



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, 5 June 2018

Time: 2.00 pm

Chair: Councillor Paul Lloyd

Membership:

Councillors: C Anderson, P M Black, L S Gibbard, M H Jones, M B Lewis, R D Lewis, P B Smith, A H Stevens, D W W Thomas, L J Tyler-Lloyd and T M White

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 | Determination of Planning Applications under the Town & Country Planning Act 1990. | 7 - 71 |
| 6 | Abergelli Power Limited (APL) - Gas Fired Power Station Item Report. | 72 - 81 |
| 7 | Planning Application Reference 2017/2677/FUL - Mixed-use Development Comprising 23 Residential Dwellings and Coffee Shop with Drive Through Facility and Associated Works - Land at Heol Ddu Farm, Birchgrove Road, Birchgrove. Swansea. SA7 9NS. | 82 - 125 |

Next Meeting: Tuesday, 3 July 2018 at 2.00 pm

Huw Evans

Huw Evans
Head of Democratic Services
Tuesday, 29 May 2018

Contact: Democratic Services - 636824



City and County of Swansea

Minutes of the **Planning Committee**

Council Chamber, Guildhall, Swansea

Tuesday, 1 May 2018 at 2.00 pm

Present: Councillor P Lloyd (Chair) Presided

Councillor(s)

C Anderson
M B Lewis
A H Stevens
T M White

Councillor(s)

P M Black
R D Lewis
D W W Thomas

Councillor(s)

L S Gibbard
P B Smith
L J Tyler-Lloyd

Also Present: Councillors C R Doyle, E W Fitzgerald, E T Kirchner, C E Lloyd, I E Mann, P M Matthews, M Sykes & A Pugh

Apologies for Absence

Councillor(s): M H Jones

70 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 C R Doyle – Personal – Planning Application 2017/2677/FUL (Item 2) – Governor of Birchgrove Primary.

71 Minutes.

Resolved that the Minutes of the Planning Committee held on 3 April 2018 be approved as a correct record

72 Items for Deferral/Withdrawal.

None.

73 Protected Tree Protocol.

The Head of Planning and City Regeneration presented a report which sought consideration of the “Protected Tree Protocol” document to be formally adopted and implemented to protect trees within the City & County of Swansea.

The background details and context relating to the development of the protocol was outlined and detailed in the report.

Resolved that the “Protected Tree Protocol” be approved as the Council’s decision making process in relation to protected tree issues.

74 Proposed Changes to the Creation of Tree Preservation Order (TPO) Procedure and Scheme of Delegation.

The Head of Planning and City Regeneration presented a report which set out the current signing and sealing procedure for making new TPOs and suggests alterations to the procedure, which would allow TPOs to be made more quickly, ensuring that trees that are under immediate threat can be protected.

The proposed changes would also achieve officer time savings in accordance with Commissioning Review recommendations.

Resolved that

- 1) future Tree Preservation Orders to be served as a Provisional Order are executed by the Head of Planning & City Regeneration(HoP&CR) and not signed and sealed by the Legal Department.
- 2) the HoP&CR give authority to the Strategic Planning and Natural Environment Manager and the Landscape Team Leader to execute the orders as set out in paragraph 5.1 to the report in his absence; If this were required, the HoP&CR would be notified of the creation of a new TPO and given the reasons for the required expediency.
- 3) that the current procedure for confirming the Provisional Orders remain.

75 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/updates to this schedule were reported and are indicated below by (#)

Resolved

- 1) that the undermentioned planning applications **Be Approved** subject to the conditions in the report/and or indicated below(#):

(Item 1) Planning Application 2017/0986/FUL - Construction of 80 no. residential units with associated access and landscaping at Former Civic Centre, Penllergaer, Swansea

A visual presentation was provided.

Richard Bowen (agent) addressed the Committee.

Councillor E W Fitzgerald (Local Member) addressed the Committee and spoke against the proposals.

Report updated as follows:

In terms of the Dormice mitigation, NRW have indicated that they have concerns over the deliverability of the mitigation due to the works being on land outside the applicant's control. However, since the comments from NRW have been received, written confirmation has been received on behalf of the Penllergare Trust and landowner confirming no objection to the mitigation being undertaken on land in their control. Consequently, it is considered sufficient control exists to allow the mitigation to be undertaken.

Application approved in accordance with recommendation subject to the applicant entering into a Section 106 agreement and subject to the additional condition below:

Additional Condition added as follows in relation to the maintenance of open space and footpaths on the site:

18. No development shall be commenced until full details of the proposed arrangements for the future management and maintenance of the footpath link to the south of the site, the area of open space around the observatory, area of open space linking the observatory to the adjacent Penllergaer Valley Woods and the foot/ cycle paths located within these areas of open space have been submitted to and approved in writing by the Local Planning Authority. The footpaths and open space shall thereafter be maintained in accordance with the approved management and maintenance details for the lifetime of the development.

Reason: To ensure that the foot/ cycle paths and areas of open space are maintained to a satisfactory standard to ensure the active travel links are available for the lifetime of the development and ensure the open space is maintained to an adequate standard.

(Item 3) Planning Application 2017/2693/FUL - Change of use from public house (Class A3) to 11 bedroom HMO for 11 people with associated fenestration alterations at Robin Hood, 37 Fleet Street, Sandfields, Swansea

A visual presentation was provided.

Marie Pricas (objector) addressed the Committee.

Councillor E T Kirchner (Local Member) addressed the Committee and spoke against the proposals.

(Item 4) Planning Application 2018/0268/FUL - Mixed use development consisting of change of use of ground floor (6 No. units) from mixed use commercial to retail (Class A1), professional services (Class A2) or food & drink (Class A3), and change of use of 1st, 2nd and 3rd floor from commercial with construction of extended 2nd floor & 3rd floors, and addition of 4th floor to provide 28 residential units, together with external alterations including new shop fronts and ancillary works at 12-14 College Street, Swansea

A visual presentation was provided.

(Item 5) Planning Application 2018/0285/FUL - Change of use from residential (Class C3) to 3 bed HMO for 3 people (Class C4) at 34 Westbury Street, Swansea

A visual presentation was provided.

Councillor I E Mann (Local Member) addressed the Committee and spoke against the proposals.

(Item 6) Planning Application 2018/0322/FUL - Change of use from residential dwelling (Class C3) to a 7 person HMO with a replacement single storey rear extension and associated car parking at 14 Gwydr Crescent, Uplands, Swansea

A visual presentation was provided.

Councillor I E Mann (Local Member) addressed the Committee and spoke against the proposals.

(Item 7) Planning Application 2018/0674/FUL - Change of use from residential (Class C3) to 4 bed HMO for 4 occupants (Class C4) at 25 Bay Street, Port Tennant, Swansea

A visual presentation was provided.

Councillor C Lloyd (Local Member) addressed the Committee and spoke against the proposals.

Report updated as follows:

1 representation of support received 25 April 2018 raising comments from a landlord which mentions how he has found that on the whole HMOs filled with either students or working people are far better kept because they are managed personally with problems sorted quickly. The writer states that there is no difference renting to a group of 4 workers or students than a large family.

1 Petition of objection received on 20 April 2018 outside of consultation period. Petition states *"There has been an alarming increase of HMO (House of Multiple Occupancy) Applications in our community to change family residential property into cramped,. Over intense student accommodation. The HMO sector have the poorest conditions you only have to go to the Uplands and Castle Wards to see what local residents deal with and effect it has caused. We want to oppose the harmful concentration of HMO Applications because they will have an adverse effect on the character of our community"* and further lists a range of grounds for objection with signatures from 37 separate addresses.

1 additional objection received 23 April 2018 which states *"Do NOT want our lovely community turned into a HMO hotspot where landlords are only concerned with making a profit and leaving absolutely NO affordable accommodation for OUR children and grandchildren. We do not and will not be pushed out."*

2) the undermentioned planning application **Be Deferred** under the **two stage voting process** for a further report on the reasons for refusal:

(Item 2) Planning Application 2017/2677/FUL - Mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works at Land At Heol Ddu Farm , Birchgrove Road, Birchgrove, Swansea

A visual presentation was provided.

Phil Baxter (agent) addressed the Committee.

Emma Jason & Estelle Bubear (objectors) addressed the Committee.

Councillor C R Doyle, M Sykes, A Pugh & P M Matthews (Local Members) addressed the Committee and spoke against the retail aspect of the proposed development.

76 Appeal Decision - Parc Ceirw, Cwmrhydyceirw Quarry and Adjoining Land, Cwmrhydyceirw, Swansea.

The Head of Planning & City Regeneration presented a report which outlined the result of an appeal to the Planning Inspector against the decision of the Planning Committee in June 2016 to refuse the planning application on the Quarry site.

It was indicated that due to the scale of the development, the appeal was recovered for determination by Welsh Ministers. The inspector had recommended that the appeal be allowed, and the Minister had accepted the recommendation.

Resolved that the report be noted.

