3 and 4, as part of the Coastal Access Improvement Programme and regularisation of the Rights of Way Network.2) Should any objections to the orders be received and not withdrawn, both orders should be referred to the Planning Inspectorate to determine on behalf of the Welsh Ministers.
Report Author:	Greg Hopkins
Finance Officer:	K Lawrence
Legal Officer:	Sandie Richards

1.0 Introduction

- 1.1 As shown in Plans 1 and 2 (A3 colour versions of the plans will be provided to Members attending committee), the Definitive Map for Pennard around East Cliff and West Cliff (Plan 1) and Pennard Burrows/Golf Course and Pobbles (Plan 2) does not reflect the used routes on the ground. There are also missing links and cul-de-sac/dead-end routes.
- 1.2 Therefore, as part of the Coastal Access Improvement Programme and following several rounds of public consultations and landowner negotiations, a final set of proposed changes and additions has been put forward. These are shown in Plans 3 and 4 (A3 versions will be provided to Members attending committee).
- 1.3 East Cliff and West Cliff form part of the National Trust's land ownership. Pennard Burrows/Golf Course is owned by Pennard Burrows Ltd.

2.0 Consultations

- 2.1 Public consultations were initially carried out in June 2011 to remedy the anomaly of Bridleway PD1 (West Cliff) being a cul-de-sac route (Plan 1). The initial proposals for Pennard Burrows and a link to Pobbles were carried out in October 2011. Notices and plans were placed on site throughout all the consultation periods.
- 2.2 Several objections were received from members of the public to the West Cliff proposals, the majority of whom were residents of West Cliff. A second set of proposals were then consulted on in October 2011 incorporating a much longer link for PD1, extending to East Cliff along the used route adjacent to the loosely metalled track.
- 2.3 Again, responses were received from members of the public, both in support and in opposition to several elements of the proposals. Following officer discussions, meetings with various interested parties on site and discussions with the landowners, it was eventually agreed that a final set of proposals should be consulted on, with further amendments.
- 2.4 The final set of proposals for West Cliff and East Cliff were put out to public consultation on 10th December 2012, with the second set of proposals featuring Pennard Burrows and the Golf Course sent out a day later.
- 2.5 No adverse comments were received to the final set of consultations for West Cliff and East Cliff. A summary of the responses to those final proposals is included in Appendix 5.
- 2.6 A 3rd and final set of consultations were sent out during March 2013 showing further amendments to the proposals specifically across the Golf Course, the last remaining section of the proposals that received adverse

comments. In these consultations, additional routes which were to be dedicated by the Golf Course were also shown. The responses to these final consultations are also included in Appendix 5.

2.7 One letter of objection was received, from a local resident and keen cyclist, to the downgrading and re-alignment of bridleway PD 6 (proposals No.10 on plan 4). This response is addressed in section 6 and Appendix 5.

2.8 The resulting proposals following the various sets of consultations are shown in Plan 3 (East Cliff and West Cliff) and Plan 4 (Pobbles, Pennard Burrows and Pennard Golf Course). They include the routes which were dedicated as public footpaths by Pennard Burrows Ltd on 24th June 2013.

3.0 The Proposed Changes

3.1 Given the scale of the proposed changes, each change has been numbered on Plans 3 and 4, and are listed below. Members are directed to the key for the proposed changes and existing network.

- 1) Create bridleway along worn/used route adjacent to road.
- 2) Create bridleway along permissive route (adjacent to road) to link East Cliff and West Cliff and extinguish drafting error of bridleway PD 1 (N.B The private track known as West Cliff remains unaffected by these proposals).
- 3) Create separate footpath spur along used route to join path to Pobbles as part of the coastpath.
- 4) Spur of footpath PD 4 to be extinguished. Permissive route adjacent to car park formally dedicated by Pennard Burrows Ltd (N.B path in front of club house to remain) linking Pennard Road to PD 4.
- 5) Regularise the Definitive Map by extinguishing footpath PD 4 and create bridleway along permissive route, from Pobbles to the gate near the western end of Bendrick Drive (N.B Bendrick Drive remains a permissive route).
- 6) Additional footpath along used route dedicated by Pennard Burrows on 24th June 2013.
- 7) Delete a section of footpath PD 4 and create bridleway along permissive route to Pobbles.
- 8) Additional link to footpath PD 10 dedicated as public footpath by Pennard Burrows Ltd on 24th June 2013 as part of the coastpath.
- 9) Extinguish obstructed section of footpath PD 5 (No.9a) and create alternative footpath along used route (No. 9b) to the stepping stones across Pennard Pill.
- 10) Extinguish bridleway PD 6 (see points 11 & 12 for alternatives).
- 11) Create footpath along used/worn route across the golf course.
- 12) Upgrade public footpath PD 7 to bridleway, which is currently a permissive bridleway, with additional link to Sandy Lane.
- 13) Create bridleway along permissive bridleway route around eastern outskirt of golf course, with additional link to Sandy Lane.

14) Create bridleway along permissive route adjacent to Pennard Road to link with additional footpath dedicated by Pennard Burrows. Small section of footpath PD 15 extinguished where shown running along Pennard Road.

3.2 All the routes to be created are along used or presently permissive routes. A large scale aerial plan showing how the Definitive Map for the area would look, should the Orders be made, will be provided via overhead projector at committee.

4.0 Concurrent Public Path Orders

4.1 As there are many changes being proposed with varying legal implications to each change, the most appropriate method for effecting the changes would be via a creation order under section 26 of the Highways Act 1980 (HA 1980) and an extinguishment order under section 118 of the HA 1980, made concurrently. The additional routes dedicated by Pennard Burrows Ltd (No's 4, 6 & 8) were made via a creation agreement made under section 25 of the HA 1980, and do not form part of the concurrent orders.

4.2 Appendix 6 provides an explanation of concurrent public path orders.

4.3 It is hoped that the various rounds of public consultations and resultant amendments to the proposals has mitigated the likelihood of objections being raised to the proposed orders. However, it is not possible to guarantee that no objections will be raised to either or both orders, should they be made. Should an objection be received to one of the orders, both orders will need to be referred to the Welsh Ministers, as the orders would be made concurrently.

5.0 Legal Grounds and Tests

5.1 The grounds for making an extinguishment order under S.118 of HA 1980 and the legal tests to be met to confirm such an order are contained in Appendix 7.

5.2 The grounds for making a creation order under s.26 HA 1980 and the legal tests to be met to confirm such an order are contained in Appendix 8.

6.0 The Proposed Extinguishment Order

6.1 Under section 118 (1) of the Highways Act 1980, "where it appears to a Council as respects a footpath in their area, that it is expedient that the path should be stopped up on the ground that it is not needed for public use, the Council may by order extinguish the public right of way over the path or way."

- 6.2 With the exception of the cyclist whose response is in Appendix 5, the routes proposed to be extinguished are presently little used, if at all, as they either do not follow the worn routes on the ground, are drawn incorrectly on the Definitive Map or are obstructed. Consideration can also be given to any suitable alternatives. The routes proposed to be created are routes that are either permissive footpaths/bridleways or follow the used/worn routes on the ground. Formalising the creation of these suitable alternative and additional routes is addressed in paragraph 8 of this report. In total, approximately 2101 metres of bridleway and 1375 metres of footpath are proposed to be deleted, whereas the creation order and dedication agreements will add approximately 5599 metres of bridleway and 3056 metres of footpath to the network.
- 6.3 In considering whether “it is expedient to confirm the order, regard should be had to (a) the extent to which the path or way would, apart from the order, be likely to be used by the public and (b) the effect which the extinguishment of the right of way would have as respects land served by the path or way.”
- 6.4 With regard to (a) above, given the current use by the public of existing alternatives (all the routes to be created are presently used or are permissive routes), combined with the many drafting errors of some of the Definitive Routes, the routes do not appear to have been used for some time. Some of the routes to be extinguished are dead end or cul-de-sac routes, which do not link with other highways, whereas the alternative routes to be created all link to other highways and will vastly improve the rights of way network for both pedestrians and horse riders wishing to access the area.
- 6.5 In considering point (b) and the effect the extinguishment would have on land served by the path, the concurrent extinguishment and creation orders are in effect, one large diversion order. Whilst some parts of the network are being extinguished, there are alternative routes already in existence and being used that the creation order will formalise. The routes dedicated by Pennard Burrows Ltd have also provided additional routes to further improve the network (No's 4, 6 & 8), above and beyond those offered by the creation order.
- 6.6 The routes covered by the orders either pass over National Trust Access land, or they pass over Common Land CL 13: Pennard Cliffs. However, extinguishing the paths or ways will have little or no impact on the land they pass over, as the routes are obstructed, do not follow a worn route or are drafted incorrectly and the suitable alternatives are already well used.
- 7.0 Conclusion on the Proposed Extinguishment Order**
- 7.1 The sole objection to the proposals relates to the deletion of bridleway PD 6 (proposal No.10 on Plan 4). There have been no objections to the

proposed extinguishment of the paths and bridleways (shown on plans 3 and 4) from pedestrians or horse riders, coupled with the use of suitable alternatives and additional routes also shown on said plans, highlights the extent to which the paths are not needed for public use.

- 7.2 The proposed extinguishment order should have no impact on the landowners (The National Trust and Pennard Burrows Ltd) as the proposed alternatives are already in place and in use, with no additional impact to the land served by the paths. The routes are all contained within Common Land area CL 13: Pennard Cliffs or form part of National Trust Access land, which already contains public rights of access for pedestrians.

8.0 The Proposed Creation Order

- 8.1 The grounds for making a public path creation order under s.16 of HA 1980 are contained in Appendix 8. This Council must be satisfied that there is a need for the public paths or ways. It must also take into account the convenience or enjoyment the paths or ways would add to the public, and the effect they would have on the rights of the landowners.

- 8.2 No objections have been received to the proposed creation order routes shown on plans 3 and 4 following the final set of public consultations, and the National Trust and Pennard Burrows Ltd (landowners) are in agreement to the proposals.

- 8.3 With regards to taking into account the effect the routes would have on the landowners, despite the public having access rights on foot over National Trust land, the National Trust also have to take into account protecting wildlife and fauna on their land. By formally recording the presently used routes over their land, with a separate bridleway and footpath and effective way marking the creation order will limit the potential erosion and damage caused to the surrounding wildlife and surface by those wandering freely around East Cliff and West Cliff.

- 8.4 The same can be said for Pennard Burrows Ltd. By promoting use of the existing paths and ways around the burrows and golf course, the creation order, if confirmed, will limit the impact of pedestrians wandering freely around the burrows, reduce the impact of horse riders crossing the burrows directly, which is also common land and reduce the risks involved with horse riders crossing the golf course. In reality, the vast majority of horse riders using the area follow the presently permissive routes around the golf course. The creation order expands on this, and provides links to Sandy Lane as well as removing the need to use Pennard Road for a short distance.

- 8.5 The proposed alternatives are already used by both walkers and horse riders alike, so a creation order would regularise the situation on the ground. There would be no impact on the public's convenience or

enjoyment other than formalising their use by creating public rights of way, rather than the general access rights provided by National Trust Access Land or Common Land CL:13.

8.6 The proposed order, if confirmed, will also help link up East Cliff, West Cliff and Pennard Burrows, whilst also providing a direct link to Pobbles and Pennard Pill as part of the Coastal Access Improvement Programme.

8.7 The creation order conforms with Countryside Access Plan 2007-2017 policies DM 5, PPO 11, PPO 13, PPO 14, PPO 15, PPO 16, MN 16, MN 19 and AL 3.

9.0 Conclusion on Proposed Creation Order

9.1 Taking into account the fact that the public already use the proposed creation order routes, it is possible to demonstrate the need for the routes. The proposed creation order would add to the convenience and enjoyment of the public by extending the network, whilst regularising the rights already being exercised, thus satisfying the criteria set out in S.26 of the Highways Act 1980 (Appendix 8). The Order would add approximately 3498 km of additional bridleways and approximately 1681 metres of additional footpaths to the Definitive Map.

9.2 The rights of the National Trust and Pennard Burrows Ltd, as landowners, have also been considered, and the creation would keep the public to the existing routes without impacting the wildlife and fauna in the area.

9.3 Given the added convenience and enjoyment the proposed creation order would give to pedestrians and horse riders, and the diminished impact on National Trust and Pennard Burrows Ltd land, it appears expedient to make a creation order for the routes shown on plans 3 and 4 appended to this report.

10.0 Financial Implications

10.1 Any surfacing works, maintenance and way marking required to effect the creation order routes will be funded from grants linked to the Coastal Access Improvement Programme.

Background Papers: Countryside Access Plan 2007-2017 (this council's Rights of Way Improvement Programme).

Appendices: Appendix 1 – Plan 1; Appendix 2 – Plan 2, Appendix 3 – Plan 3, Appendix 4 – Plan 4, Appendix 5 – Responses to Final Consultations, Appendix 6 – Guidance on Concurrent Orders, Appendix 7 – s118 HA 1980, Appendix 8 – s 26 HA 1980



Pennard Golf Club

Pobbles

West Cliff

East Cliff

PLAN 1
Current Position Of
Public Rights of Way in Pennard
East Cliff and West Cliff

KEY	
Existing Public Bridleway	
Existing Public Footpath	

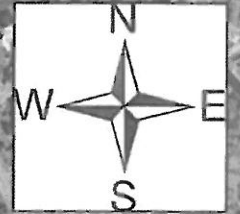
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PLAN 2
Current Position Of
Public Rights of Way in
Pennard
Pennard Burrows to
Pobbles

Grid Ref. SS 545 880



Sandy Lane

Pennard Castle
 (remains of)

Pennard Burrows
 Golf Links
 Dunes

Pennard Road

Pennard
 Golf Club

Pobbles

Scale 1:5000

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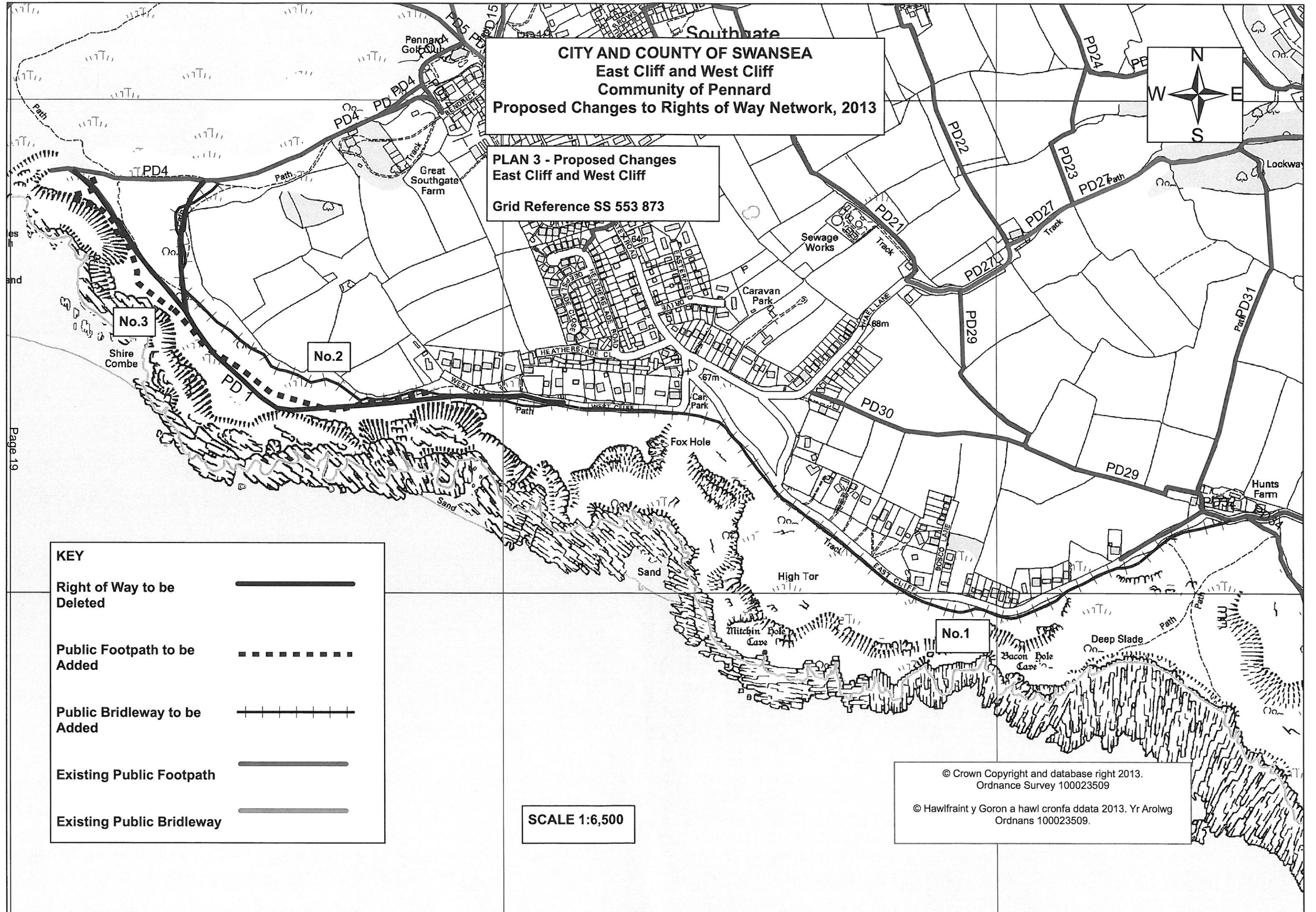
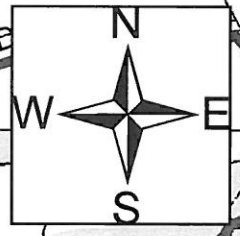
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KEY