The meeting ended at 4.25 pm

Chair



City and County of Swansea

Minutes of the **Planning Committee**

Council Chamber - Guildhall, Swansea

Thursday, 24 May 2018 at 4.55 pm

Present:

Councillor(s)

C Anderson
M H Jones
P Lloyd
D W W Thomas

Councillor(s)

P M Black
M B Lewis
P B Smith
T M White

Councillor(s)

L S Gibbard
R D Lewis
A H Stevens

Apologies for Absence

Councillor(s): L J Tyler-Lloyd

-
- 1 To suspend Council Procedure Rule 12 "Chair of Meetings" in order to allow the Presiding Member to preside over the under mentioned agenda items.**

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

(Councillor D W Thomas presided)

- 2 To elect a Chair for the Municipal Year 2018 - 2019.**

Resolved that Councillor P Lloyd be elected Chair for the 2018-2019 Municipal Year.

(Councillor P Lloyd presided)

- 3 To elect a Vice-Chair for the Municipal Year 2018 - 2019.**

Resolved that Councillor L S Gibbard be elected Vice-Chair for the 2018-2019 Municipal Year.

- 4 Disclosures of Personal and Prejudicial Interests.**

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

The meeting ended at 4.56 pm

Chair

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: 5th June 2018

<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	2018/0653/FUL	119 Port Tennant Road, Port Tennant, Swansea, SA1 8JQ Change of use from residential (Class C3) to 6 bed HMO for 6 occupants (Class C4)	Approve
2	2018/0659/FUL	40A And 40B Bryn Road, Brynmill, Swansea, SA2 0AP Change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4)	Approve
3	2018/0661/FUL	Twizzle Lodge, Hawthorne Avenue, Uplands, Swansea, SA2 0LP Conversion of existing building to provide 8 no. student residential units, addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration	Approve
4	2018/0846/FUL	38 Hawthorne Avenue, Uplands, Swansea, SA2 0LR Change of use from residential (Class C3) to four bed four person HMO (Class C4)	Approve
5	2018/0943/FUL	159 King Edwards Road, Brynmill, Swansea, SA1 4LW Change of use from residential (Class C3) to 5 bed HMO for 5 people (Class C4)	Approve

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

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)

Site History

App Number	Proposal	Status	Decision Date
2017/0035/FUL	Retention of use of first floor as nail bar and tanning salon	APP	20.02.2017
2017/2624/FUL	Change of use from dwelling house (Class C3) to 7 bedroom HMO (Sui Generis) and construction of rear roof extension	REF	14.02.2018
2018/0653/FUL	Change of use from residential (Class C3) to 6 bed HMO for 6 occupants (Class C4)	PDE	

APPRAISAL

This application has been called to Committee for decision at the request of Councillor Joe Hale.

RESPONSES TO CONSULTATIONS

Public Response

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 113 and 117 Port Tennant Road, No. 1 Margaret Street and No. 1 Gwynne Terrace on 9th April 2018.

A site notice was also posted within the vicinity of the application site on 13th April 2018.

Eight individual letters of objection have been received which are summarised below:

- o Too many HMO properties in the area
- o Increase in noise
- o Parking problems
- o A public enquiry should be held in relation to HMOs
- o Increase in anti-social behaviour
- o To grant this application would not be fulfilling the Wellbeing of Future Generations Act
- o Not sustainable development

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

A petition containing 33 signatures has also been received with the comments on the petition stating:

"I Mr Pete Kane is the main petitioner. I object to this change of use on the grounds that this is a very busy part of Port Tennant Road, with heavy traffic use - and a recognised service parking problem. Although the Planning Dept will argue - This is a long road, this small part of Port Tennant Road already has 7 HMO's in the immediate vicinity & this further 6 bedded one will result in further parking problems & pollution - & in our opinion over intensification which is already changing the character of the area - If this is passed we will have 8 out of 10 houses as HMOs in a small terrace"

Pollution Control

No objection

Description

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a HMO for 6 people at No. 119 Port Tennant Road, Port Tennant.

The application property is a two storey, end of terrace dwelling currently occupied as a four bedroom dwelling house.

Plans indicate internal changes consist of amending the existing lounge on the ground floor to provide 2 bedrooms along with the removal of an existing shower room. 4 bedrooms are to remain on the first floor although internal modifications are proposed to increase the size of the bedroom to the front of the property and amending the bedroom/bathroom at the rear of the property to provide a larger bedroom with separate toilet and shower facilities.

Main Issues

The main issues for consideration during the determination of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety, having regard to the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan (2008). The application is also considered with regard to the Council's Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Site History

A previous application (2017/2624/FUL), which proposed the change of use of the dwelling into a HMO for 7 people, along with a dormer roof extension, was refused planning permission on 14th February 2018 for the following reasons:

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

1. *The proposed change of use of the dwelling to a HMO for 7 people would create an over intensive form of development which will not provide satisfactory living conditions for the future occupiers of the property by reason of a lack of outlook from an internal habitable room and lack of outdoor amenity space for all future residents, contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan (Adopted November 2008) and advice provided within the 'Places to Live Residential Design Guide' SPG (Adopted January 2014).*

2. *The proposed rear dormer, by virtue of its siting and design would represent an incongruous and disproportionate form of development which fails to respect the character and appearance of the existing property and the wider surrounding street scene, contrary to Policies EV1, HC5 and HC7 of the City and County of Swansea Unitary Development Plan (Adopted November 2008) and the Supplementary Planning Guidance document entitled 'A Design Guide for Householder Development' (Adopted June 2008).*

Principle of Use

Until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has historically been a large concentration of HMO properties in some parts of Swansea which has happened predominantly without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made introducing a separate C4 Use for HMO properties with more than 2 people living in them.

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however whilst the Local Authority has produced a Supplementary Planning Guidance (SPG) document related to HMOs this has yet to be formally adopted and thus does not carry any weight.

Policy HC5 of the City and County of Swansea Unitary Development Plan supports the conversion of dwellings to HMOs subject to compliance with set criteria.

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification if HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided.

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

Regard needs to be given to the fact that a large family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to 6 people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

The scheme involves the provision of three small windows at first floor level facing towards the neighbouring property at No. 117, however, these are proposed to serve three rooms serving as two separate shower rooms along with a separate WC with basin. It is likely that these windows would be obscurely glazed to serve these rooms and furthermore the windows actually replace a larger non obscure bedroom window. In effect the change results in a net benefit to the privacy of future and neighbouring occupiers.

One of the concerns raised in relation to the former scheme was the lack of an outlook from the downstairs bedroom due to the existence of a shower room. This revised scheme now includes a window serving the ground floor bedroom through the removal of the shower room thus overcoming the concerns raised. The second floor bedroom has been removed from the scheme thus taking the total number of bedrooms from 7 in the refused scheme to 6 in this revised scheme.

Given the amendments made it is considered that the proposed use of the building as a HMO for 6 people will not result in an over intensification of the use of the building. There will therefore be no detrimental impact upon the residential amenity of the future occupiers of the dwelling.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant a refusal of this application in this instance. The proposal is considered to respect residential amenity, in compliance with the provisions of Policies EV1, EV40 and HC5 of the City and County of Swansea Unitary Development Plan.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increases in antisocial 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.

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance' (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set out 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 noted from the Council's own HMO register that there are three registered HMO properties along Port Tennant Road (as of 22nd May 2018) (Nos 71, 105 and 117). In addition to this Nos. 107 (Ref: 2016/1149) and 101/101A Port Tennant Road (ref: 2016/1553) have been granted planning permission for conversion into HMOs thus resulting in a known total of 5 HMOs. A check has been made on Rent Smart Wales which provides a public register for all landlords in Wales who rent properties and 9 properties along Port Tennant Road (within the SA1 8JQ postcode) are registered for rental purposes, however, this would include all forms of rental and not be limited to solely HMO uses.

It is also acknowledged that there may be other properties along Port Tennant Road which have been used as HMOs pre March 2016 and reference from objections received suggests there are additional HMOs in the area suggesting a figure of 7 in total. It should be noted that outside the Castle and Uplands Wards, only larger properties are captured by Mandatory Licensing and as a result there may be instances where HMOs exist in the area albeit that they are not subject to licensing requirements and prior to February 2016 when the use class changed would not have required planning permission.

Whilst comments in objection refer to the application site forming part of a 'small stretch of road' in the shopping area of Port Tennant Road the block is amongst a mixed use of commercial and residential properties forming part of Port Tennant Road which is a long road comprising of approximately 200 properties. Taking the numbers quoted in representations of there being 7 HMOs which would extend to 8 HMOs on approval of this application this would result in an increase from approximately 2.5% to 4% of HMOs in the street. It is difficult to argue that an additional HMO would result in a harmful concentration in this area.

Particular reference here can be made to Planning Inspectorate appeal decisions which are appended in below paragraphs whereby inspectors have consistently set out that there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area and hence it would be difficult to resist a HMO in this location which is a mixed commercial and residential area.

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

It is proposed to remove the existing ground floor shower room and replace with a window which is proposed to serve a bedroom. It is also proposed to insert an additional two windows to the side elevation of the dwelling at first floor level.

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

These alterations are very minor and could be carried out without the need for planning permission. It is also considered that as the dormer from the previous application (2017/2624/FUL) has been removed from the current scheme, that the second reason for refusal has been sufficiently overcome.