Existing Footpath	
Existing Bridleway	
Existing Byway	

CITY AND COUNTY OF SWANSEA
East Cliff and West Cliff
Community of Pennard
Proposed Changes to Rights of Way Network, 2013

PLAN 3 - Proposed Changes
East Cliff and West Cliff
Grid Reference SS 553 873



KEY	
Right of Way to be Deleted	
Public Footpath to be Added	
Public Bridleway to be Added	
Existing Public Footpath	
Existing Public Bridleway	







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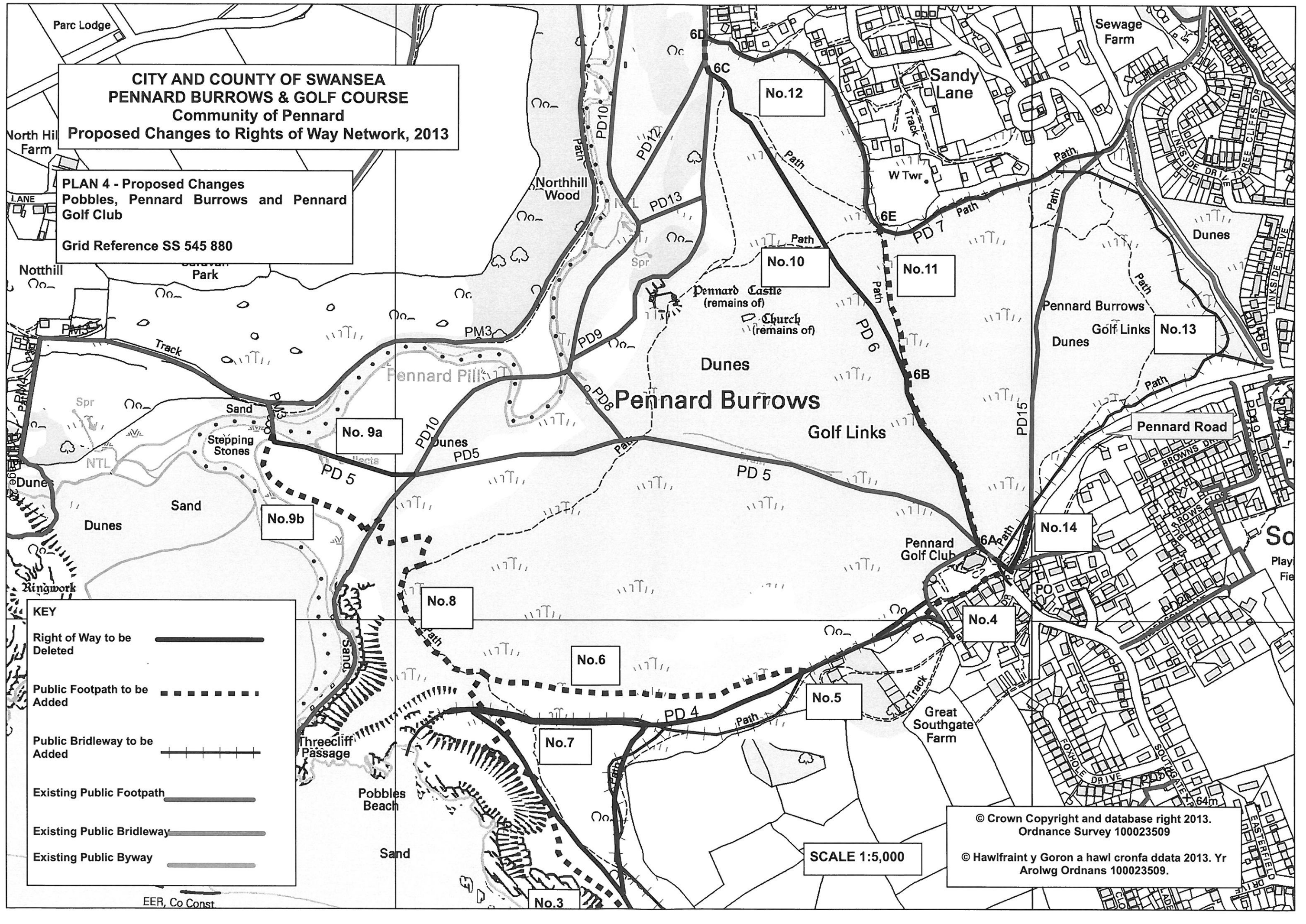
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**CITY AND COUNTY OF SWANSEA
 PENNARD BURROWS & GOLF COURSE
 Community of Pennard
 Proposed Changes to Rights of Way Network, 2013**

**PLAN 4 - Proposed Changes
 Pobbles, Pennard Burrows and Pennard
 Golf Club
 Grid Reference SS 545 880**

KEY

- Right of Way to be Deleted 
- Public Footpath to be Added 
- Public Bridleway to be Added 
- Existing Public Footpath 
- Existing Public Bridleway 
- Existing Public Byway 



SCALE 1:5,000

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Appendix 5

Responses to final consultations

East Cliff and West Cliff (Proposals 1, 2 and 3 on Plan 3)

Response from a local horse rider – "...proposed bridleway seems very viable and is substantially the route that is ridden at the moment."

He mentions potential objections being generated by using the road at West Cliff, however, the permissive route does not incorporate the private track at West Cliff, therefore neither will the creation order route (see proposal No.2 on Plan 3).

Response from Ramblers and Gower Society Representative – "We welcome the amendments which will result in a significant improvement to the rights of way in the area."

Response from a resident of West Cliff – "The proposals now displayed at the corner of the NT car park in Southgate seem very good. They will avoid soil erosion on the cliff edge, and reduce danger to young riders and conflict between riders and dog-walking pedestrians. They will also mean that work that the National Trust has already done putting up bridle-path signs and filling in will not have been wasted. Congratulations on a good piece of work."

Pobbles and Pennard Burrows (Proposals 4, 5, 6, 7 and 8 on Plan 4)

Response from Local Horse Rider – "Establishing a public bridleway to Pobbles beach would be of great benefit. It is a route that has been ridden for many years, even before it became a permissive way courtesy of Pennard Golf Club."

Response from Local Resident with petition from residents attached to response – "I write in support of the proposal to recognise the used routes and provide a linking up and improving the network. In support of this principle I enclose a copy of a petition which was completed in the village just over a year ago. It contains 612 signatures requesting that the existing golf club path alongside the car park is formalised as a safe route from Pobbles beach for walkers and horses."

"I note that the proposal is now for a footpath along the existing permissive path (see proposal No. 4, Plan 4). I am aware that the Rights of Way team have had detailed and ongoing discussions with the golf club and the Gower Riding Club over the last year due to physical constraints of path width a footpath is proposed instead of a Bridleway. On behalf of those who organised and signed the petition I enclose a copy to show the strong support in the village for safe routes."

(N.B, the proposal to make No.4 a bridleway became impractical once a suitable width for a bridleway could not be guaranteed, which could jeopardise the safety of both user groups if accessed at the same time).

Response from Ramblers and Gower Society Representative – "It is noted that the boardwalk on the existing path (see proposal No.8)...is currently in a dilapidated state. It is hoped that the inclusion of this path as a right of way will lead to a significant improvement in its condition." (N.B, improvement works have already begun to remove and replace the boardwalk, using Coastal Access grant funding).

“The alterations in the valley above Pobbles Beach are welcomed” (see proposals 5, 6 and 7).

Pennard Golf Course (Proposals 10, 11, 12, 13 and 14 on Plan 4)

Response from Local Horse Rider – “The permissive way beside Pennard Road is coloured green (meaning it will be a bridleway). This would be acceptable in principle but as marked the northern divide would bring riders very close to the playing area” (N.B, this has been accounted for and the routes now follow the presently permissive route used by horse riders, skirting the playing area). “The proposals seem very sensible and they regularise current safe uncontroversial practice. I can give them my full support.”

Response from local resident and member of Pennard Peddlers Cycle Club – “I write to object to the proposed rerouting of bridleway 6” (Proposal No. 10).

“Since 1985, my family and others have periodically cycled across the golf course from 6A to 6D. My objection to the proposed new route is that it will be impassable to cyclists, unless hardcored, as much of it comprises loose sand. One can neither cycle across sand, nor would one want to as sand is very abrasive and would quickly destroy bike chains, gears, bearings, brakes etc”.

“I suggest a compromise. For cyclists, section 6A-6B should be retained, but 6B-6C-6D could be re-routed as 6B-6E-6D. The latter does entail a little sand, but it can be cycled around.”

“Please note that I do not currently ride horses, but have done so, and from a horse riders prospective [sic] I would have no objection to the proposed rerouting of bridleway 6. My objection is from a cyclists prospective [sic]. Maybe it would be possible to separate the horse and cycle routes.”

“If it would help the Golf Club, I would have no objection to section 6A-6B being rerouted around hole-18, provided it was hardcored or similar (i.e. not loose sand).”

Officer comments

The above response is the sole remaining adverse comment to the proposals. The points raised in the response are valid and may demonstrate a need for PD 6 by a section of the public. However, taking into account the responses supporting the alternative routes being created, it is possible to demonstrate that the need to use the alternatives by horse riders and pedestrians, who are already using the routes on the ground, might be construed as being greater than that of a local cyclist. A bridleway is predominantly for pedestrians and horse riders. That being said, it may be possible to negotiate a compromise to resolve the issues raised by the objector, such as a permissive cycle path across the proposed footpath.

The objection suggests a small diversion rather than downgrading the bridleway, some surfacing works or to provide a separate route suitable for cyclists. Attempts should be made to negotiate a resolution to the objection so as not to jeopardise the proposals as a whole.

Appendix 6 Highways Act 1980

Concurrent Highways Act Orders

- Section 118(5) and Sch 6 para 3(2) allow extinguishment orders to be considered concurrently with creation or diversion orders. However, even if considered concurrently, the orders must each stand on their own.
- Guidance given by the Planning Inspectorate to its inspectors (Rights of Way Section, Advice Note No.9, 7th Revision October 2009) states “Express provision is made in section 118(5) of the Highways Act 1980 for public path extinguishment orders to be dealt with concurrently with creation and diversion orders. When considering the confirmation of a public path extinguishment order, in particular, the extent to which the highway would be likely to be used by the public apart from the order, regard should be had to the extent that the creation or diversion would provide an alternative to the way being extinguished” (pg 7, para 32).
- Furthermore, “When dealing with such orders concurrently, each order should be considered separately on its own merits and decisions made in each case. Consequently, a decision letter should specifically cover for each order those matters relevant to the consideration of whether it should be confirmed” (pg 7, para 33).
- This interpretation of the legislation with regards concurrent orders is backed up by the Department for Environment, Food and Rural Affairs’ guidance for Local Authorities in their Rights of Way Circular 1/09. It states “care should be taken to ensure that full consideration is given to all of the matters set out in both section 26 and section 118” (pg 34, para 5.54) when considering concurrent orders, suggesting the orders should meet the tests individually, despite being considered concurrently.
- In the Planning Inspectorate’s Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders (November 08), where the inspector has considered the two orders, but cannot confirm the extinguishment order, “he/she will not generally confirm the creation or diversion orders” (pg 33, para 6.31) suggesting that should the extinguishment order not be confirmed, neither would the proposed alternative.

There are no provisions allowing extinguishment and creation orders to be drafted in the same order, nor is there a provision for *creation agreements* to be considered concurrently. Both have been tested in caselaw.

Appendix 7
s. 118 Highways Act 1980

S.118. Stopping up of footpaths, bridleways and restricted byways

- (1) Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Welsh Ministers, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

An order under this section is referred to in this Act as a 'public path extinguishment order'.

- (2) The Welsh Ministers shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121 (2) below.
- (3) A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Welsh Ministers and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.
- (4) Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.
- (5) Where, in accordance with regulations made under paragraph 3 of the said schedule 6, proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order, public path diversion order or rail crossing diversion order then, in considering-
- (a) Under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or
 - (b) Under subsection (2) above to what extent (if any) that path or way would apart from the order be likely to be used by the public;

The council or Welsh Ministers, as the case may be, may have regard to the extent to which the public path creation order, public path diversion order, or rail crossing diversion order would provide an alternative path or way.

- (6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of the path or way by the public shall be disregarded.

(6A) The considerations to which-

- (a) The Welsh Ministers are to have regard in determining whether or not to confirm a public path extinguishment order, and
- (b) A council are to have regard in determining whether or not to confirm such an order as an unopposed order,

Include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would extinguish a public right of way.

Appendix 8
s.26 Highways Act 1980

S.26. Compulsory powers for creation of footpaths, bridleways and restricted byways

- (1) Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-
- (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
 - (b) the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in s.28 below,

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Welsh Ministers, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.

An order under this section is referred to in this Act as a 'public path creation order'; and for the purposes of this section 'local authority' means the county council or district council.

- (2) Where it appears to the Welsh Ministers in a particular case that there is a need for a footpath, bridleway or restricted byway as mentioned in subsection (1) above, and they are satisfied as mentioned in that subsection, they may, after consultation with each body which is a local authority for the purposes of this section in relation to the land concerned, make a public path creation order creating a footpath, bridleway or restricted byway.
- (3) A local authority shall, before exercising any power under this section, consult any other local authority or authorities in whose area the land concerned is situated.
- (3A) The considerations to which-
- (a) the Welsh Ministers are to have regard in determining whether or not to confirm or make a public path creation order, and
 - (b) a local authority are to have regard in determining whether or not to confirm such an order as an unopposed order,

include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over

which the proposed footpath, bridleway or restricted byway would be created.

- (4) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order.
- (5) A public path creation order shall be in such form as may be prescribed by regulations made by the Welsh Ministers, and shall contain a map, on such scale as may be so prescribed, defining the land over which a footpath, bridleway or restricted byway is thereby created.

Schedule 6 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path creation orders.