There would be no significant adverse effect on local car parking and highway safety

Under the Adopted Parking Standards SPG (page 16) reference is made to the parking requirement for a HMO, in terms of residents parking, being 3 spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. On this basis the Local Planning Authority has assessed such applications on the fall-back position of the existing dwellinghouse including any existing parking it has to offer and the potential traffic generated from the proposal. In effect where an existing dwellinghouse has no parking and a new HMO of similar residential nature is proposed it is generally considered to be unreasonable to require additional parking unless it can be demonstrated that the proposal would result in potential harm to highway safety in the area.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats, the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

In respect of the character of the street it is noted that the existing dwelling offers no off-street car parking. Objections to the application have been received on the basis of existing parking issues and that further parked cars would result in an increased risk of accidents. Whilst this is noted there is no evidence to suggest that a 6 person HMO would be materially different in terms of highway movements and parking demand than that of a dwellinghouse. Furthermore it is unreasonable to use a planning application for a HMO to address any existing highway constraints in an area.

Given that the SPG states that no additional car parking is required for a HMO for up to 6 persons over and above that of a dwellinghouse which has no parking, the application is considered to be acceptable in respect of its potential highway impacts. There is adequate space to the rear of the property to provide for a suitable level of cycle storage which will encourage use of sustainable travel.

In dealing with appeals on highways and parking grounds Inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in the below paragraphs.

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

In view of the above, the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property, in compliance with Policies EV1, EV40, HC5 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

As above, refuse storage can be provided within the rear yard and this can be controlled via an appropriately worded condition.

Material Planning Appeal Decisions

Members attention should be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated *"I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 - 25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property."*

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice". The sustainable location of the site was noted by the inspector stating it "is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities." The Inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The Inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the Inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for up to 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me 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"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the Inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The Inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands."*

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission". The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the Inspector stated "*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.*" He went on to say; "*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.*"

96 King Edwards Avenue - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the Inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated "*whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it.*"

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the Inspector stated "*The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers.*

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the Inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

57 Ysgol Street- APP/B6855/A/17/3170117 - 2016/3406/FUL - 19 June 2017

This appeal related to refusal of planning permission for a 5 person HMO. The reason given for refusal related to concern about the impact of the proposal upon living conditions of neighbouring residents with regard to nuisance, noise and disturbance. The Inspector noted that any impact would be of a similar nature to that of a dwelling stating *"the occupation of the property by 5 unrelated individuals would be little different in intensity to the dwelling's potential use by a family under the existing C3 use. Any nuisance, noise or disturbance arising from the proposed use, such as conversations taking place in the garden or inside, noise from TVs or stereos, doors slamming, occupants arriving or leaving, etc., would be similar in nature to those which might be generated by the existing use. As a consequence any resulting nuisance, noise or disturbance would not be unacceptable"*. The Inspector noted concerns raised by residents about parking and the high demand being cited by photos provided by a resident. He accepted that the use of the property by 5 adults would have the potential to increase the number of vehicles but considered that the specific effects of the proposal on the street as a whole would not be significant. He cited the sustainable location of the proposal and the provision being made for 1 off-street parking space and considered the appeal proposal acceptable on its highway impacts. The appeal was allowed.

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the Inspector related to the impact 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 HMOs in the locality. The Inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated "whether or not a proposal is harmful depends on planning judgement". He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the Inspector found "little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

Conclusions

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as a HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of the neighbouring properties and highway safety, in accordance with Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan. It is therefore considered that the proposal has sufficiently overcome the previous reasons for refusal.

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 recommendation, 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. Approval is recommended.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.

Planning Committee – 5th June 2018

Item 1 (Cont'd)

Application Number:

2018/0653/FUL

- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan & block plan, existing and proposed rear elevation, proposed ground floor plan, proposed first floor plan, proposed side elevation/section from west side, existing side elevation from Margaret St (unchanged), received 29th March 2018.

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

- 3 The development shall not be occupied until facilities for the secure and undercover storage of a minimum of 6 cycles and storage of refuse have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.

Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, AS6 and HC5.
-

Planning Committee – 5th June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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)

Site History

App Number	Proposal	Status	Decision Date
2018/0659/FUL	Change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4)	PDE	
2013/1316	Addition of pitched roof to vestry	APP	02.12.2013
2008/1856	Single storey annexe with glazed link to western elevation of main church	APP	14.01.2009

APPRAISAL

This application has been called to Committee for decision at the request of Councillors Irene Mann and Nick Davies.

RESPONSES TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No. 40 Bryn Road and St Gabriels Parish Church, Bryn Road on 9th April 2018.

A site notice was also posted within the vicinity of the application site on 11th April 2018.

Seven individual letters of objection have been received which are summarised below:

- o Increase in anti-social behaviour
- o Parking is a problem in the area
- o Increase in rubbish.
- o Negative impact on social cohesion and the character of the local area,
- o Lack of details in the submission in regard to how the building meets fire safety standards or those in regard to asbestos.
- o HMO's are badly managed and maintained.
- o Highway safety issues due to the presence of a local crèche.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

Three objecting petitions have been received one containing 39 signatures, one 30 signatures and the final having 4 signatures.

The comments on the petitions are as follows:

"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentration of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."

"We object to the proposal to convert the Vicarage, Bryn Road, SA2 0AP, a beautiful building of local historical interest, into two HMOs for a total of 11 people (Application 2018/0659/FUL). The application indicates that there are currently no parking spaces, and none will be provided. This contravenes the Parking Standards SPG. Being an old building with insufficient parking provision for its current use class is not a reason to invite it to be inhabited by 11 people with no parking provision. Kerbside parking pressure in Bryn Road is extremely high, as is HMO intensification, which has reached harmful levels."

Dwr Cymru

The application appears to rely on existing sewer connections and no new connections are to be made with the public sewerage system. Nonetheless, for the avoidance of doubt we would be grateful if you could provide the developer with the following advisory note:

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Highway Authority

Change of use of property from dwelling (Class C3) into 2 separate HMO dwellings comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4). The property is currently split into 2 dwellings comprising one 3 bed apartment and one 4 bed apartment. Parking requirements for dwellings of this size are 1 space per bedroom with a maximum requirement of 3 spaces. There is currently no parking provision for either of the dwellings other than on street. On street parking in the vicinity is in very high demand and is a mix of restricted and unrestricted and resident permit holders only bays. Residents of the existing properties are eligible to apply for residents parking permits.

With regard to the change of use, current City & County of Swansea Parking Standards allow for up to 6 people sharing facilities without the need for any additional parking and houses in multiple occupation will be treated as a large single household. On that basis, as with the current use, a maximum of 3 spaces is required per dwelling and therefore there is no material difference in requirements or provision despite the overall number of bedrooms increasing by 4.

Planning Committee – 5th June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

The property is in an accessible location such that it would benefit from sustainability points to warrant a reduction in parking provision, being within walking distance of a local school, the university, excellent transport links, a range of local amenities and the national cycle network. Due to the absence of parking, residents of the dwellings will be eligible to apply for residents parking permits up to a maximum of 2 per dwelling. Cycle parking has been included in the proposals and its inclusion can mitigate for the lack of parking provision.

Taking all matters into consideration, despite understandable concerns from existing residents regarding further pressure being placed on the available on street parking I do not consider that a refusal from Highways could be justified at appeal and therefore recommend that no highway objections are raised to the proposal subject to:

1. Cycle parking to be provided in accordance with the submitted details prior to beneficial occupation of the HMO.

Pollution Control

The Authority's Pollution Control Department were consulted but made no comment on the application.

Description

Full planning permission is sought for the change of use of 2 residential units from dwelling (Class C3) into 2 separate HMO - comprising 1 no. 5 bed HMO for 5 occupants and 1 no. 6 bed HMO for 6 occupants (Class C4) at No's 40A And 40B Bryn Road, Brynmill.

The application property was originally constructed as the Vicarage serving the neighbouring St Gabriels Church. The building has been heavily extended to the rear and previously subdivided into two separate residential units, although neither has their own private external amenity space. 40A has a lounge, toilet, reception room, dining room and kitchen to the ground floor and four bedrooms and a bathroom to the first floor. 40B has a lounge, dining room and kitchen to the ground floor and three bedrooms and a bathroom to the first floor. The proposed plans indicate that the lounge and reception room to the ground floor of 40A will both be converted to bedrooms. The internal layout of the ground floor of 40B will also be altered to have two bedrooms, dining room and kitchen.

Main Issues

The main issues in the consideration of this application relate to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of neighbouring occupants and highway safety, having regard to Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan (2008). The application is also considered with regard to the Council's Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

Principle of Use

Until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in some parts of Swansea which has happened predominantly without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made, introducing a separate C4 use for HMO properties with more than two people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

Policy HC5 of the Swansea Unitary Development Plan supports the conversion of dwellings to HMOs subject to compliance with set criteria:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance.
- (ii) The development would not contribute to a harmful concentration or intensification of HMOs in a particular area.
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality.
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided.

The criterion of the above is addressed below.

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

Regard needs to be given to the fact that a family could occupy each of the two properties under the extant lawful use of the premises and as such it is not considered that the use of one premises for 5 occupants and the other for 6 as a HMO would result in an unacceptable intensification of the use of the buildings over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the City and County of Swansea Unitary Development Plan.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increased in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance' (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

It is noted from the Council's own HMO register that there are 77 registered HMOs (as of 22nd May 2018), giving a concentration of approximately 50% within the street. The proposed conversion of two residential units to HMOs will therefore result in a concentration of approximately 51.4%, an increase of 1.4%. It is noted that there is already a high level of HMOs in the street and the surrounding area. However it could be argued that given the existing high concentration the character of the street has already changed with regard to the number of HMOs relative to residences.

It is clear that approval of the application would result in the addition of further HMOs in an area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no evidence that leads conclusively to the conclusion that approval of this application would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal. In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would *"not cause any material harm to the character and amenity of the area"*.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

Furthermore the Inspector stated; *"whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area"*. At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

On consideration of the change in the percentage of HMOs in the street within an already highly concentrated area, the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

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

The proposal will not result in any material changes to the external fabric of the building and therefore would not impact visual amenity of the host properties or character of the local area.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed dwellings would require 3 onsite parking spaces for each property.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken. Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

The application has proposed the creation of a shared space for bicycle storage between the two properties but no parking spaces, leaving a shortfall of six parking spaces on site. However it can be noted that both of the existing residential dwellings have a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore overall represent no change in parking spaces onsite compared to existing conditions.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

On this basis along with the fact that the site lies within walking distance of a range of facilities at Brynymor Road and provision can be made on site for cycle storage provision to support sustainability it is not considered that the application will result in any adverse effects on local car parking and highway safety.

The Authority's Highways Officer raises no objection to the application given the above. It is considered reasonable to require full details of the cycle storage area given that the layout plans show only an area for storage and not the defined spaces or design of the store.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in below paragraphs.

In view of the above, the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property, actually resulting in improved on site parking provision, and is therefore in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

An area for bin storage is proposed to the rear of the property.

Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance and anti-social behaviour are addressed in the above report. The issue raised in connection with regard to whether the proposal meets building standards and asbestos removal are not material planning considerations but controlled by separate legislation.

The concerns raised about parking and highway safety are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 6 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall-back position here which is that of two dwellinghouse's with no off-street parking that in themselves can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

Material Planning Appeal Decisions

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

Planning Committee – 5th June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated *"I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me 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"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"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."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property."*

Planning Committee – 5th June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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."

96 King Edwards Avenue - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated "whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated "The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."

Planning Committee – 5th June 2018

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact 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 HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated *"whether or not a proposal is harmful depends on planning judgement"*. He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of two properties as a 5 bedroom and 6 bedroom HMO respectively, would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

Item 2 (Cont'd)

Application Number:

2018/0659/FUL

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

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan received on 15th March 2018. Refuse and cycle storage received on 27th March 2018. Proposed ground floor, proposed first floor received on 1st May 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of eleven cycles and storage of refuse shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5.
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
 - 3 The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.
-

Planning Committee – 5th June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

UDP - AS6 - Parking/Accessibility

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

UDP - EV1 - Design

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

Site History

App Number	Proposal	Status	Decision Date
2018/0119/FUL	Conversion of existing building and construction of single storey side extension to provide 13 no. student residential units	WDN	05.03.2018
2018/0661/FUL	Conversion of existing building to provide 8 no. student residential units, addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration	PDE	
2004/2923	Retention of two non illuminated fascia signs	APP	08.03.2005
2004/0052	Installation of fire exit door on front elevation, replacement of garage door with window and installation of lower ground floor fire escape door	APP	16.03.2004

APPRAISAL

This application has been called to Committee for decision at the request of Councillors Irene Mann and Nick Davies.

RESPONSES TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 11, 12, 13, 14, 15, 16, 17 Le Breos Avenue, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 Sarlou Court, Nos. 17, 17A, 19, 21, 23, 25, 27, 29, 31, 33, 35 Hawthorne Avenue, and Nos. 1, 3, 5, 7, 9, 11, 13, 15 Pinewood Road on 13th April 2018.

Four site notices were also posted within the vicinity of the application site on 16th April 2018.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Thirty one individual letters of objection have been received which are summarised below:

1. Existing over saturation of students in the local area.
2. Lack of onsite parking and the strain put on current on street parking.
3. Loss of social cohesion with families replaced by students.
4. Negative impact on community.
5. Lack of demand for development demonstrated by empty HMOs on the market.
6. Antisocial behaviour, litter and noise disturbance.
7. Inappropriate refuge provision.
8. Application represents an over intensification of the site.
9. Access lanes are inappropriate for emergency service vehicles.
10. Suggestion that tenants would be banned from having cars is unenforceable.
11. Inappropriate to suggest that third party building management can ensure noise disturbance is kept to a minimum.
12. Recent Appeal Court Decisions have shown that S106 agreements are inappropriate for applications control access to parking permits or tenants having cars.
13. The impact of parking/traffic is not the same as the nursery which would have had use only during certain times of the day.
14. Overlooking.
15. The number of flats does not mean 8 occupants as there could be as many as 16.
16. Concerns over how the building work going to be completed given the poor access.
17. Lack of maintenance of rented properties.
18. Highway safety concerns.

Four objection petitions have been received one containing 90 signatures, one containing 8 signatures, one containing 6 signatures and one containing 1 signature.

The comments on the petitions are as follows:

"We the undersigned object to the above planning application on the grounds that we believe that is an over intensive use of the site, will have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."

"I strongly object to the plan to convert the existing building (Twizzle Lodge, SA2 0LP) to a house of multiple occupation, on the grounds that I believe it would be an over-intensive use of the site and will have a detrimental impact on the environment of the immediate neighbourhood (Pinewood Road, Hawthorne Avenue, Victoria Street, Uplands). Access to the site is by a narrow lane and there is only parking for two cars on the property, therefore resulting in more cars parking on the adjacent streets (Hawthorne Avenue, Pinewood Road, and Victoria Street). The street parking is already overstretched, and this would cause stress between neighbours. There are already two HOMO in Pinewood Road as well as several in Hawthorne Avenue close to the site. It is also reasonable to suspect an increase in noise from the proposed eight individuals plus their visitors, both in the property and grounds, as well as when going to and leaving the building particularly late at night, which would disturb neighbours in this currently reasonably quiet, family residential area."

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Highway Authority

The Authority Highways Officer made the following comment:

A previous planning enquiry for the change of use to six student accommodation units was consulted on by Planning and the Highways recommendation was one of refusal due to the lack of parking (2016/1707 refers). A further application for 13 units was submitted and following a potential recommendation of refusal was withdrawn by the applicant.

Highways were also consulted as part of the statutory PAC process by Asbri Planning for the change of use to 13 flats, no such PAC has been undertaken for this proposed change of use to eight units as it falls below the threshold. The Highways response on the previous consultations was that they would not support the proposed development for the reasons as previously identified, namely lack of parking and inadequate access. the same concerns remain for this application.

Building Control also have concerns regarding the suitability of the access points for emergency vehicles, and whilst they are not part of the planning process (they become involved post consent) their concern echoes the Highways issues.

The design and access statement has highlighted the fact that no vehicular access is available to the site but there are two pedestrian points of access, linking to Pinewood Road and Hawthorne Avenue. It has not been demonstrated how plant and machinery/materials would access the site nor the emergency services which would be more important given the 24 hour usage at the site that would be generated by the use as residential.

The current use at the site is as a day nursery. The planning application form refers to 8 units of proposed market housing with no reference being made to the use class for purpose built student accommodation. It is not therefore clear as to what is actually being proposed.

In terms of the parking standards there is a demand associated with the nursery use albeit that no dedicated parking is available within the curtilage, and all parking has to take place in and around the surrounding streets. The parking requirements for a day nursery in a converted unit are 1 space per 2 staff. The use as a nursery would have had some element of parking associated with it; long term for the staff and short term for the pick-ups/drop offs for the parents bring the children to nursery. The vehicular movements would have been largely concentrated during the daytime hours whereas the main demand in the area is for overnight parking.

Taking the proposed residential accommodation as flats then the requirement is one space per flat plus one space per five units for visitors. This equates to 10 car parking spaces. None are being provided. If the purpose built student (PBSA) accommodation category is used then the requirement is for 2 car parking spaces. Again none are being proposed. The use of the PBSA Category relies on the developer and residents entering into Section 106 agreement to restrict car ownership but as the standards are not being met then this is not considered an option. There is also the issue of the enforceability of any resident being denied the opportunity to apply for a parking permit with a valid address based on recent case law.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

The surrounding streets are in high demand in terms of requests for the limited supply of resident permit holders only bays. There are more permits issued than there are spaces available currently and it is considered that the proposed development would add to the general overdemand that exists on the streets surrounding the site.

Whilst the design and access statement suggests that the use of tenancy agreements would be sufficient to ensure that no students would bring cars to within a 3 mile radius of the site I have to disagree. If that was the case then student accommodation would be everywhere with no associated parking. If this development was allowed with no car parking it is considered that there would be serious repercussions both on highway safety grounds with the indiscriminate parking that would arise, and also due to the detriment that would occur to the existing residents who currently struggle to get a parking space near to their houses.

I recommend that the application be refused on the grounds that:

1. Failure to provide adequate parking to mitigate for the 8 new flats will have a detrimental impact on highway safety for both vehicles and pedestrians due to an increase in indiscriminate parking on the surrounding streets.
2. The additional vehicles that are not catered for within the curtilage would be vying for the unrestricted spaces on street to the detriment of the existing residents.
3. The access to the site for emergency vehicles is below standard and as such there are concerns regarding the safety of the residents due to the inaccessibility of the site to cater for emergency service access.
4. The applicant has not demonstrated that the site could be accessed during the construction phase by plant/machinery/materials without detriment being caused adjacent to the access lanes on Pinewood Road, Le Breos Avenue and Hawthorne Avenue to the detriment of highway safety.