PUBLIC PATH CREATION ORDER

HIGHWAYS ACT 1980

THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA

EAST CLIFF, WEST CLIFF, PENNARD BURROWS AND PENNARD GOLF COURSE
COMMUNITY OF PENNARD

The Order is made by the Council of the City and County of Swansea ("the Authority") under Section 26 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that having regard to the matters set out in Section 26(1) there is a need for public bridleways and public footpaths over the land to which this Order relates, and that it is expedient that the paths or ways should be created.

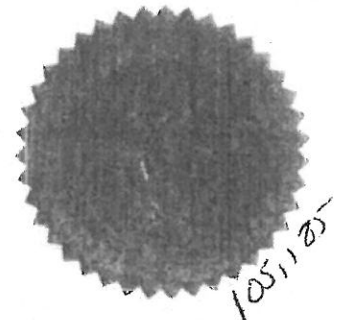
The Pennard Community Council has been consulted as required by section 26(3) of the 1980 Act.

BY THIS ORDER

1. There shall be at the end of 28 days from the date of confirmation of this Order public bridleways over land at East Cliff, West Cliff, Pennard Burrows and Pennard Golf Course and described in Part 1 of the Schedule to this Order and shown by continuous lines with cross bars at regular intervals on the maps attached to this Order. There shall also be public footpaths, 28 days from the date of confirmation of this Order, as shown by broken black lines on the maps attached to this Order.

Dated 9th August 2013

THE COMMON SEAL of)
THE COUNCIL OF THE)
CITY AND COUNTY OF)
SWANSEA was hereunto)
affixed in the presence of:)



Tracy Meredith

Head of Legal, Democratic Services and Procurement/Authorised Signatory
Civic Centre
Swansea

TRACY MEREDITH

SCHEDULE
PART 1
DESCRIPTION OF PATH OR BRIDLEWAY

Bridleway PD 1 (Plans 1 & 2)

That length of bridleway commencing at point A (Grid Ref. SS 564 871) and proceeding in a predominantly west south westerly direction for 493 metres to point A1, before continuing in a predominantly north westerly direction for 746 metres to point A2 (plan 1), thereafter in a westerly direction for 600 metres to point A3 (Plan 2). The bridleway then continues in a west south westerly direction for 135 metres to point A4 before bearing in a north westerly direction for 83 metres to point A5 thence in a west south westerly direction for 31 metres to point A6. The bridleway continues in a predominantly north westerly direction for 335 metres to point A7 thence bearing in a predominantly northerly direction for 161 metres to point A8, before finally proceeding in a north easterly direction for 101 metres to terminate at point A9 (Grid Ref. SS 571986).

Total length of bridleway being created: 2685 metres
Width of bridleway: 3 metres throughout

Footpath PD 3 (Plan 2)

That length of footpath commencing at point B at its junction with bridleway PD 1, at Grid Reference SS 548 874, and proceeding in a west south westerly direction for 172 metres to point B1, continuing in a north westerly direction for 500 metres to point B2 before proceeding in a north north westerly direction for 126 metres to point B3. The path then proceeds in a north westerly direction for 100 metres to point B4, thence bearing in a north easterly direction for 42 metres to point B5 before finally proceeding in a north north westerly direction for 31 metres to terminate at point B6 (Grid Ref. SS 541 878).

Total length of footpath being created: 971 metres
Width of footpath: 2 metres throughout

Bridleway PD 4 (Plan 3)

That length of bridleway commencing at point C at Grid Reference SS 487 879 and proceeding in a north north westerly direction for 26 metres to point C1, continuing in a north westerly direction for 22 metres to point C2 before proceeding in a west south westerly direction for 220 metres to point C3. The bridleway then proceeds in a south westerly direction for 57 metres to point C4, continuing in a west south westerly direction for 114 metres to point C5, thence bearing in a west north westerly direction for 132 metres to point C6. The bridleway then continues in a westerly direction for 166 metres to point C7, proceeding in west north westerly direction for 129 metres to point C8 before curving in a predominantly south westerly direction for 105 metres to point C9 to terminate on Pobbles beach at Grid Reference SS 540 877.

Total length of bridleway being created: 971 metres
Width of bridleway: 3 metres throughout

Footpath PD 5a (Plan 4)

That length of footpath commencing at point D at Grid Reference SS 539 881 and proceeding in a predominantly north westerly direction for 199 metres to point D1 before bearing in a north north easterly direction for 54 metres to re-join the existing highway at point D2 (Grid Ref. SS 538 882).

Total length of footpath being created: 253 metres
Width of footpath: 2 metres throughout

Footpath PD 6b (Plan 5)

That length of footpath commencing at point E at Grid Reference SS 549 880 and proceeding in a north westerly direction for 33 metres to point E1 before proceeding in a predominantly north north westerly direction for 538 metres to point E2 to terminate on the existing highway at Grid Reference SS 547 886.

Total length of footpath being created: 571 metres
Width of footpath: 2 metres throughout

Extension to Footpath PD 9 (Plan 5)

That length of footpath commencing at point F (Grid Ref. SS 544 888) and proceeding in a predominantly northerly direction for 61 metres to terminate on the existing highway at point G (Grid Ref. SS 544 889).

Total length of footpath being created: 61 metres
Width of footpath: 2 metres throughout

Bridleway PD 7 (Plan 5)

That length of bridleway commencing at point G (Grid Ref. SS 544 889) and proceeding in an east south easterly direction for 92 metres to point G1, continuing in an east north easterly direction for 57 metres to point G2 before bearing in a predominantly south easterly direction for 207 metres to point G3. The bridleway then proceeds in a predominantly south south easterly direction for 113 metres to point E2, continuing in an east south easterly direction for 58 metres to point G4. The bridleway then proceeds in a predominantly east north easterly direction for 344 metres to point G5 before continuing in a north easterly direction for 51 metres to point G6 to terminate on the existing highway at Grid Reference SS 551 887.

Total length of bridleway being created: 922 metres
Width of bridleway: 3 metres throughout

Bridleway PD 60a (Plan 5)

That length of bridleway commencing at point H at Grid Reference SS 550 887 and proceeding in an easterly direction for 53 metres to point H1, continuing in an east south easterly direction for 88 metres to point H2 before passing in a predominantly south easterly direction for 279 metres to point H3. The bridleway then proceeds in a predominantly west south westerly direction for 287 metres to point H4, thence in a south westerly direction for 239 metres to point E before finally proceeding in a south south easterly direction for 32 metres to terminate on the existing highway at point H5 (Grid Ref. SS 549 880).

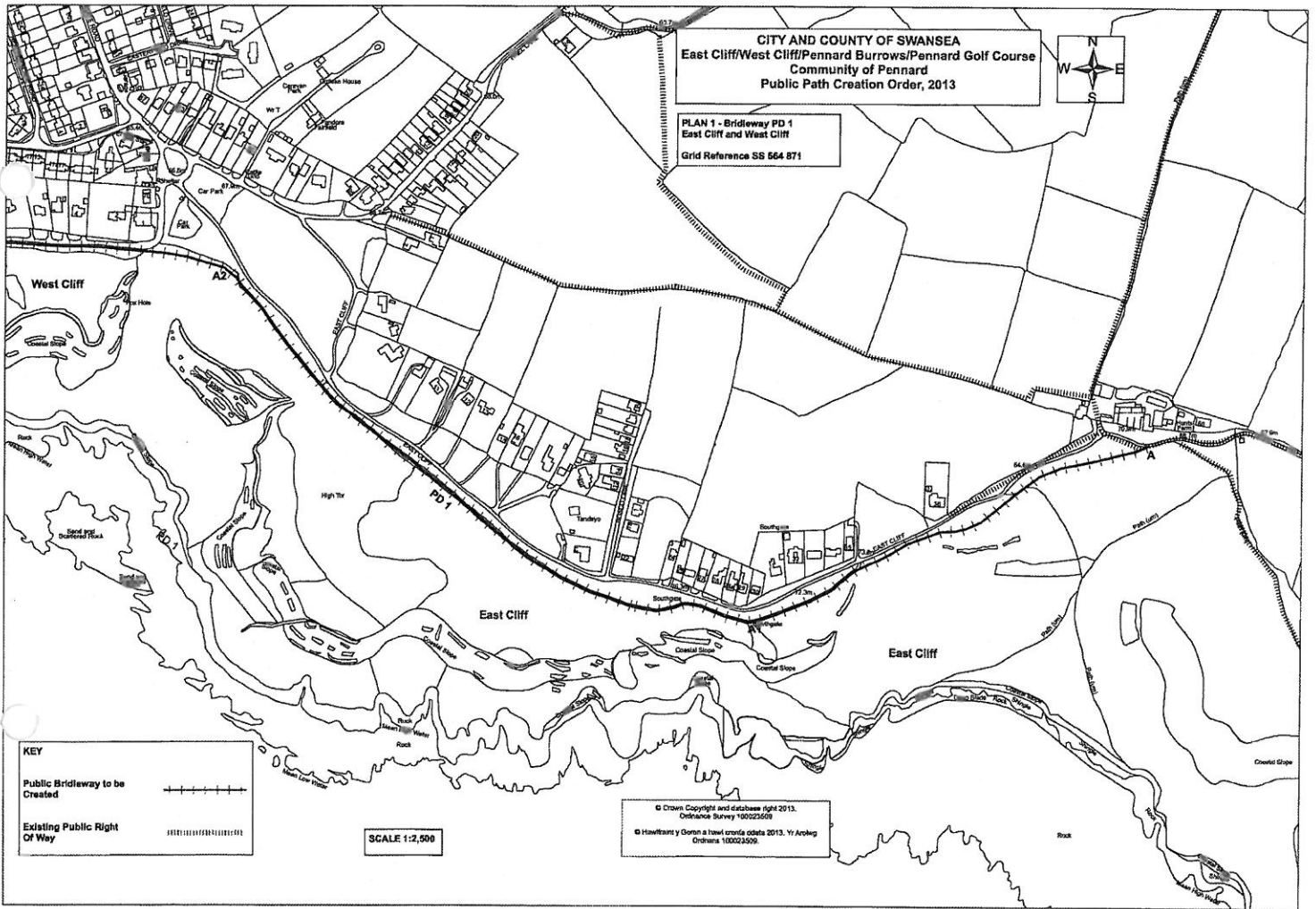
Total length of bridleway being created: 978 metres
Width of bridleway: 3 metres throughout

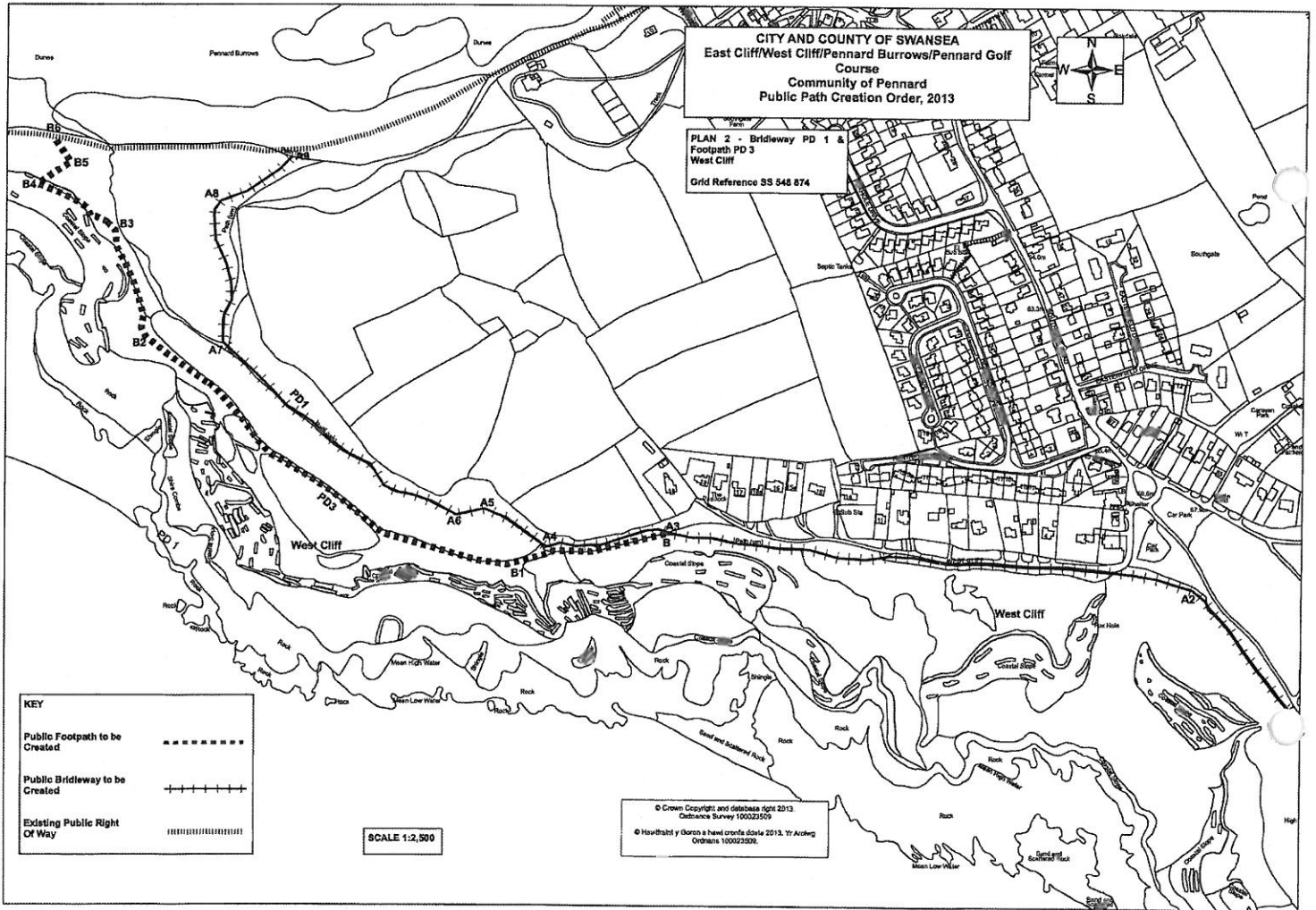
Bridleway PD 60b (Plan 5)

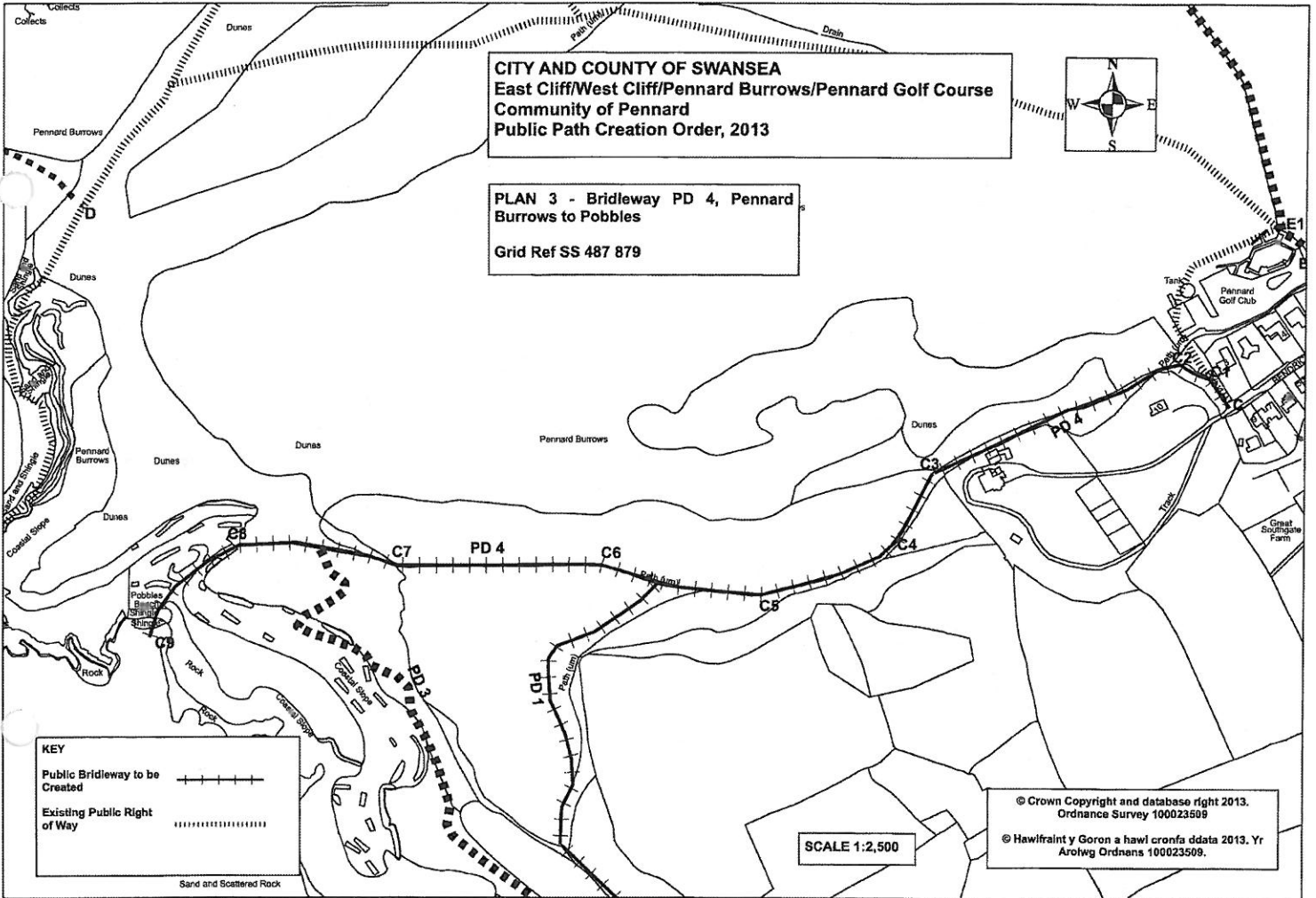
That length of bridleway commencing at point J (Grid Ref. SS 552 884) and proceeding in a predominantly east south easterly direction for 75 metres to terminate on the existing highway at point J1 (Grid Ref. SS 553 884).