Drainage Officer

The Authority Drainage Officer was consulted but gave no response on the application.

Pollution Control

The Authority Pollution Control Officer offered no comment for the application.

Welsh Water / Dwr Cymru

Welsh Water / Dwr Cymru made the following comment:

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

SEWERAGE Further to our consultation response (Ref: PLA0032561) to recently withdrawn planning application 2018/0119/FUL, we can confirm that Dwr Cymru Welsh Water have been previously informed of the proposed development and consulted, as a 'Specialist Consultee', in accordance with Schedule 1C Article 2D of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Therefore, in accordance with our previous response, we would request that the following Condition and Advisory Notes are included, if minded to grant planning consent, to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system. Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com.

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

WATER SUPPLY

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

South Wales Police Designing out Crime Officer

No response was received from the consultation letter.

Description

Full planning permission is sought for the change of use of Twizzle Lodge, Hawthorne Avenue, Uplands from a day nursery to 8 no. student residential units along with the addition of 2 front rooflights, 3 rear rooflights and alterations to fenestration.

The proposed building is a non-descript two storey detached building which is situated within the urban area of Uplands, behind the established building line. The proposal will result in the provision of a laundry room, cleaner store, communal kitchen with store, games room and toilet at lower ground floor level, reception, visitor toilet, communal lounge and toilets, quiet lounge, plant room and 5 apartments at ground floor level, and 3 apartments at first floor level.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Plans indicate that each apartment will have a bathroom and open plan kitchen/bedroom/living room and whilst accessed through internal corridors and have communal facilities would be self-contained residential units.

This application follows a previous application submitted in January 2018 at the same site (Ref: 2018/0119/FUL) proposing '*Conversion of existing building and construction of single storey side extension to provide 13 no. student residential units*'. That application was withdrawn in March 2018 following concerns raised by the Local Planning Authority regarding intensification of the building for 13 occupiers along with potential car parking issues as a result of the intensification. This revised application has been submitted in response in an attempt to overcome the concerns.

Issues

The main issues for consideration with regard to this application relate to the acceptability of the use at this location in terms of its principle, visual amenity, residential amenity and highway safety having regard to policies EV1, EV2, EV3, HC6 and AS6 of the City and County of Swansea Unitary Development Plan 2008. There are, in this instance, considered to be no additional overriding considerations arising from the provisions of the Human Rights Act.

Principle of Development

The site in question is situated in a primarily residential area. The site is allocated as white land under the provision of the Swansea UDP Proposals Map and as such Policy HC6 of the Swansea UDP allows for the conversion of commercial buildings such as this to self-contained units of accommodation subject to compliance with the identified set criteria.

The policy states: *"proposals for the conversion of larger dwellings and vacant or underutilised commercial and industrial buildings to flats or other self-contained units of accommodation will be permitted subject to satisfaction of the following criteria:*

- (i) In the case of buildings with an employment use, it can be demonstrated that the current or previous use is no longer viable,*
- (ii) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance,*
- (iii) The development would not result in an over-intensive use of a dwelling or building,*
- (iv) There would be no significant adverse effect on the external appearance of the property and the character of the locality,*
- (v) There would be no significant adverse effect on local car parking and highway safety, and*
- (vi) Appropriate refuse storage arrangements can be provided.*

It general planning terms it could be considered that the existing use as a nursery is inappropriate in a predominantly residential setting and its conversion to a residential nature would generally be in-keeping with the immediate neighbouring properties. It is noted that an increased number of students in a previously family area can have a negative impact with regard to a potential loss of social cohesion. However the proposal will not result in any loss of dwellings but rather the creation of residential accommodation. Therefore this form of use at this location is acceptable in principle.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

Visual Amenity

In terms of visual impact the proposal will only involve very minor alterations including some fenestration alterations and a re-siting of the front entrance, which are not considered to have any unacceptable visual impacts. As such the development will not result in an unacceptable impact on the visual amenities of the host building or the character and appearance of the area in compliance with the provisions of Policies EV1 and HC6 of the Swansea UDP.

Residential Amenity

With regard to residential amenity it is not considered that the proposed alterations would result in any unacceptable overbearing or overshadowing impacts. In terms of overlooking the proposed windows at site ground level are not considered to allow any unacceptable views of neighbouring private amenity spaces. The proposed first floor windows to the South East elevation serve en-suite bathrooms rather than habitable spaces and therefore would be expected to be obscurely glazed and could be controlled to be obscure and fixed shut by a planning condition. The windows to the North East elevation are separated from the rear gardens of Hawthorne Avenue by a public lane and therefore any overlooking is considered acceptable as it is not direct. The windows and rooflights to the South East similarly look towards an access lane rather than true amenity space. The first floor window serving 'Community Lounge' faces the external shared amenity space of the neighbouring flats, as this is not true private amenity space here overlooking is considered acceptable.

Turning to the impact on residential amenities with regard to noise and disturbance it is noted that the proposal would remove a non-conforming use from a primarily residential area. The existing D1 use would allow lawful use of the property, amongst other things, as a nursery, clinic, health centre, education facility or gallery. The existing use and other lawful uses would therefore generate a level of noise and foot traffic not normally associated with a residential area. It is noted that potential users of a D1 use would be most likely to utilise the building during daytime hours, this could also result in high concentrations at certain times of the day such as early morning or late afternoon.

Consideration is also given to the fact that the property is accessed via two pedestrian tracks which could result in increased disturbance at unsociable times, however, this is also dedicated access for the existing use. On balance the proposed residential use is considered to be a more appropriate and in-keeping with the other residential properties and there is no evidence to suggest that this increase in use would represent a 'significant adverse effect upon residential amenity' having regard to potential for noise, nuisance or other disturbance. It can also be argued that any noise, disturbance or antisocial behaviour could be dealt with by the police. It is therefore considered that the proposal would have an acceptable impact on the residential amenities of neighbouring residential units, in compliance with policies EV1 and HC6.

A further consideration is that the internal room size of a number of the proposed flats falls short of that recommended by the Authority's SPG 'Places to Live Residential Design Guide'. It is noted however, that these measurements are advisory and the proposed residential block will have a number of communal areas. It is considered here that the communal areas would in this instance overcome the shortfalls of the internal room sizes.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

The access lane measures approximately 2m wide and therefore access by a fire engine would not be possible, as this requires a lane width of 3.7m. It also appears that any fire engine would fail to get within 60m of the furthest habitable room from the front door, which is short of fire safety standards. However, it is accepted that the existing lawful use of the building may already fall short of current standards and that fire regulations are controlled by separate regulations to planning. It would be unreasonable to refuse planning permission on this basis.

On balance of the above issues it is considered that the proposal provides for a suitable land use of the site and it has been designed in such way to provide for an acceptable impact upon neighbouring occupiers and acceptable living conditions for future residents. Subject to the imposition of conditions to require certain details and measures it is considered that the development complies with the requirements of policies EV1 and HC6 in relation to amenity impacts.

Highway Safety

The Authority's Highways Officer has raised an objection to the proposal due to the lack of onsite parking provision and inadequate access to the site. It is noted that the applicant has suggested that residents could be restricted from parking their cars nearby by their tenancy agreements and this could be controlled by a Section 106 agreement.

In the objection to this application the Highway Officer sets out that when taking the proposed residential accommodation as flats (given that they are proposed as being self-contained) then the requirement which is set out in the Parking Standards SPG is one space per flat plus one space per five units for visitors. This equates to a demand for 9 car parking spaces and it is noted that none are being provided. If the purpose built student (PBSA) accommodation category is used then one space per twenty five beds is required equating to 1 car parking space and again refers to none being proposed. The use of the PBSA Category relies on the developer entering into Section 106 agreement to restrict car ownership by students as part of the development but as the standards are not being met then the Highway Officer considers that this not considered an option.

The Local Planning Authority does use Section 106 to manage parking issues (as advocated for in the Parking Standards SPG) but must give regard to recent appeals and case law where inspectors and the courts have raised concern with such approaches particularly where it relies on placing responsibility upon the landlord to control matters which lie outside of their control such as highways.

In an appeal decision at Plot A1, Kings Road, Swansea on 29 June 2017 (Ref: APP/B6855/A/16/3164052 and 2016/155) the inspector, when considering proposal for a unilateral undertaking to control tenancy agreements under section 106 with the provision that no students shall bring cars to the site stated 'concerns have been raised as to whether such a covenant is reasonable and enforceable and I share those concerns' but also stated 'however, no firm evidence has been provided to demonstrate that such covenants have failed to provide an adequate solution in other cases where they have been used'. The case was in relation to a 500 bedspace new build student scheme and given there was some parking being provided and the sustainable nature of the site the inspector did not consider such an obligation would be necessary in that instance.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

In a slightly different but related circumstances in the Court of Appeal in *R (Khodari) v Royal Borough of Kensington and Chelsea* [2017] EWCA Civ 333 issue was raised relating to a Section 106 agreement. Planning permission had been granted for the conversion of a house into eight units. The conversion required internal alterations only. An agreement was entered into under section 106 of the Town and Country Planning Act 1990 that the development would be 'permit free'. This meant that any owner or occupier of the new residential units would not be entitled to apply for a parking permit. The court considered the validity of the section 106 agreement and set out that giving that section 106 requires that the person making an agreement has an 'interest in land', such an obligation which related to a restriction on the highway could not fall within section 106.

On the basis of the above it is considered that whilst section 106 would provide an appropriate mechanism to deal with onsite parking and ensure management of provided for onsite spaces through tenancy agreements it would not provide an appropriate mechanism in this instance to deal with the concerns raised in relation to lack of parking and concerns with intensification of vehicular movements and demand for parking in the wider area. Given the nature of the scheme being backland development with no onsite parking provision it would be very difficult to monitor or enforce such an obligation at this site. It is relevant to note that the advice provided at pre-application stage to the applicant was prior to the above mentioned cases which do form a new material consideration.

The applicant has pointed in the submitted Design and Access Statement to the site being within a sustainable location, close to essential services, facilities and public transport routes and provision is being made for a bicycle store and this is noted. Furthermore the proposed use must be balanced against the existing D1 use, which currently allows the building to be converted to a health centre, school, museum, etc. It is considered that the potential uses of the site would generate an amount of visitor traffic and under the current parking standards; it is considered that a nursery in a converted property would generate demand for 1 space per 2 full time staff equivalents. It would be reasonable to consider that the existing building would likely require 2 onsite parking spaces.

It is noted that the proposed accommodation would not strictly be considered self-contained bedsits or apartments. Whilst each room has its own cooking facilities the building contains a number of communal areas including two lounges, games room, kitchen and laundry room and by design the building as a whole is one planning unit as student accommodation. The shared facilities and relatively small rooms fit within the function of purpose built student accommodation, with students being the proposed occupants. This can be secured through an appropriate planning condition controlling both the nature of the use and number of occupiers. In this regard there would still be a proposed shortfall in parking onsite, however, this would be consistent with the number of spaces required by the last use of the property and other existing lawful uses. Furthermore the proposed site is within close proximity to the Uplands District Centre and dedicated bus routes and it is generally accepted that student accommodation is less reliant on private motor vehicle than that of a full time residential occupier/family.

On balance, taking into account the sustainable location and the exiting deficiency of the lawful use of the building compared to current parking standards, it is not considered that the proposal in its revised form for a reduced number of occupants (8 instead of 13) would result in an unacceptable impact on highway safety.

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

It is also noted that if a residential use is not appropriate in such a sustainable location then it is unlikely any of the existing lawful uses would be suitable on highway grounds. In this instance therefore the Local Planning Authority notes the objection of the Highway Authority, however, for the above reasons, considers the scheme complies with the requirements of the Policies EV1, EV3 and AS6 of the UDP.

Neighbours

With regard to the above objections points 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18 have been considered above and the level of objection does add weight to the considerations of the application. With regard to the demand for this type of development in the local area, this is not a material planning consideration and is set by market factors. The proposed method of construction is not a material planning consideration but controlled by separate legislation. Finally the level of maintenance of the property post implementation of any consent is not a material planning consideration.

Conditions

In order to control the nature of the development and address the concerns raised through public consultation it is considered necessary to impose certain conditions relating to the development. A condition to limit the development to student accommodation is necessary including a limit to the number of occupiers given the concerns about a lack of parking, particularly for full time residential accommodation including concerns about amenity. A condition to require a cycle storage facility which is undercover and secure is appropriate including refuse storage details is necessary. The provision of a Travel Plan and an Operational Management Plan via condition will deal with concerns relating to the transport arrangements for students attending the site including dealing with issues raised by residents about potential future concerns including maintenance, safety, security and complaints procedures. An obscure glazing condition can be used to limit any potential overlooking from windows identified in the above report and the condition recommended by Welsh Water can be imposed as part of the scheme. The conditions to be imposed are required to make the development acceptable and accord with the requirements of Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' (October 2014).

Conclusion

Having regard to all material planning considerations including the Human Rights Act, the proposal is therefore considered to represent an acceptable form of development that accords with the criteria set out in Policies EV1, EV2, EV3, AS6 and HC6 of the City and County of Swansea Unitary Development Plan 2008. Accordingly, approval is recommended.

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 recommendation, 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.

Planning Committee – 5th June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/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: Location plan, received on 15th March 2018. TL/P/06 REV A proposed site layout plan, TL/P/08 REV A proposed floor plans, TL/P/09 REV A proposed elevations received 28th March 2018. TL/P07 REV B proposed floor plans received 5th April 2018. TL/P/10 REV D proposed elevations received 12th April 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The building shall be used for Student Accommodation by Registered Students only and occupied by no more than 8 Registered Students at any one time.

A Registered Student means a student registered to study at a Swansea Educational Establishment. A Swansea Educational Establishment includes any of the following educational establishments (including their successors in title) within Swansea being: Swansea University, University of Wales Trinity St David; Gower College Swansea; or any other such educational establishment as shall be approved in writing by the Local Planning Authority.

Reason: In order to limit the development student accommodation only in the interests of protecting the amenities of neighbouring occupiers and in the interests of highway safety.
- 4 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of a minimum of eight cycles and storage of refuse shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.
- 5 The development shall be carried out in accordance with a Travel Plan to be submitted to and approved in writing by the Local Planning Authority prior to any beneficial use of the development.
Reason: In the interests of providing facilities for sustainable transport.
- 6 Prior to the first beneficial occupation of the development, an Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Operational Management Plan shall specify:

Planning Committee – 5th June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

- a) The arrangements for the general maintenance and management of the site, including external amenity / landscape space;
- b) The arrangements for servicing deliveries;
- c) The parking and traffic management incentives and arrangements, with particular reference to the beginning and end of term pick-up and drop-off arrangements;
- d) Measures proposed in relation to site safety and security including fire safety; and
- e) The Procedures in place for minimising and managing community complaints, a point of contact for each academic year and full details of the community complaint procedures.

The development hereby permitted shall thereafter be implemented in accordance with the approved Operational Management Plan for the lifetime of the development.

Reason: In the interests of ensuring that the operational implications of the student development are acceptable having regard to neighbouring amenity.

- 7 Before the development hereby permitted is brought into use, the four window(s) at 'Ground Floor' in the Side Elevation (Drg No. TL/P/09 REV A) serving two WC rooms shall be fitted with obscured glazing to a minimum level 3, details of which shall first be submitted to and approved in writing by the Local Planning Authority and any part of the window(s) that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.

Reason: In the interests of conserving the privacy and amenity of adjoining properties.

- 8 No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

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

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV2, EV3, HC6 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.
- 3 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

Planning Committee – 5th June 2018

Item 3 (Cont'd)

Application Number:

2018/0661/FUL

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

Planning Committee – 5th June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

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)

Site History

App Number	Proposal	Status	Decision Date
2018/0846/FUL	Change of use from residential (Class C3) to four bed four person HMO (Class C4)	PDE	

APPRAISAL

This application has been called to Committee for decision at the request of Councillors Irene Mann and Peter May.

RESPONSE TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 36 and 40 Hawthorne Avenue on 20th April 2018. Two site notices were also posted within the vicinity of the application site on 27th April 2018.

Eight individual letters of objection have been received, which are summarised below:

- o Parking concerns.
- o Loss of social cohesion from high concentration of HMO's
- o Increased noise and disturbance.
- o Access for emergency vehicles.
- o Refuse area to the rear is inappropriately sited.
- o Lack of noise insulation between dwellings.

Two petitions of objection have been received one comprising 37 signatures and the other 27 signatures.

The comments on the petitions are as follows:

"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentrations of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street."

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

"We object to the proposal to convert 38 Hawthorne Avenue, Uplands, Swansea, SA2 0LR into a 4 bedroom House in Multiple Occupation. (Application 2018/0846/FUL). If approved it will add to the existing over-density of HMOs in Uplands and Brynmill contrary to existing planning policy. 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 the existing residents."

APPRAISAL

Description

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 4 person HMO at No. 38 Hawthorne Avenue, Uplands.

The application property is a two storey mid-terrace currently used as a dwelling house with 3 bedrooms. Plans indicate the only internal amendment is the change from a reception room into a bedroom on the ground floor with an amendment of the study into a reception room.

Principle of Use

The application property is an existing residential dwelling and would change to a property in shared occupation as a HMO. This would therefore remain in residential use and its principle is considered to be acceptable as set out by Policy HC5 of the Unitary Development Plan. Regard shall be given therefore to the assessment criteria listed in the policy which relate to material planning considerations including residential amenity, concentrations of HMOs, visual amenity, highway safety and refuse storage arrangements.

The criteria of Policy HC5 are as follows:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

Regard needs to be given to the fact that a family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to four people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the City and County of Swansea Unitary Development Plan.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study also revealed common problems associated with a 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 school through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

From viewing the Council's own HMO register there are 14 properties on Hawthorne Avenue which are registered HMOs (as of 22nd May 2018) and there are 92 properties on Hawthorne Avenue. The street percentage of HMOs would therefore change from approximately 15.2% to 16.3% on approval and implementation of the application. It is noted that there is a high concentration of HMOs in the Uplands and wider Brynmill area, but a relatively low concentration in this street itself.