Total length of bridleway being created: 75 metres
Width of bridleway: 3 metres throughout

All distances and directions being approximate.







**CITY AND COUNTY OF SWANSEA
 East Cliff/West Cliff/Pennard Burrows/Pennard Golf Course
 Community of Pennard
 Public Path Creation Order, 2013**

**PLAN 4 - Footpath PD 5a, Pennard
 Burrows**

Grid Reference SS 539 881

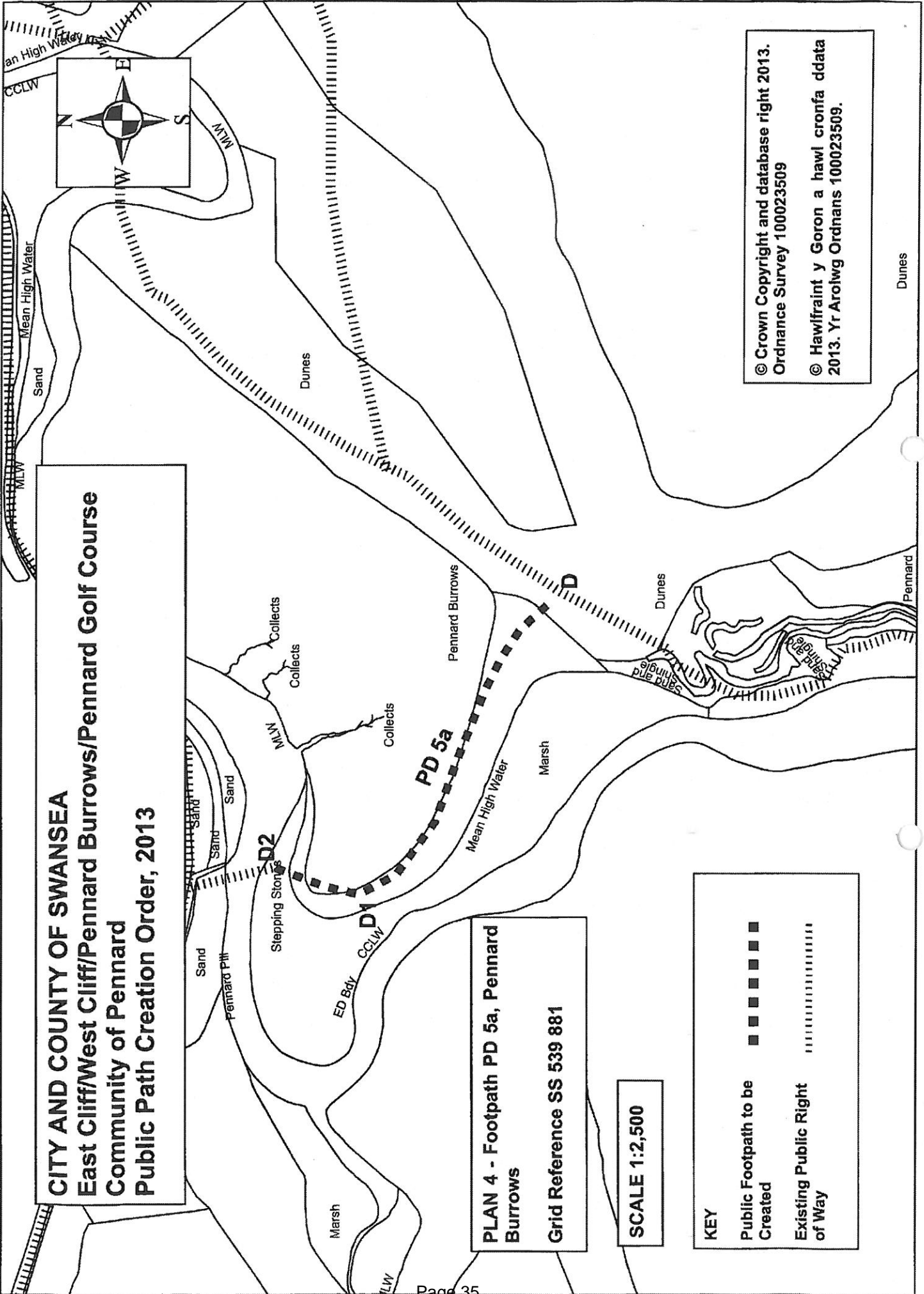
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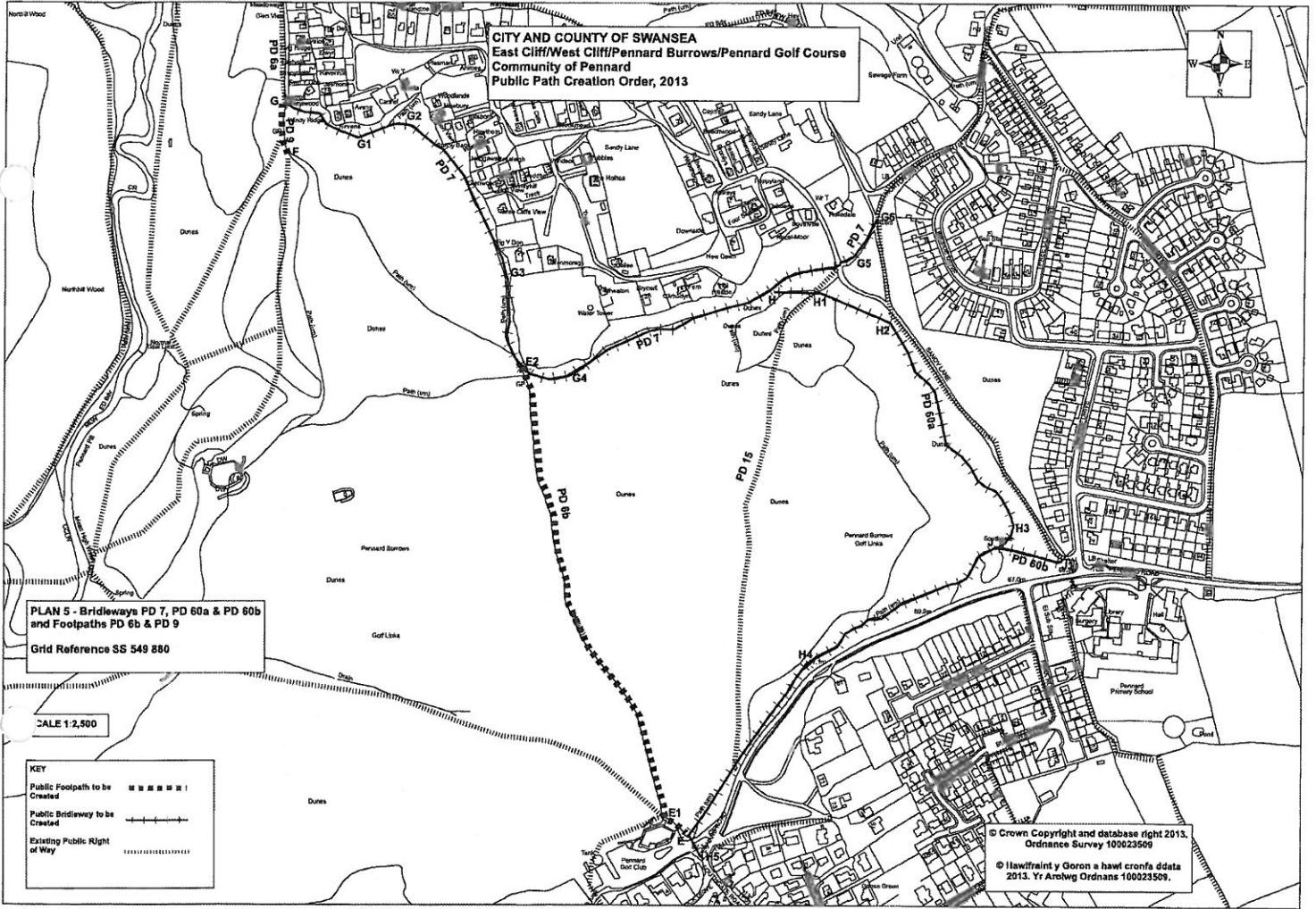
- Public Footpath to be Created
- Existing Public Right of Way

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CITY AND COUNTY OF SWANSEA
East Cliff/West Cliff/Pennard Burrows/Pennard Golf Course
Community of Pennard
Public Path Creation Order, 2013



**PLAN 5 - Bridleways PD 7, PD 60a & PD 60b
 and Footpaths PD 6b & PD 9**
 Grid Reference SS 549 880

SCALE 1:2,500

KEY
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 Public Bridleway to be Created [Symbol]
 Existing Public Right of Way [Symbol]

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**PUBLIC PATH EXTINGUISHMENT ORDER
HIGHWAYS ACT 1980
THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA
WEST CLIFF, PENNARD BURROWS AND PENNARD GOLF COURSE
COMMUNITY OF PENNARD**

**Patrick Arran
Head of Legal, Democratic Services & Procurement
Civic Centre
Oystermouth Road
Swansea
SA1 3SN**

ROW-000231/GH

PUBLIC PATH EXTINGUISHMENT ORDER
HIGHWAYS ACT 1980
THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA
WEST CLIFF, PENNARD BURROWS AND PENNARD GOLF COURSE
COMMUNITY OF PENNARD

The Order is made by the Council of the City and County of Swansea ("the Authority") under Section 118 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that the bridleways and public footpaths described in paragraph 1 below are not needed for public use.

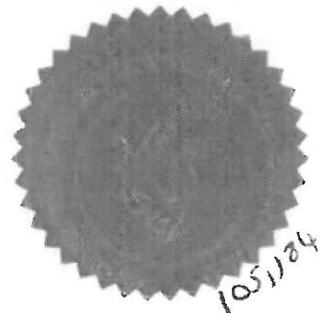
The Pennard Community Council and the Countryside Council for Wales (now Natural Resources Wales) have been consulted as required by section 120(2) of the 1980 Act.

BY THIS ORDER

1. The public rights of way over the land situate at West Cliff, Pennard Burrows and Pennard Golf Course, shown by continuous bold lines on the maps attached to this order and described in the Schedule to this order shall be extinguished after 28 days from the date of confirmation of this order.

Dated 9th August 2013

THE COMMON SEAL of)
THE COUNCIL OF THE)
CITY AND COUNTY OF)
SWANSEA was hereunto)
affixed in the presence of:)



Meredith

~~Head of Legal, Democratic Services and Procurement/~~ **Authorised Signatory**
~~Civic Centre~~
~~Swansea~~

TRACY MEREDITH

SCHEDULE
PART 1
DESCRIPTION OF PATH OR BRIDLEWAY

Bridleway PD 1 (Plan 1)

That length of bridleway commencing at point A (Grid Ref. SS 551 873) and proceeding in a predominantly westerly direction for 580 metres to point A1, before continuing in a north westerly direction for 274 metres to point A2, where PD 1 terminates at its junction with footpath PD 2 at Grid Reference SS 543 875.

Total length of bridleway being extinguished: 854 metres

Footpath PD 2 (Plan 1)

That length of footpath commencing at point A2 at its junction with bridleway PD 1, at Grid Reference SS 543 875, and curving in a predominantly northerly direction for 278 metres to point A3, where PD 2 terminates on the existing highway PD 4, at Grid Reference SS 543 878.

Total length of footpath being extinguished: 278 metres

Footpath PD 3 (Plan 1)

That length of footpath commencing at point A2 at its junction with footpath PD 2 (Grid Ref. SS 543 875) and proceeding in a north westerly direction for 373 metres to point A4, where PD 3 terminates on the existing highway PD 4, at Grid Reference SS 541 878.

Total length of footpath being extinguished: 373 metres

Spur of Footpath PD 4 (Plan 2)

That length of footpath commencing at point B at Grid Reference SS 548 880 and proceeding in a west south westerly direction for 94 metres to point B1, where the spur footpath terminates on the existing highway PD 14, at Grid Reference SS 547 879).

Total length of footpath being extinguished: 94 metres

Footpath PD 4 (Plan 2)

That length of footpath commencing at point B2 at Grid Reference SS 546 879 and proceeding in a west south westerly direction for 261 metres to point B3 before proceeding in a westerly direction for 173 metres to point B4. The path then continues in a west north westerly direction for 100 metres to point B5, thence in a west south westerly direction for 38 metres to point B6 where it terminates at Grid Reference SS 540 878.

Total length of footpath being extinguished: 572 metres

Footpath PD 5 (Plan 3)

That length of footpath commencing at point C (Grid Ref. SS 540 882) and proceeding in a westerly direction for 31 metres to point C1, the path then continues in a west north westerly direction for 194 metres to point C2 before proceeding in a northerly direction for 10 metres to point C3 to re-join the existing highway at Grid Reference SS 538 882.

Total length of footpath being extinguished: 235 metres

Bridleway PD 6 (Plan 4)

That length of bridleway commencing at point D (Grid Ref. SS 549 880) and proceeding in a north easterly direction for 61 metres to point D1, continuing in a north north westerly direction for 116 metres to point D2 before bearing in a predominantly north westerly direction for 684 metres to point D3. The bridleway then proceeds in a north north westerly direction for 33 metres to point D4, continuing in a north westerly direction for 42 metres to point D5, finally proceeding in a predominantly northerly direction for 57 metres to point D6 to terminate on the existing highway at Grid Reference SS 544 889.

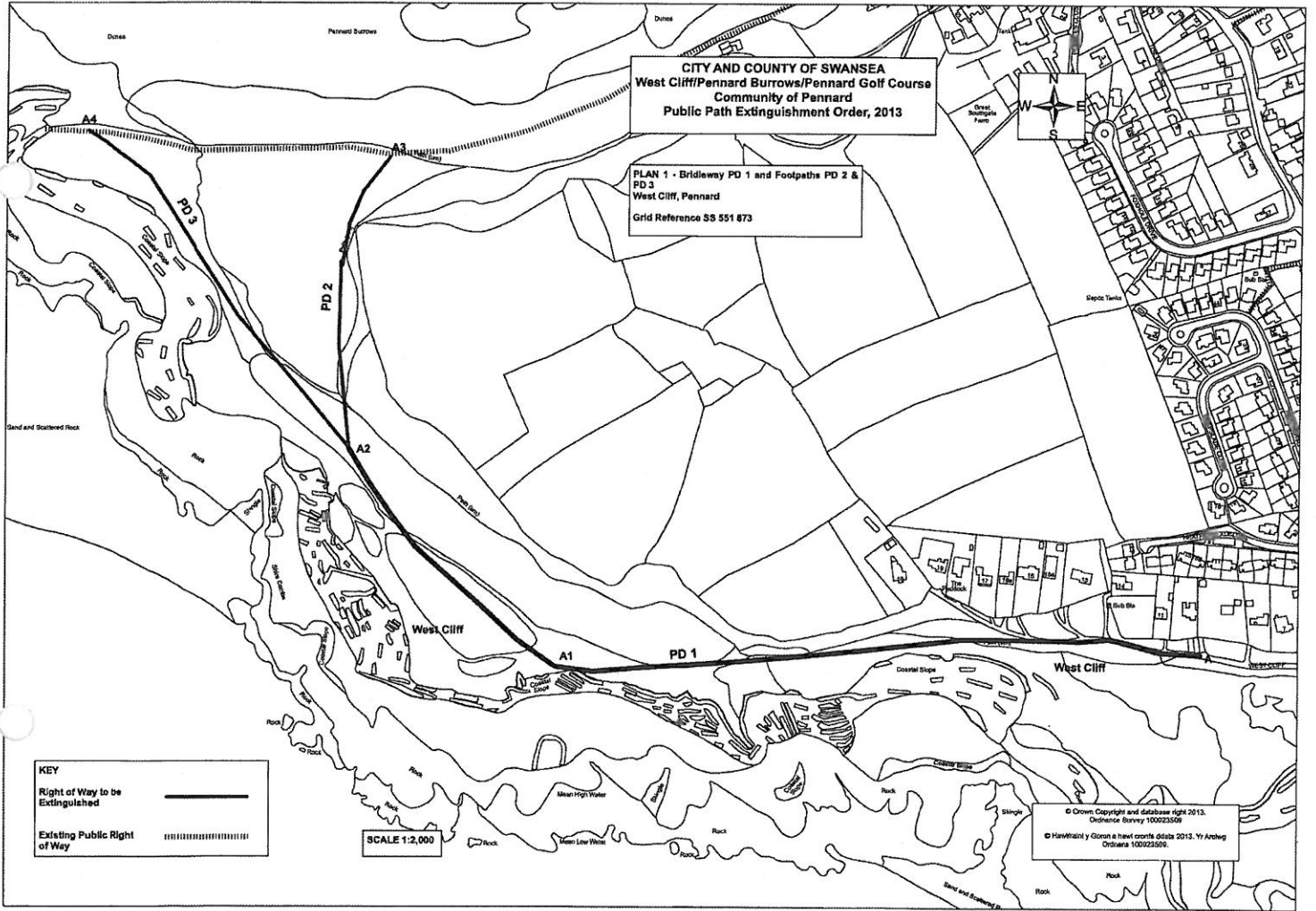
Total length of bridleway being extinguished: 993 metres

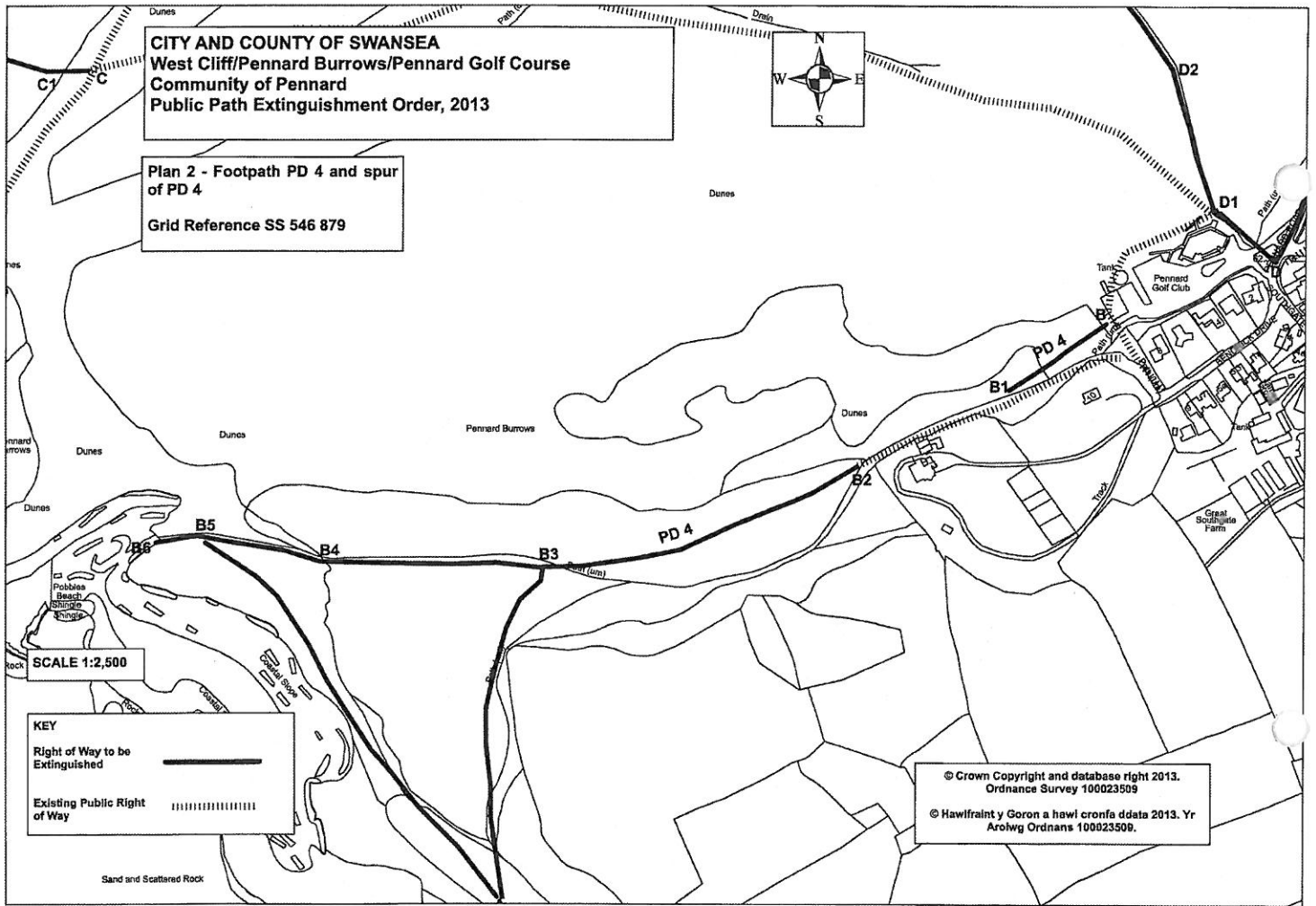
Footpath PD 15 (Plan 4)

That length of footpath commencing at point D at Grid Reference SS 549 880 and proceeding in a north easterly direction for 87 metres to point E, and continuing in a northerly direction for 16 metres to re-join the existing highway at point E1 (Grid Ref. SS 550 881).

Total length of footpath being extinguished: 103 metres

All distances and directions being approximate.





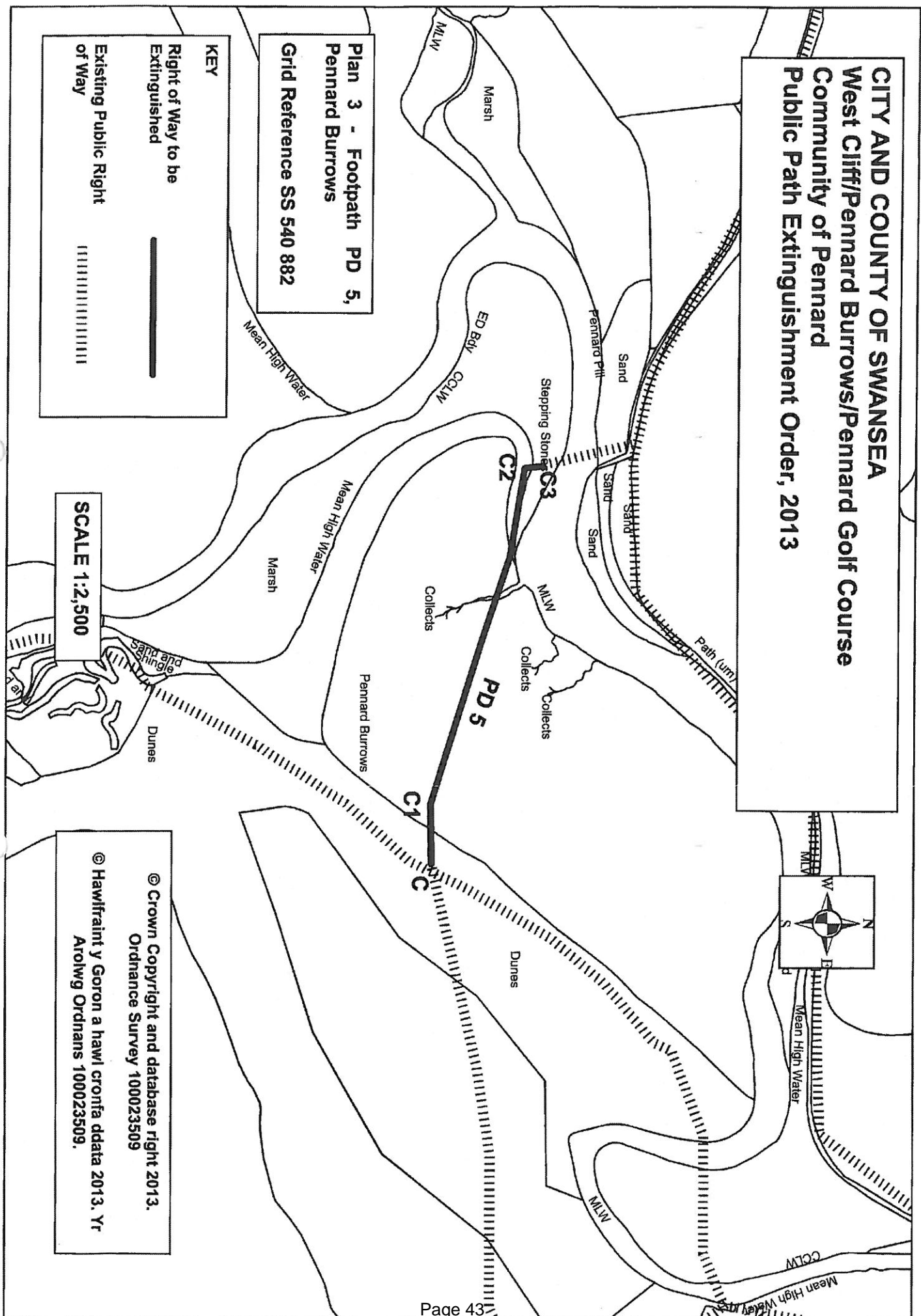
CITY AND COUNTY OF SWANSEA
West Cliff/Pennard Burrows/Pennard Golf Course
Community of Pennard
Public Path Extinguishment Order, 2013

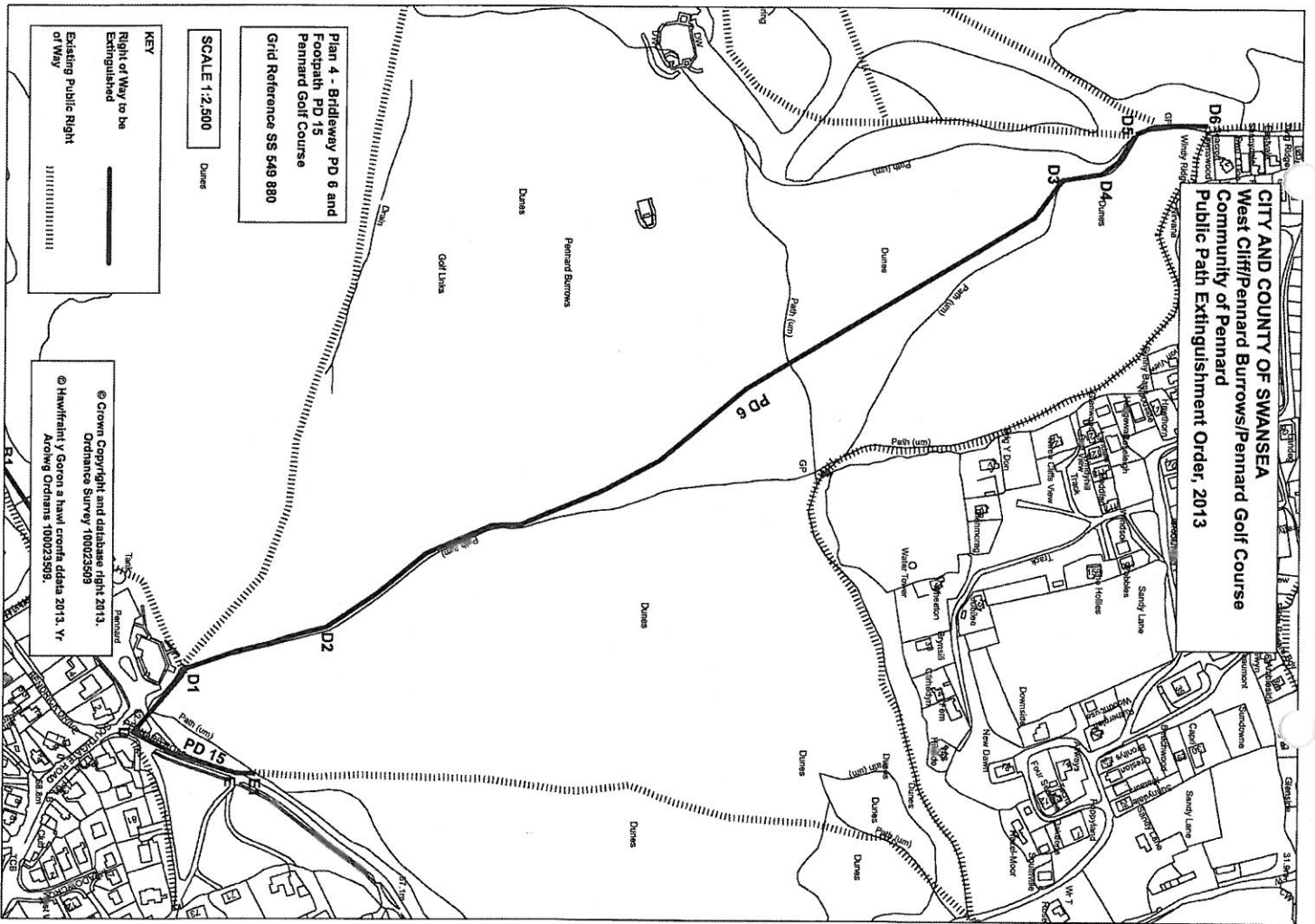
**Plan 3 - Footpath PD 5,
 Pennard Burrows**
 Grid Reference SS 540 882

KEY
 Right of Way to be
 Extinguished —————
 Existing Public Right
 of Way |||

SCALE 1:2,500

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 Ordnance Survey 100023509
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 Arolwg Ordhnans 100023509.