It is clear that approval of the application would result in the addition of a further HMO and an increase in the concentration of HMOs within the street. It is not, however, considered that the resultant number of HMOs within the street would result in a harmful concentration or intensification of HMOs in this area or the street in general. Regard can be given to a number of Planning Inspectorate decisions in relation to HMO applications which have been refused by the Council but subsequently allowed on appeal.

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

In those decisions, Planning Inspectors have stated that with no adopted Supplementary Planning Guidance on the matter, whether or not a proposal is harmful depends on planning judgement, and have gone on to suggest that there has been no conclusive evidence to prove harm to the area in those cases.

For example in dealing with an appeal at No. 57 St Helens Avenue (ref: 2016/1688) which would result in the concentration of HMOs along St Helens Avenue going from 40% to 41% the appeal inspector found that given the existing circumstances in the Ward that the conversion to a HMO would *"not cause any material harm to the character and amenity of the area"*. Furthermore the Inspector stated; *"whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area"*. At 96 King Edwards Road (ref: 2016/1380) the inspector noted the existence of 52% of dwellings being HMOs as well as the existence of a draft SPG for HMOs, but given the draft nature of the SPG was unable to attach any significant weight to it. On the evidence before him he concluded there would be no material harm and allowed the appeal. Further information of these decisions and other relevant decisions relating to HMO proposals have been appended in below paragraphs.

In the absence of an appropriate formal percentage or other similar calculation based approach, the absence of empirical evidence and an Adopted SPG defining the level at which harm ensues, as well as the stance taken by Planning Inspectors on appeal, it cannot be regarded that approval of this application would result in a harmful concentration of HMOs in the area and thus the proposal complies with the aims of this criterion.

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

The proposal does not include any material alterations to the external fabric of the dwelling and therefore the visual amenity of the host property and character of the local area would not be negatively impacted.

There would be no significant adverse effect on local car parking and highway safety

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed 4 bedroom 4 person HMO would generate a requirement for 3 onsite parking spaces.

The SPG provides worked examples of use of the standards (page 9), however, this does not include reference to HMO proposals other than reference to a conversion of a dwelling into 3 separate flats. In that particular example where the number of parking spaces cannot be provided on site it suggests that 'if possible' spaces should be provided at the rear of the premises and that if the site is too small to provide parking and kerbside parking pressure is not evident then an allowance of on-street parking immediately outside the property may be possible. It also refers to local circumstances dictating the approach to be taken.

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

Whilst having regard to the general advice in relation to conversions into flats the Local Planning Authority must assess the application on the basis of the potential impacts arising from the proposal and whether this would harm highway safety in the area.

It can be noted that the existing 3 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore not impact the availability of parking spaces onsite compared to existing conditions. On this basis along with the fact that the site lies within walking distance of a range of facilities at Uplands District Centre and provision can be made on site for cycle storage provision to support sustainability it is not considered that the application will result in any adverse effects on local car parking and highway safety.

In dealing with appeals on highways and parking grounds inspectors have had regard to the SPG as being guidance only and have taken account of the fall-back position of existing uses as well as local circumstances when considering similar proposals. Full details of these decisions have been appended in below paragraphs.

In view of the above, the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property, actually resulting in improved on site parking provision, and is therefore in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

An area for bin storage is proposed to the rear of the property.

Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance and anti-social behaviour are addressed in the above report. The issue raised in connection with emergency services access is not considered to be impacted by the proposed change of use. The refuse storage area to the rear is considered acceptable, especially accounting for the lack of appropriate space to the front of the property.

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 3 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall back position here which is that of a dwellinghouse with no off-street parking that in itself can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

Material Planning Appeal Decisions

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs.

Planning Committee – 5th June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated *"I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety.

Planning Committee – 5th June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for upto 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me 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"... "the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"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"*.

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

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." He went on to say; "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."

96 King Edwards Avenue - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated "whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated "The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops."

Planning Committee – 5th June 2018

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact 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 HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated *"whether or not a proposal is harmful depends on planning judgement"*. He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found *"little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: "whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 4 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

Item 4 (Cont'd)

Application Number:

2018/0846/FUL

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

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan, block plan received on 9th April 2018. Proposed ground floor, proposed first floor, bicycle rack details received on 13th April 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the submitted details full details of facilities for the secure and undercover storage of a minimum of four cycles and storage of refuse shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

Planning Committee – 5th June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

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)

Site History

App Number	Proposal	Status	Decision Date
2018/0450/FUL	Change of use from a residential (Class C3) to 5 bedroom 5 person HMO (Class C4) and replacement of rear extension pitched roof with a flat roof	REF	20.04.2018
2018/0943/FUL	Change of use from residential (Class C3) to 5 bed HMO for 5 people (Class C4)	PDE	

APPRAISAL

This application was called to Committee for decision at the request of Councillors Irene Mann and Peter May.

RESPONSES TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 158, 158 Flat 1, 158 Flat 2 and 160 King Edwards Road, No. 8 Martyr's Reach, No. 5 St. Helens Avenue and Nos. 1 to 33 Dumbarton House Court on 27th April 2018.

A site notice was also posted within the vicinity of the application site on 4th May 2018.

One letter of objection was received, which can be summarised as follows:

- o Impact on social cohesion

A petition of objection was received containing 43 signatures.

The comments on the petitions are as follows:

"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentration of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street".

Planning Committee – 5th June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

HMO Team - I can confirm that the proposal for the conversion of this property would result in a two storey HMO for five occupiers, which under the Housing Act 2004 comes within the Additional HMO licensing requirements.

As such the owner would need to make an application to license the property prior to letting. Details are on our website www.swansea.gov.uk/hmolicensing

Tree Officer - A yew tree is protected by TPO 398 served in 1995 that is located over the rear boundary of the property. Under Section 197 of the Town and Country Planning Act 1990 it is the LPA's duty to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation of trees that contribute to amenity.

No objection.

The proposed change of use will have no impact on the protected tree.

Description

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a 5 bedroom 5 person HMO (Class C4) at No.159 King Edwards Road, Brynmill.

The application is a two storey, end of terrace dwelling, with a single storey side lean to and two storey rear extension, currently occupied as a dwellinghouse. Floor Plans submitted indicate the ground floor is laid out to three sitting rooms, kitchen and store whilst the upper floor contains three bedrooms and a bathroom. The plans indicate that internally two of the ground floor sitting rooms will be converted to bedrooms and the store into a bin and cycle store, with the first floor bathroom being divided into two.

This application is made as an amendment to a previously refused application for a change of use from a residential (Class C3) to 5 bedroom 5 person HMO (Class C4) and replacement of rear extension pitched roof with a flat roof (Ref: 2018/0450/FUL). This application was refused due to the negative visual impact of the resultant flat roofed rear extension, however, the principle of the change of use was considered acceptable. The current application no longer includes any alterations to the roof of the two storey rear projection. The previous reason for refusal is stated below:

The proposed flat roof extension to the existing two storey rear extension, by virtue of its inappropriate design, appearance and size, fails to respect the scale, character and appearance of the host dwelling, to the detriment of the visual amenities of the locality contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan 2008.

Main Issues

The main issues for consideration during determination of this application relates to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety, having regard to the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan (2008).

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

The application is also considered with regard to the Council's Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Principle of Use

Until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has historically been a large concentration of HMO properties in some parts of Swansea which has happened predominantly without planning permission being required.

Following concerns raised by Local Authorities throughout Wales in respect of areas with a high concentration of HMOs an amendment to the Use Class Order was made introducing a separate C4 Use for HMO properties with more than 2 people living in them. The amendment was made in order to safeguard the confidence of residents in areas with large numbers of HMOs, while at the same time protecting the rights of those people living in them.

It is acknowledged that large concentrations of HMOs can bring their own problems to local areas, however whilst the Local Planning Authority has produced an SPG related to HMOs which includes purpose built student accommodation this is currently at consultation stage and until formally adopted does not carry any weight.

Policy HC5 of the City and County of Swansea Unitary Development Plan supports the conversion of dwellings to HMOs subject to compliance with set criteria:

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance
- (ii) The development would not contribute to harmful concentration or intensification of HMOs in a particular area
- (iii) There would be no adverse effect upon the external appearance of the property and the character of the locality,
- (iv) There would be no significant adverse effect on local car parking and highway safety, and
- (v) Appropriate refuse storage arrangements can be provided

The criterion of the above is addressed below:

Would the proposal result in a significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance?

Regard needs to be given to the fact that a family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to five people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

As such the proposed use will not result in unacceptable noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the City and County of Swansea Unitary Development Plan.

Would the development contribute to a harmful concentration or intensification of HMOs in a particular area?

In 2015 the Welsh Government commissioned a study into the impact of houses in multiple occupation (HMOs) concentrations on local communities in certain areas across Wales. The Welsh Government identified that HMOs make an important contribution to the provision of housing for those unable to buy or rent smaller accommodation but the study revealed common problems associated with high concentrations of HMOs including damage to social cohesion, difficult access to the area for owner occupiers and first time buyers, increased in anti-social behaviour, noise, burglary and other crime, reduction in the quality of the local environment, a change in the character of the area, increased pressure on parking and a reduction in provision of community facilities for families and children, in particular pressure on schools through falling rolls. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

Following the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation: Practice Guidance' (February 2016). Within this it is identified that HMOs provide a source of accommodation for certain groups which include students and individuals and/or small households unable to afford self-contained accommodation. It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

From viewing the Council's own HMO register there are 90 properties on King Edwards Road which are registered HMOs out of a total number of 165 properties on the street. It is noted that Nos.35 (2017/0388/FUL), 144 (2017/0259/FUL) and more recently 145 (2018/0159/FUL) have had permission granted for use as a HMO in the last year but do not appear on the register. No. 145 had previously been used as a HMO whilst the permission granted related to conversion to a 7 bedroom HMO.