Sent: 09 September 2013 11:53
To: Hopkins, Gregory;
Subject: Pennard Burrows: GH/GDL/ROW 231/237/238

Dear Mr Hopkins,

On behalf of the British Horse Society I wish to make written representation on the concurrent creation and extinguishment orders at Pennard.

On the whole there is a net gain of bridleway which I fully support, and given that there has been no progress in persuading the owner of Bendrick Drive to dedicate this route as a public bridleway, I am willing to set up and submit a modification order to claim this section of the route to Pobbles.

However I wish to express concern that losing Bridleway PD6 makes it impossible for riders local to Pennard to make a shorter circular ride and that some riders have expressed this concern to me and do not want to lose this ROW - as their representative I must make this concern known. I also need to point out to you that PD6 is not depicted on plan 5 of the creation order as another PROW when it perhaps ought to have been?

I would also like to take this opportunity to remind the Local Authority that other equestrian routes in current use over Pennard Burrows have been discussed with the Countryside Access Team, and so I would not like to see the current orders be the final chapter on improving the network for equestrians here.

All the best

Sent: 10 October 2013 22:21
To: Hopkins, Gregory
Cc:
Subject: Ref: GH/ROW-231,237,238

Ref: GH/ROW-231,237,238

Creation and Extinction orders concerning Rights of Way at Pennard Burrows and Golf Course, and East Cliff and West Cliff

As a local resident and dog and horse owner, I use all these paths frequently, both on foot and horseback, and am very happy to support most of the changes suggested. They generally confirm the routes already in actual use, and it will give me peace of mind, to know that these beautiful routes are entrenched in law for my own ongoing use and for the next generation.

My only concern is with respect to Bridleway PD6 which the Order proposes be (a) rerouted and (b) downgraded to a footpath.

I have no objection to the rerouting of PD6 to "PD 6b", as shown in Plan 5, as it reflects the route in current use (from the Golf Club House to the water tower).

However, I object very strongly to the possible loss of this rerouted Bridleway PD6b to equestrian use, and do not see any reason for this, particularly considering its continued use for pedestrians. It is an excellent track for horses, being grassed and relatively even surface (unlike many other tracks in the area), and has good visibility to allow golfers in play both to see anyone on the route and to be seen by them. Horseriders can (and do, when requested) get out of the way of golfers in play far more quickly than pedestrians, and thus cause minimum inconvenience to them.

PD6 currently allows a very useful alternative route from Parkmill to Southgate and allows a nice circular ride in conjunction with the Sandy Lane route (proposed new PD7 and PD60) especially at

high tide, when Pobbles Beach is inaccessible, or when time is short. The alleged rerouting to the path adjacent to the road I do not consider meaningful, as there is already a path there, which has been in regular use as a permissive way for many years. If the landowner wants to go to the trouble of preventing use of this route Pennard Road and Sandy Lane are still available as alternatives along much the same route. But there is no alternative to the route straight across the golf course, as provided by the current PD6.

I would be very sad to lose the bridleway across the golf course, and can see why no good reason why this excellent pathway should be denied to equestrians in the future. If it is to be rerouted away from the middle of the course it should rather be to the western edge of the course where there is no other alternative way at high tide, rather than to the east, where the road can provide access if need be.

Thank you for your consideration of this matter. Please let me know if you need this letter in any other format or if anything else is required.

Please convey my thanks to the ROW team at Swansea Council for their excellent work with regard to all these rights of way. These path improvements are truly enhancing my quality of life.

13th October 2013

Dear Sir,

Re: Concurrent Creation and Extinguishment Orders for Various Public Rights of Way across East Cliff, West Cliff, Pennard Burrows and Pennard Golf Course, in the Community of Pennard (Grid Ref: DD 551 873)

OBJECTION TO THE PROPOSED FOOTPATH CHANGE AT PENNARD GOLF COURSE (though not to those at East Cliff, West Cliff or Pennard Burrows)

holder, and keen off-road cyclist, I object to part of the proposed extinguishment of bridleway PD6 (your plan 4).

Since 1985, I, my family, and many others, including members of Club, have cycled off-road from Southgate to Parkmill, via a variant of the bridleway PD6 that crosses the golf course. Because the precise route of the bridleway is not clearly marked, the route invariably cycled is actually E-E1-E2-G3-G2-G1-G (your path creation plan 5)

The objection of cyclists to the proposed new bridleway route (Plan5: E-H4-H3-H2-H1-H-G4-E2) is that it will be impassable to bicycles, unless hardcored, as much of it comprises long stretches of loose sand. One can neither cycle along sand, nor would one want to, as sand is very abrasive and rapidly destroys bike chains, gears, bearings, brakes etc..

I propose a compromise. The route E-E1-E2-G3-G2-G1-G be for cyclists/pedestrians, and the proposed bridleway route E-H4-H3-H2-H1-H-G4-E2-G3-G2-G1-G be for horse-riders. Both these routes are common beyond E2, so we only need consider E-E2. The existing bridleway starts at E, proceeds to E1, and then towards E2, but halfway towards it deviates at an unmarked point I term E1a. Cyclists therefore have an existing right to cycle between E and E1a, and will have the right to cycle beyond E2 on the new bridleway. If the existing wide track E to E1a is retained for cyclists, and the short section E1a to E2 is approved for cyclists, then the existing bridleway E1a to D6 can be extinguished.

I would point out that:

- a) most cyclists wear helmets, so the route E-E2 is safer for cyclists than walkers;
- b) highway water drains to and deeply floods for long periods the proposed bridleway section E-H4, a problem exacerbated by the Golf Club having constructed a flood defence wall between the bridleway and the golf course.

I take this opportunity to encourage the Council to provide more off-road all-weather cycle routes on Gower, suitable for mountain bikes. My cardiac consultant recommends I cycle, but I am scared when doing so on our Gower roads. When cycling, I have had countless potentially serious incidents with cars, despite wearing high-viz clothing etc.. Drivers pull out in front of one, overtake and then turn left across one, pass too close or force one off the road.

That bikes and cars do not mix is evidenced by the fact that 4 of our Olympic cyclists have since been knocked off their bikes by cars. Hence my plea for more off-road cycle routes on Gower - it would aid tourism too.

Yours faithfully,

Sent: 15 October 2013 12:18

To: Hopkins, Gregory;

Subject: Changes to bridleways at Pennard Burrows Gower GH/GDL/ROW 231/237/238

Dear Mr Hopkins,

On behalf of the Gower Riding Club, I wish to make this written representation on the creation and extinguishment to Bridleways at Pennard Burrows Gower your reference - GH/GDL/ROW 231/237/238

On examination of the proposals, I am pleased to see that there is an overall gain to the bridleway system and that the adoption of the actual ridden routes in both East Cliff and West Cliff are a benefit. However, I would like to object to the proposed loss of Bridleway PD6, Pennard Golf Club to Tower Field.

This bridleway has been in use for many years and is regularly used by equine users; particularly in the winter months, who use it to safely cross the burrows. The use of this bridleway has been made difficult for equine users, due to the behaviour and attitude of some members of Pennard Golf Club who believe that the bridleway does not exist and are abusive to riders using the bridleway. This situation has been made known to the City and County of Swansea Countryside Team on many occasions.

I am given to understand that the request to alter this bridleway has been made by Pennard Golf Club who claim, that its removal is in the interest of Health and Safety. This claim is wholly unjustified and has been made in order to benefit the Golf Club and its Membership. The bridleway tends to be used in the early morning or late afternoon / evening and is used by riders exercising their animals before going to work or stabling them for the night. At such times there are rarely any golfers on the course and I find their claim to benefit "Health

and Safety" hard to understand. In fact there will be a greater Health and Safety risk should this bridleway be lost; as equine users will be forced to use the main road and at a spot which is well known to be dangerous. This will increase the risk not only to equine users but to pedestrians and car users as well should this Bridleway be removed.

The loss of this bridleway will extend the time taken to exercise our members animals, create substantial inconvenience and as I have shown, cause an increased risk to their safety and that of others.

On a separate note, I would also like to express my disappointment that there appears to have been little headway in resolving situation at Bendrick Drive which joins the burrows and leads to Pobbles Beach. The failure to resolve this issue makes the loss of Bridleway PD6 even more unacceptable. The adoption and conversion of the "Bendrick Drive" access to Pobbles and the Burrows to a bridleway is long overdue and I am in discussion with the British Horse Society to whom we are affiliated, in order to submit a modification order.

I await your response with interest

Yours Faithfully

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: 7TH MARCH 2017

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

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	2015/2357	44 Sway Road Morryston Swansea SA6 6HT Removal of condition 6 of planning permission 2006/1109 granted 8th August 2006 to allow for the apartments to be sold/let on the open market and revisions to car parking layout to provide additional parking spaces.	REFUSE
2	2017/0077/FUL	111 Walter Road, Swansea, SA1 5QQ Change of use from office (Class A2) to a HMO for 7 people	APPROVE

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1

APPLICATION NO:

2015/2357

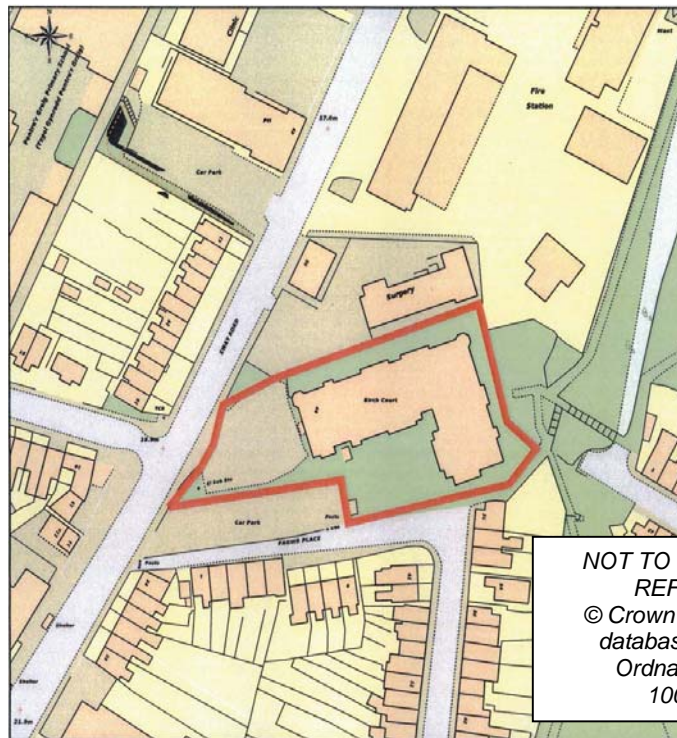
WARD:

Morrison - Area 1

Location: 44 Sway Road Morrison Swansea SA6 6HT

Proposal: Removal of condition 6 of planning permission 2006/1109 granted 8th August 2006 to allow for the apartments to be sold/let on the open market and revisions to car parking layout to provide additional parking spaces.

Applicant: FCFM Group Ltd



BACKGROUND INFORMATION

POLICIES

UDP - EV1 - Design

New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).

UDP - EV3 - Accessibility

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)

UDP - AS6 - Parking/Accessibility

Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

UDP - HC3 - Affordable Housing

Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC17 - Planning Obligations

The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)

SITE HISTORY

App Number	Proposal	Status	Decision Date
2015/2359	Non Material Amendment to planning permission 2006/1109 granted on 8th August 2006 to allow for internal works to change the communal facilities to two apartments	APP	06.01.2016
2015/2357	Removal of condition 6 of planning permission 2006/1109 granted 8th August 2006 to allow for the apartments to be sold/let on the open market and revisions to car parking layout to provide additional parking spaces.	PDE	
2006/1109	Residential development, comprising three storey sheltered housing accommodation containing 49 flats with associated 22 space parking area	APP	10.08.2006
2005/2455	Residential Development - Sheltered Accommodation (outline)	APP	06.04.2006
2005/0513	Temporary siting of portable building	APP	07.08.2005
2002/1670	Single storey side extension	APP	12.11.2002

RESPONSE TO CONSULTATIONS

This application was advertised in the local press, by site notice and four neighbouring properties were also consulted. No responses were received to the public consultation.

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

Other Consultation responses:

Highways Observations 20.01.16

A revised parking layout has been received detailing one parking space per flat. No parking has been indicated for visitor use. Given the sustainable nature of the site and accessibility to local amenities as well as access to good public transport links I consider that one space per flat is an appropriate level. The lack of visitor spaces, although not ideal, is not considered a sufficient highways reason to refuse the application that could be sustained at appeal.

Some cycle parking is being provided but not enough to provide for the level of residential development proposed. There is scope to provide additional cycle parking and this can be secured via condition.

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

1. The car parking area being laid out in accordance with the approved plans prior to beneficial occupation of any of the residential units.
2. Cycle parking in accordance with details to be submitted for approval to the LPA shall be made available prior to beneficial use of any flat commencing.
3. The boundary treatment along Sway Road shall be kept below 1m in the interests of visibility.

Education

In order to accommodate the small number of pupils generated from this development, Education would not be seeking a Developer's contribution towards any of the named catchment area schools at this present time.

Parks

The play equipment in DFS playground is not as bad as I was led to believe, but the base of the playground needs replacing, woodchip was initially put down as part of the installation but it has since rotted to a point that during periods of inclement weather the play area is off limits to users because it becomes a mud bath, on that basis I would like to request a contribution of £25k to remove the woodchip and replace with Wet Pour Rubber Safety Surface.

Housing

The Housing Service will be seeking a commuted sum on this site. We request a 30% AH provision in this area, the commuted sum equates to 14 units x SHG equivalent (58%) ACG.

Morrison falls within ACG Band 3, where a 2p1b flat is £95,800 & 3p2b flat is £119,700.

We request on a scheme containing 29 x 1 bed & 20 x 2 bed

30% of 49 = 14 units (7 x 1bd & 7 x 2bd)

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

ACG Band 3

1 bd ACG £95,800 (58% ACG) £55,564 x 7 = £388,948

2 bd ACG £119,700 (58% ACG) £69,426 x 7 = £485,982

Total = £874,930 Commuted Sum

APPRAISAL

This planning application relates to the former Sweetmans Factory, 44 Sway Road, Morrision, Swansea. The site was developed under planning permission 2006/1109, which has the following description of development:

'Residential development, comprising three storey sheltered housing accommodation containing 49 flats with associated 22 space parking area'.

This application seeks to vary condition 6 of the planning permission in order to allow the apartments to be sold/let on the open market and for revisions to the car parking layout to provide additional parking spaces. Condition 6 reads:

'The development shall be occupied by persons of 60 years or older together with any spouse of 55 years or over'.

The reason for the condition is:

'The proposed parking provision falls below the standard required for unrestricted residential accommodation'.

The approved development was implemented but has never been occupied, it has stood vacant since its completion. According to the applicant's supporting information the apartments were heavily marketed as they approached completion, but due to the poor market conditions prevailing at the time (circa 2008) the developer failed to sell any units. In the intervening period the developer also secured planning permission for the use of the building as a care home (Planning Refs: 2009/0966 and 2014/0899) and for extensions in association with the use of the building as a care home (Planning Ref: 2014/1027). The potential use of the site as a care home has also, however, failed to attract an occupier.

The developer was placed into administration and the property marketed for 10 months. The property was then purchased by an investment company (the applicant) and, according to the applicant's submission, changing the scheme to open market housing is the only way to release the potential of this development. Importantly, since this current planning application was submitted, the premises has been sold and the flats are now being advertised on the McCarthy & Stone website as retirement apartments for the over 60.

Section 73 Procedures

This planning application is made under Section 73 of the Town and Country Planning Act 1990 (as amended).

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

As a Section 73 application, the only matters which can be considered are the conditions to which the application relates and the permission itself is not a matter for consideration. The Section 73 application allows the local planning authority (LPA) to reconsider conditions other than those which are the subject of the application to modify, and therefore the LPA may decide that planning permission should be granted subject to conditions differing from those of the previous planning permission.

Main Issues

The main issues for consideration are the impacts of the revised car parking layout on the character and appearance of the area, having regard to UDP Policy EV1 and whether the proposed variation of condition 6 would result in increased parking demand at the site which could not be accommodated within the development and would therefore cause a highway safety issue, having regard to UDP Policy AS2 and AS6.

Moreover, if approved, the development would result in 49 open market flats at the site (51 if planning permission 2016/0073 is implemented), therefore the impact of the development on infrastructure and services in the locality must be considered, having regard to UDP Policies HC3 and HC17, which require the inclusion of an appropriate element of affordable housing, where a demonstrable lack of affordable housing exists, and require developments to mitigate impacts on infrastructure, services and to invest in other social, economic or environmental schemes, where necessary.

Character and Appearance

The planning submission includes a parking layout which illustrates 50 parking spaces and 3 refuse storage areas. This is in contrast to the 22 spaces that were approved under the original 2006 planning permission. The additional parking provision would be provided on hard and soft landscaping areas at the front and rear of the premises. The proposed parking areas at the rear would not be visible from Sway Road as they are screening from public views by the building. When viewed from Fagwr Place at the rear, the parking areas would be screened from public views by a high stone wall. The provision of the rear parking areas is therefore considered to be acceptable in terms of the impact on the character and appearance of the area.

At the front of the property the existing landscaping bordering Sway Road would be removed and the proposed parking areas would directly abut the existing low railing at the site boundary. The existing landscaping is not high quality, but it does provide a small green buffer between the parking area and Sway Road. It is acknowledged the loss of this landscaping would not be ideal in visual terms, however, along this side of Sway Road there is little landscaping along site frontages and the development would be viewed in the context of neighbouring car park at the doctors surgery, which is devoid of soft landscaping. Notwithstanding this, some landscaping within the site would be unaffected by the proposals, mainly to the north and east of the building. Importantly, the line of conifers along the southern edge of the site, which provides a green backdrop to the development, would be unaffected by the revised parking layout. Two refuse storage areas would be sited at the rear and one adjacent to the parking area along the southern boundary. Their siting is considered to be acceptable in visual amenity terms. In these circumstances, whilst not ideal, it is not considered that the loss of the landscaping strip and the increase in the parking provision within the development would result in any significant impacts to the character and appearance of the area.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

Parking and Highway Safety

The application was approved with 22 parking spaces which at the time was considered to accord with adopted parking standards for the proposed housing use. Condition 6 was applied to the 2006 permission to restrict the occupation of the flats to those over 55 years in recognition that without such an age restriction, the development would require increased parking provision.

The developer has now indicated a revised parking layout with 51 parking spaces, which would equate to one parking space per flat, should Planning permission 2016/0073 be implemented.

No visitor parking has been indicated, however, given the sustainable location of the site, which is close to Morriston district centre and other services including a supermarket, doctors surgery, play area and pub, together with access to good public transport links, it is not considered that a refusal of the application on lack of visitor parking provision could be sustained at appeal. Whilst the lack of visitor parking is not ideal, for the above reasons, the parking provision indicated is considered to be satisfactory and would not result in any significant additional on street parking problems or any associated highway safety issues on Sway Road. In line with the above comments, the Highways officer has raised no objection to the application, which is therefore considered to be acceptable in terms of parking and highway safety.

Residential Amenity

It is not considered the proposed variation of condition 6 would result in any residential amenity impacts to existing neighbouring occupiers over and above those impact associated with the development approved in 2006.

In terms of the residential amenity of the future occupiers of the development, good levels of outdoor amenity space would still be available for the occupiers of the ground floor flats. The increased car parking provision to serve the develop would, however, take away the vast majority of outdoor communal areas within the site. Notwithstanding this, the site is well located in close proximity to outdoor open space and a children's play area to the north east of the site. On balance, therefore, the loss of the outdoor communal areas would not have a significant impact on the residential amenity of the future occupiers of the development.

Planning Obligations

UDP Policy HC17 indicates that in considering proposals for development the Council will, where appropriate, enter into negotiations with developers to deliver planning obligations under Section 106 of the Town and Country Planning Act 1990. The Council will expect developers to make contributions towards:

- i) improvements to infrastructure, services or community facilities,
- ii) mitigating measures made necessary by a development, and
- iii) other social, economic or environmental investment to address reasonable identified needs.

Under the Community Infrastructure Levy Regulations (2010) such contributions must be necessary to make the development acceptable in planning terms, be directly related to the development and be fairly and reasonably related in scale and kind to individual development.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

The adopted SPG on Planning Obligations states that where developers contends that the Section 106 requirements are too onerous and will potentially make a scheme unviable, they will be expected to submit a development viability appraisal, and that the Council may seek independent verification of these details before considering whether to reduce the number and / or value of planning obligations sought.

The applicant contends that the contribution requests sought in this instance in the form of a commuted sum of £874,930 to provide affordable housing would make the development unviable. In this instance the applicant has failed, upon request, to provide the required viability appraisal to substantiate their viability claims.

It is highly unlikely, given the circumstances relating to the sale of the site since the application was submitted, that the requested viability information will be forthcoming. Officers have tried to contact the applicant to request that the application is formally withdrawn but no response has been received.

On the basis of the foregoing, the applicant has failed to provide sufficient information to demonstrate that the development cannot bear the requested commuted sum for affordable housing provision. The development would therefore fail, without sufficient justification, to assist in the provision of affordable housing within the City and would therefore be contrary to UDP Policy HC3, HC17 and the supplementary planning guidance 'Planning Obligations'.

Conclusion

The proposed variation of condition 6 and the alterations to the car parking layout are, on balance, considered to be acceptable in visual terms and there is considered to be sufficient car parking provision to cater for the future occupiers. The proposed variation of condition 6 and the car park alterations are considered to be acceptable and would broadly accord with UDP policies EV1, EV3 and AS6. Notwithstanding this, the applicant has failed to demonstrate that the development would not be viable with the requested commuted sum for affordable housing provision. The development would therefore be contrary to UDP Policy HC3 and HC17 and the supplementary planning guidance 'Planning Obligations'. It is not considered that the provisions of the Human Rights Act would raise any further material planning considerations as such the application is recommended for approval.

RECOMMENDATION

REFUSE, for the following reason:

- 1 The applicant has failed, upon request, to provide evidence to demonstrate that the scheme cannot bear the cost of a commuted sum for affordable housing provision. The development therefore fails to accord with City and County of Swansea Unitary Development Plan (2008) Policies HC3 and HC17 and the supplementary planning guidance 'Planning Obligations', which require the inclusion of an appropriate element of affordable housing, where not ruled out by exceptional development costs.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2015/2357

INFORMATIVES

- 1 Site Location Plan (1:1250), received 23rd November 2015. Revised Car Parking Provision, received 28th January 2016.
 - 2 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS6, EV1, EV3, HC3 and HC17.
-

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2

APPLICATION NO:

2017/0077/FUL

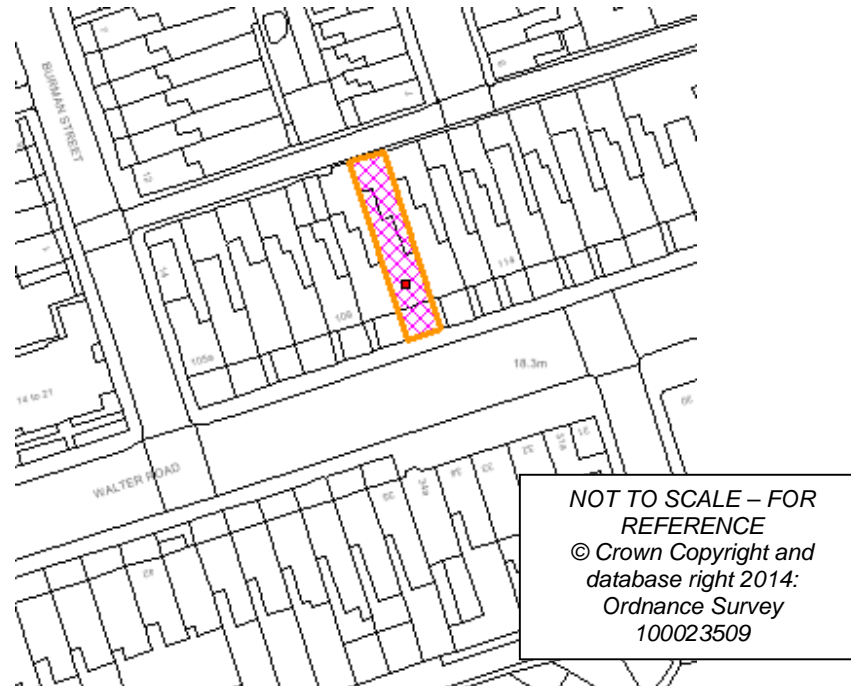
WARD:

Uplands - Bay Area

Location: 111 Walter Road, Swansea, SA1 5QQ

Proposal: Change of use from office (Class A2) to a HMO for 7 people

Applicant: Mr Geraint Jones Property Source Wales Limited



BACKGROUND INFORMATION

POLICIES

UDP - EV1 - Design

New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).

UDP - AS6 - Parking/Accessibility

Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC5 - Houses in Multiple Occupation

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)

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

SITE HISTORY

App Number	Proposal	Status	Decision Date
2017/0077/FUL	Change of use from office (Class A2) to a HMO for 7 people	PDE	
87/0131/03	CHANGE OF USE OF GROUND FLOOR FROM RESIDENTIAL TO OFFICE.	APP	07.04.1987

RESPONSE TO CONSULTATIONS

The proposal was advertised on site. A PETITION OF OBJECTION WITH 32 SIGNATURES has been received which states:

"We the undersigned wish to object to the proposal to convert 111 Walter Road into a 7 bedroom House in Multiple Occupation. If approved, it will add to the over-density of HMO's in Uplands and Brynmill. We are concerned that the number of vehicles parking at or near the premises and the increased amount of refuse being put out will disrupt the residential amenity of the area and harm the quality of life of existing residents."

In terms of a breakdown of addresses, amongst others, the petition contains addresses from Clydach Road, Clydach, Dyfed Avenue, Eaton Crescent, Ernald Place, Townhill Road, Glanmor Park Road, Pennard Street, Brynmill Crescent, Bayview Terrace, Lon Cadog, Fairfield Terrace, Wordsworth Street, Sketty Road, The Grove, Hawthorne Avenue, Trafalgar Place, Victoria Street, Waterloo Place and St Helens Avenue. There are no signatures from anyone living in Walter Road or any street within a 50m radius.

Highway Observations - Amended plans dated 27.01.2017.

Two of the car parking spaces have now been reinstated and cycle parking is also indicated in the rear yard area accessed through the shared kitchen facility. The previous use of the building was as an office and in terms of parking requirements there is less parking associated with the 7 bed HMO than with the office use over the three storey building. The retention of two car parking spaces plus new parking provision for seven cycles is such that the parking needs are likely to be met, particularly in view of the more parking intensive lawful office use.

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

1. Cycle parking in accordance with the approved plans to be laid out, and maintained as such prior to beneficial occupation of the HMO.
2. Before the development hereby permitted is occupied arrangements shall be agreed in writing with the local planning authority and be put in place to ensure that, no resident of the development shall obtain a resident parking permit within any controlled parking zone which may be in force in the area.
3. The 2 car parking spaces accessed off the rear lane should be laid out and maintained for parking purposes only in perpetuity.

Pollution control - No objection

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

APPRAISAL

This application is reported to Committee for decision at the request of Councillor Nick Davies as a valid petition of objection has been received with over 30 individual addresses and signatures.

Proposal

Full planning permission is sought for the change of use of 111 Walter Road from offices (Class A2) into a 7 bedroom HMO. The application property is a large three storey property located on Walter Road. There is a rear lane access to a parking area for two cars at the rear of the property.

This stretch of Walter Road contains a range of uses, including residential, office accommodation, retail uses and restaurants. It is a mixed use area characterised by substantial terraced properties which have traditionally been used as commercial and office accommodation. The nature of this end of Walter Road is gradually changing as the office accommodation is becoming vacant and other uses are being sought for the vacant buildings. The application building itself is a large property that previously provided substantial office accommodation with car parking provision to the rear.

Key Issues

The key issues for consideration with regard to this application relate to the acceptability of the proposed use and external alterations, having regard to Policies AS6, EV1 and HC5 of the City and County of Swansea Unitary Development Plan 2008. There are in this case considered to be no additional overriding considerations arising from the provisions of the Human Rights Act.

Policy HC5 states that proposals for conversion of properties into multiple occupancy will only be permitted where there is no significant adverse effect in terms of the following:

1. Impact on residential amenity;
2. Intensity of use;
3. Appearance of the property and character of the area;
4. Car parking and highway safety;
5. Refuse storage arrangements;

Policy EV1 is a more general policy and requires development to have regard to the amenities of the surrounding area with particular reference to visual impact, loss of light or privacy, increased activity and traffic movements or parking problems.

Policy HC5

1. Impact on residential amenity

The application property is a substantial property with accommodation over three floors and a basement storage area.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

There is a rear yard with off street parking provision for at least two vehicles. The submitted floor plans provided demonstrate that the accommodation is capable of providing 7 en-suite bedrooms with a shared kitchen over 3 floors. The basement area would be retained for storage/bike storage. This commercial property has been intensively used as office accommodation for a considerable period of time with the associated parking to the rear and general comings and goings. There is little evidence to demonstrate that the use of the property as a HMO, rather than commercial offices, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. It is not reasonable to assume that future occupiers would behave in a disorderly or boisterous fashion. It is not considered that the use of the property as a 7 bedroom HMO would result in an increase in the intensity of the use of the property in and out of the building, or result in any significant demonstrable unacceptable increase in noise and general disturbance over and above that associated with the lawful use of the property as commercial office accommodation to the residents within the neighbouring properties to the detriment of their residential amenities sufficient to justify refusal on these grounds. There are no new window openings being proposed and as such the potential for overlooking is no greater than the existing situation.

It is therefore considered that the use of the property as a 7 bed HMO would not result in an adverse impact upon the residential amenities of the occupiers of neighbouring properties.

In addition, the property would need to comply with building regulations and HMO licensing regulations.

2. The development would not contribute to harmful concentration or intensification of HMO's in a particular area

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple accommodation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation. The study revealed, however, 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.

In response to this Welsh Government amended the Town and Country Planning (Use Classes) Order 1987 in Wales to control HMO's between 3 and 6 people. Following on from this change in the regulations the Welsh Government also 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.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

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, that this stretch of Walter Road contains a range of uses, including residential, flats and shared houses, office accommodation, retail uses and restaurants. It is a mixed use area characterised by substantial terraced properties which have traditionally been used as commercial and office accommodation. The nature of this end of Walter Road is gradually changing as the office accommodation is becoming vacant and other uses are being sought for the vacant buildings rather than the buildings fall into disrepair. The application building itself is a large property that previously provided substantial office accommodation with car parking provision to the rear.

With regard to the impact of the change of use from office accommodation to a residential use as a HMO, Walter Road and the surrounding streets are popular amongst students, young professionals and family units, due to the close proximity to local amenities, employment and education facilities, leisure/play uses and excellent transport links. The area is also within easy walking distance of Uplands District Shopping Centre and the City Centre of Swansea.

As evidenced by the public HMO register there are currently 17 properties in Walter Road on the register (starting at 22a Walter Road up to 138 Walter Road). Of these 9 have a HMO licence for up to 6 people and 8 have a HMO licence for between 7 and 20 people. This represents a percentage of approximately 12% of properties within the street being registered as a HMO.

In this instance, given the commercial use of the whole building, it is not considered that there would be any significant harmful increase in the numbers of comings and goings by the occupiers of the HMO, and given the mixed nature of this part of Walter Road, the use of the property as a HMO would not change the nature of the street scene to such an extent that it would cause demonstrable harm. It is clear that approval of the application would result in the addition of a further HMO into a ward area, however, whilst this is the case there is no evidence that leads to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or road.

In the absence of a percentage or other similar calculation based approach that has been justified it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration' and each application must be considered on its own individual merits. Whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration and as such the proposal complies with the requirements of this criterion.

3. There would be no significant adverse effect upon the external appearance of the property and the character of the locality

With regard to visual amenity there are no external alterations proposed.

4. Local car parking and highway safety

There is room within the rear amenity area to the rear of the property to provide for cycle storage and for off street parking for at least 2 vehicles.

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The application property is located in a highly sustainable location within easy access to main bus routes that lead to the city centre. The city centre is approximately a 10-15 minute walk and Uplands District Shopping Centre is a 5-10 minute walk.

As detailed in the Highway response, the Head of Transportation and Engineering has recommended no highway objections are raised to the proposal subject to conditions.

5. Refuse storage arrangements

There is adequate provision to the rear of the property for the storage of refuse and recycling. In addition, there is also a basement storage area which can provide further storage for cycles or bins.

Response to consultation

The points raised in the petition of objection have been noted. In particular, concern has been raised in relation to parking issues, visual and residential amenity issues in relation to noise, disturbance and intensification of use, these issues have been addressed in the preceding paragraphs. Parking for 2 vehicles is to be provided to the rear of the property. There is ample room for bin storage both within the property and the rear yard area. In terms of waste, there is no evidence to conclude that a 7 bed HMO would generate significantly more waste than that generated from the commercial use of the property or that as a dwelling occupied by a large family unit. Refuse collection is more properly controlled under separate legislation.

Relevant Appeal Decisions

Application ref: 2016/1316 - 105 Rhyddings Terrace, Brynmill - Appeal allowed 10th February 2017

This appeal was allowed for the change of use from a 4 bedroom dwelling to a 5 bedroom HMO Use Class C4 and alterations to bay window and first floor windows in front elevation. The Appeal Inspector concluded that 'there is little evidence before me to demonstrate that the use of the property as a HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby'. In relation to parking issues, a residents' parking scheme is in operation and given these parking restrictions and the proximity to bus services, shops and facilities, the inspector considered that the HMO would not lead to a significant increase in parking demand. The Inspector acknowledged that the appeal development would contribute to meeting the housing needs of the city.

Application ref: 2016/0873 - 8 Alexandra Terrace, Brynmill, Swansea - Appeal allowed 11th November 2016

This appeal was allowed for the change of use from residential to HMO purposes for 6 people. The Appeal Inspector acknowledged the transient nature of multiple occupancy dwellings and concluded that there was no detailed evidence to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

Additionally, the inspector considered that whilst the development results in an increased population density, the site is sustainably located and provides accommodation that would be suitable for students or young professionals studying or working nearby. Again, in relation to highway safety, the Inspector considered that the area is well served by facilities and services with good public transport links and that there would be no significant adverse effect on local car parking and highway safety.

Planning Conditions

In relation to the imposition of conditions Welsh Government Circular 016/2014 specifies six tests that must be applied when drafting a planning condition. Conditions should be only be imposed where they are both necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. With regard to the suggested conditions put forward by the Highway Authority it is considered reasonable that a condition requiring that the car parking area and cycle storage be laid out and are available for use as part of the HMO. However, the imposition of the condition suggested requiring that arrangements be put in place that no resident of the development shall obtain a parking permit within any controlled parking zone within the area would not be reasonable or necessary to make the development acceptable in this instance.

Whilst such conditions can be important where it can be regarded that there is a particular parking issue within an area and that the development would exacerbate this to a harmful degree in this instance regard needs to be given to the potential parking demands of the lawful office use of the property alongside the proposal for a HMO which is to provide for 2 allocated parking spaces and cycle storage provision in a sustainable edge of city centre location. It is considered that an office use would likely attract visits and parking demands much in advance of the proposed HMO, something which is identified in the Highway response. On this basis it would therefore be unreasonable to prevent an occupier making a request for a parking permit in the future. The development provides for 2 off street parking spaces, cycle storage provision and lies in a sustainable location thus promoting the use of sustainable transportation.

Conclusion

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

In conclusion, therefore, and having regard to all material planning considerations including the Human Rights Act, the proposal is considered to represent an acceptable form of development having particular regard to the criteria set out in Policies HC5, EV1 and AS6 of the City and County of Swansea Unitary Development Plan 2008. Accordingly, approval is recommended.

PLANNING COMMITTEE – 7TH MARCH 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0077/FUL

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: 4259-001; Existing floor plans, 4259-002; existing elevations and sections, received on 11th January 2017; 4259-003A; proposed site layout and plans, 4259-004A ; proposed elevations and section, received on 27th January 2017.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the beneficial occupation of the HMO commencing, the car parking area and secure under cover cycle storage, shall be laid out and available for use, in accordance with the details shown on drawing number 4259-003A received on 27th January 2017. The car parking spaces and cycle parking shall remain available for their designated use for the lifetime of the use as a HMO.
Reason: In the interests of highway safety, providing facilities for sustainable transport and residential amenity.

INFORMATIVES

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

Agenda Item 7

Report of the Head of Planning and City Regeneration

Planning Committee – 7th March 2017

PLANNING APPEAL DECISION ITEM REPORT

PLANNING APPLICATION REFERENCE: 2016/1316

PLANNING APPEAL REFERENCE: APP/B6855/A/16/3161603

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.

1.0 Background

- 1.1 A planning application was received by the Council on 4th July 2016 proposing the retention of a change of use of the property as a 5 bedroom HMO, Use Class C4 along with alterations carried out to the bay window and first floor windows in the front elevation.
- 1.2 The application was recommended for approval subject to conditions by officers and following a valid call in request and receipt of a petition of in excess of 30 signatures, was reported to Planning Committee on the 6th September 2016.
- 1.3 At the Committee meeting Members did not accept the officer recommendation citing concerns relating specifically to the proposals impact upon the character and social cohesion in the area.
- 1.4 The application was refused by the Council by decision notice dated 8th September 2017 for the following reason:

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.

2.0 Planning Appeal

- 2.1 Following the decision of the Council to refuse planning permission the applicant appealed to the Planning Inspectorate ('PINS'). This appeal was lodged as a valid appeal on 9th November 2016.
- 2.2 The appeal was considered by an independent Planning Inspector appointed by the Welsh Ministers and was allowed on 10th February 2017. A copy of the appeal decision is appended to this report.

- 2.3 The inspector considered that the main issue in this appeal was the effect of the proposal on the character of the area by reason of the level of use of the property, having regard to the number of HMOs in the locality.

Character of the area

- 2.4 The inspector noted that the Council had specified that there were around 36% of dwellings in the street being in use as a HMO and also noted that a local resident estimated that 45% of all dwellings within 50 metres were HMOs. In this respect the inspector noted on his site visit that Rhyddings Terrace and other nearby streets accommodate a number of HMOs interspersed with single-household properties.

- 2.5 The concerns of Members and the local opposition was acknowledged by the inspector who stated:

“...whilst I do not doubt that residents of the area may face the types of problems described in the submitted representations, it falls to me to establish the specific effects of the appeal development for the use of the property as a 5 bedroom HMO, in light of the local and national policy context.”

- 2.6 The inspector further sets out that there is limited evidence to suggest that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. He referred to many of the environmental issues being cited not being exclusive to their use as HMOs. He further sets out that the appeal development has resulted in an increase in the number of bedrooms within the property but, in relation to the provision of 5 bedrooms identifies *“Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission”* thus making reference to the fact that occupiers of dwellinghouses can choose to increase their bedroom capacity without any need for planning permission.

- 2.7 The inspector refers to there being little evidence that the use of the property as a HMO, rather than a C3 dwelling, would in itself result in noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. He notes that the bedrooms appear large enough to accommodate double beds but notes that any substantial increase in occupation would require planning permission.

Visual amenity of the area

- 2.8 In relation to the exterior works to the property the inspector identified that the alterations to the front of the property have unbalanced the front elevation but considered these to be relatively modest changes to the appeal building. He found that the development does not unacceptably harm the character of the property or immediate area.

Highways and Parking

- 2.9 The inspector comments specifically on car ownership in that the car ownership level associated with 5 separate occupiers has the potential to be higher than a 4 bedroom property in C3 use. Whilst he saw significant competition for on-street parking he noted the existence of a resident's parking scheme which restricts each house to two permits. Given the parking restrictions and the proximity to bus services, shops and facilities he considered that the HMO would not lead to significant increase in parking demand.

3.0 Conclusion

3.1 This decision by the Planning Inspectorate reinforces the view that there will be justifying the refusal of an application for a HMO where there is little or no evidence that a single HMO would impact upon the existing character of an area to a harmful degree. The inspector whilst acknowledging local concerns did set out an important point in that *“the appeal development would contribute to meeting the housing needs of the city”*.

4.0 Recommendation

4.1 The appeal decision be noted.

Contact Officer: Ryan Thomas *Extension No:* 5731
Date of 23rd February 2017 *Document Name:* 105 Rhyddings Terrace
Production:

Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 16/01/17

**gan Paul Selby BEng (Hons) MSc
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 10.02.2017

Appeal Decision

Site visit made on 16/01/17

by Paul Selby BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers
Date: 10.02.2017

Appeal Ref: APP/B6855/A/16/3161603

Site address: 105 Rhyddings Terrace, Brynmill, Swansea SA2 0DS

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by J.A. Rewbridge Development Services against the decision of City and County of Swansea Council.
 - The application Ref 2016/1316, dated 4 July 2016, was refused by notice dated 8 September 2016.
 - The development is described as: "Retention of change of use from a 4 bedroom dwelling Use Class C3(a) to a 5 bedroom HMO Use Class C4 and alterations carried out to bay window and first floor windows in front elevation".
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from a 4 bedroom dwelling Use Class C3(a) to a 5 bedroom HMO Use Class C4 and alterations carried out to bay window and first floor windows in front elevation at 105 Rhyddings Terrace, Brynmill, Swansea SA2 0DS, in accordance with the terms of the application, Ref 2016/1316, dated 4 July 2016, subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans and documents: Site Block Plan; Previous and As Built Floor Plans and Elevations (06.16.105RT.D1 Revision A).
 - 2) Details of facilities for the secure and undercover storage of five cycles and storage of refuse shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.

Procedural Matters

2. Notwithstanding the description of the development given on the planning application, the development has been completed and I have considered the appeal on the basis that it seeks retrospective planning permission for the change of use of the property, plus external alterations.
-

Main Issue

3. The main issue is the effect of the proposal on the character and amenity of the area by reason of the level of use of the property, having regard to the number of houses in multiple occupation (HMOs) in the locality.

Reasons

4. The appeal relates to a two storey mid-terraced property situated within a dense, inner city area of predominantly terraced houses, located in proximity to Swansea University. The Council has provided statistics in relation to the concentration of HMOs in Swansea, and Uplands Ward in particular, and estimates that there are around 34 HMOs between Nos 81 and 172 Rhyddings Terrace, equivalent to around 36% of dwellings on this part of the street. A local resident estimates that 43% of all dwellings within 50 metres of No 105 are HMOs. It was evident from my site visit that Rhyddings Terrace and other nearby streets accommodate a number of HMOs, interspersed with single-household properties, and I have no reason to dispute the figures submitted by the Council and local resident.
5. The Council and others have raised concerns about the effects of a concentration of HMOs on securing a cohesive and sustainable community, local infrastructure and vacancy rates during the summer months. In this regard, my attention has been drawn to research on HMOs published by the Welsh Government and which pre-empted the creation of a new C4 Use for small HMOs in 2016. However, whilst I do not doubt that residents of the area may face the types of problems described in the submitted representations, it falls to me to establish the specific effects of the appeal development for the use of the property as a 5 bedroom HMO, in light of the local and national policy context.
6. Policy HC5 of the City and County of Swansea Unitary Development Plan (UDP) seeks to ensure that, amongst other things, conversions to HMOs avoid significant adverse effects on residential amenity or contribute to a harmful concentration of HMOs in a particular area. The aims of this policy are consistent with paragraph 9.3.3 of Planning Policy Wales – Edition 9 (PPW), which says that the cumulative effects of conversion and adaptation should not be allowed to damage an area's character or amenity. Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs.
7. The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission.
8. UDP policy HC5 also seeks to ensure that conversions to HMOs would not result in adverse effects on character and appearance, car parking and highway safety, and that appropriate refuse storage arrangements can be provided.

9. The appeal development has replaced twin first floor windows with a single window positioned centrally above a square ground floor bay. A smaller opening serving a bathroom has been inserted at first floor level. Whilst these alterations have somewhat unbalanced the front elevation, they represent relatively modest changes to the appeal building. Although many dwellings in Rhyddings Terrace share similar design features, such as single storey bay windows and pitched roofs, there is also a degree of variation in their appearance. I find that the development does not unacceptably harm the character and appearance of the property or immediate area.
10. The level of car ownership associated with 5 separate occupiers has the potential to be higher than a 4 bedroom property in C3 use. Whilst I saw that there is significant competition for on-street parking in the vicinity, a residents' parking scheme is in operation, which the Council has confirmed restricts each house to two permits. Given these parking restrictions and the proximity to bus services, shops and facilities, irrespective of the level of car ownership of previous residents I consider that the HMO would not lead to a significant increase in parking demand. Furthermore, I note that the Highways Authority has not objected to the proposal, subject to a condition to provide 5 secure cycle parking spaces. I agree that such a condition is necessary in the interests of highway safety and sustainability, and have imposed one to this effect.
11. Concerns have been raised about the front forecourt being used for the unsightly storage of refuse sacks. I do not dispute that this may have occurred in the past, although at the time of my site visit it was well-kept. Comments have been made regarding the likelihood of HMO tenants to recycle, but no evidence has been submitted to support this assertion, which in any case is beyond the scope of planning control. The forecourt would lend itself to the temporary storage of refuse and recycling bins prior to, or immediately after, collection, and a condition to secure appropriate storage within the rear garden would mitigate any harm to the character and appearance of the area from refuse being stored within the front garden.
12. Whilst I acknowledge the strength of feeling amongst local residents, the appeal development would contribute to meeting the housing needs of the city. For the reasons given above, I conclude that the appeal development would not harm the character and amenity of the area, and would thus be in accordance with the aims of UDP policy HC5 and the general thrust of PPW.

Other Matters

13. Local residents have raised concerns regarding the undertaking of a change of use and alterations for which there was no planning permission. However, the appellant is able to make a retrospective application to regularise the breach of planning control. Irrespective of the circumstances which led to this occurring, I have determined the appeal on the basis of the planning merits of the case.
14. I note the comments made regarding the construction impacts of the scheme, but the development has been completed. Representations have also raised concerns regarding the accuracy of the submitted information, but I am satisfied that I have sufficient accurate information before me to make my decision.
15. I have had regard to an appeal decision for a change of use to a 6 person HMO at 8 Alexandra Terrace (APP/B6855/A/16/3156916), which I saw on my site visit. Whilst there are similarities between the two schemes and the previous Inspector came to similar conclusions, the two developments appear to have material differences,

including in relation to the number of bedrooms and the nature of external alterations. I have proceeded to determine the appeal based on the merits of the specific case.

16. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

Conditions

17. Other than the standard plans condition, which is necessary in the interests of proper planning, a condition requiring the submission and approval of details for the storage of five bicycles and refuse within the rear garden is necessary in the interests of sustainability, highway safety and the character and appearance of the area.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Paul Selby

INSPECTOR