Therefore the potential number of HMO's on the street could rise to 94. Taking into account the previous approvals the concentration of HMO properties is approximately 56.4%, which would increase to approximately 57% on approval of this application.

There are a number of recent applications in the local area for HMOs that were refused and subsequently overturned by Appeal Inspectors. Application No. 2016/1688 (57 St Helens Avenue) was refused by virtue of the fact that the proposed increase in concentration from 40% to 41% would 'result in a harmful concentration and intensification of HMOs'. The Inspector found that given the existing circumstances in the Ward that the conversion to a HMO would 'not cause any material harm to the character and amenity of the area'. Furthermore the Inspector stated; 'whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area'.

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

This appeal decision is further backed up by a similar decision for the creation of a HMO at No.96 King Edwards Avenue, (App No.2016/1380). This application was refused on the grounds of a high concentration in the local area, but again this reason was rejected by the Inspector on the basis that the Authority has no supported threshold in which the concentration becomes harmful. This appeal is particularly relevant to this application as it is on the same street.

It is clear that approval of the application would result in the addition of a further HMO into a ward area that already comprises a concentration of HMOs, however whilst this is the case there is no empirical evidence that leads conclusively to the conclusion that approval of this additional HMO would result in a harmful concentration or intensification of HMOs in this area or street.

In the absence of a percentage or other similar calculation based approach it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. As such whilst this application will result in further concentration of HMOs it cannot be regarded that this is a harmful concentration such that it complies with the aims of this criterion.

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

The proposal includes only internal works and a minor resizing to one of the first floor side bathroom windows. It is therefore considered that the proposals would not result in any unacceptable visual impacts.

There would be no significant adverse effect on local car parking and highway safety

Under the current Authority Parking Standards SPG, HMO properties for up to 6 persons have no requirement for additional parking over and above that of a dwelling house. It is therefore noted that whilst the property has no provision for parking onsite, the proposed change of use does not require any additional spaces to be provided. Furthermore, there is not considered to be any space onsite where a parking area could be created. The site is also in a highly sustainable location close to local amenities and public transport.

The applicant has provided a secure cycle storage facility as part of the submission.

In view of the above, the proposal is not considered to have any greater impact on highway safety or parking over and above the existing extant use of the property in compliance with the provisions of Policies EV1, HC5, EV40 and AS6 of the City and County of Swansea Unitary Development Plan.

Appropriate refuse storage arrangements can be provided

As above, the refuse storage can be provided within the existing side lean-to extension.

Response to objectors

The issues raised in respect of social cohesion and high concentration of HMOs are addressed in the above report. The concerns raised about parking are noted and have been appraised in the above paragraphs.

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

Material Planning Appeal Decisions

Members attention can be drawn to a series of past appeal decisions by the Planning Inspectorate in connection with similar applications for HMOs. These appeals principally covered matters relating to concentrations of HMOs, amenity space and highway safety and form useful background information in respect of the application of planning considerations and the Adopted SPG Parking Standards.

22 St Albans Road, Brynmill - APP/B6855/A/10/2137679 - 2010/0266 - 26 January 2011

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area. The inspector allowed the appeal and stated *"I saw during my visit areas reserved for permit holders and double yellow lines restricting parking in the vicinity of road junctions. This endorses the Council's submission that the area is subject to heavy pressure for on-street parking. The appellant indicates that incoming tenants are advised that the area will not support vehicle parking and this approach has resulted in the property being free of tenant parking for the last two academic years. However, no evidence has been presented to indicate that such an approach is enforceable. However, the appeal site is in an urban location and I saw alternative forms of public transport area available in the vicinity of the site. Given the minimum parking standards are no longer appropriate, I do not consider the provision of an additional bedroom at this property would result in such an increase in on-street parking that it would have a significant adverse effect on local car parking and highway safety. I have had regard to all other matters raised but find nothing to sway me from my conclusion that the proposal would not be contrary to Policies EV1 and HC5 of the City and County of Swansea Unitary Development Plan"*

The Crescent, 132 Eaton Crescent, Uplands - APP/B6855/A/14/2219261 - 2013/1598 -25 September 2014

This appeal related to a change of use from a guest house to a 10 bedroom HMO and the scheme was refused on concerns about lack of parking. In the assessment the inspector noted the Council requirement for 9 parking spaces and that there was a shortfall of 4 spaces on site. The inspector noted the Council's concerns about the residents permit system being oversubscribed but from visits observed a good number of parking spaces being available. Whilst acknowledging the increase in number of people that could lead to increased activity stated *"even so, whilst the proposal does not provide the level of parking suggested by parking guidelines, the proposal does provide for five off road parking spaces and two residents parking permits are available with the property. The permits do not give access to dedicated spaces but do allow parking within the regulated and unregulated areas on the street, increasing choice"*. The sustainable location of the site was noted by the inspector stating it *"is situated within walking distance of the wide range of services, and facilities, and public transport opportunities that the city offers. It is also close to the University and other employment opportunities."* The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

4 Rosehill Terrace, Swansea - APP/B6855/A/14/2225154 - 2014/0764 - 14 January 2015

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

8 Alexandra Terrace, Brynmill - APP/B6855/A/16/3156916 - 11 November 2016

This appeal related to a proposal for a HMO for up to 6 people. The inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The inspector noted the high concentration of HMOs in the area which equates to 42% in the street and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated *"whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me 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"...* *"the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses"*. On the issue of highway safety and parking the inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. The inspector noted that only 1 parking space could be provided but stated *"However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle. I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission"*. The appeal was allowed.

105, Rhyddings Terrace, Brynmill - APP/B6855/A/16/3161603 - 2016/1316 - 10 February 2017

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO.

Planning Committee – 5th June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

In response to concerns about damage to the area's character of amenity the inspector stated *"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."* He went on to say; *"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."*

96 King Edwards Avenue - APP/B6855/A/16/3165057 - 2016/1380 - 19 April 2017

In this case the inspector noted that 52% of dwellings in the area were HMOs and in allowing the appeal stated *"whilst I recognise the cumulative effects that development can have, there is no identified threshold supported by evidence to demonstrate the point at which any further HMO's would have an adverse effect on the amenity or character of the area. The ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, but there is little evidence that directly relates this to an unbalanced or unsustainable community. In fact, the census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to support local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMO's but given its draft status I am unable to attach any significant weight to it."*

57 St Helens Avenue - APP/B6855/A/16/3165327 - 2016/1688 - 25 April 2017

In allowing this appeal the inspector stated *"The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community. The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type."*

Planning Committee – 5th June 2018

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."

124 St Helens Avenue - APP/B6855/A/17/3167108 - 2016/1038 - 4 May 2017

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. Although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."* The appeal was allowed.

26 Pinewood Road, Uplands - APP/B6855/A/17/3170653 - 2016/1249 - 20 June 2017

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact 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 HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated *"whether or not a proposal is harmful depends on planning judgement"*. He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as a 5 bedroom HMO would result in a harmful concentration of HMOs within this area.

Item 5 (Cont'd)

Application Number:

2018/0943/FUL

Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

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.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site plan, location plan, proposed elevations, proposed floor plans received on 23rd April 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the first occupation of the development hereby approved, the bicycle and the refuse storage facilities as indicated on the proposed floor plan received on 23rd April 2018 shall be available for the beneficial use of the residents and shall thereafter be retained and not used for any other purpose.
Reason: In the interests of sustainability and to encourage alternative forms of transport and to safeguard the visual amenity of the locality and the residential amenities of future occupiers.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5.
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
-

Abergelli Power Limited (APL) – Gas Fired Power Station Item Report

Purpose:	This report provides an overview of the APL submission for Development Consent Order for a gas fired power station at Felindre and seeks delegated powers to respond to the 'Adequacy of Consultation' representation.
Legislative Framework:	The Planning Act 2008 (as amended). The DCO application will be examined by the Planning Inspectorate who will make a recommendation to the Secretary of State for Business, Energy & Industrial Strategy. The Secretary of State will take a decision on the application on receipt of a recommendation from the Planning Inspectorate.
Policy Framework:	National Policy Statements EN-1 and EN-2 provide the overarching national level policy framework for consideration of DCO applications for gas fired power stations and set out the Government's policies for the assessment of DCO applications. City and County of Swansea Unitary Development Plan (Adopted November 2008). The Emerging Local Development Plan (LDP) expected to be the approved plan by late 2018.
Reason for Decision:	To enable the Local Planning Authority to respond to the tight deadlines set by the Examining Authority (PINS).
Recommendation:	1) That Committee grant delegated powers to the Head of Planning and City Regeneration to provide a response to the 'Adequacy of Consultation' Representation.
Report Author:	Andrew Ferguson, Principal Planner Area 1

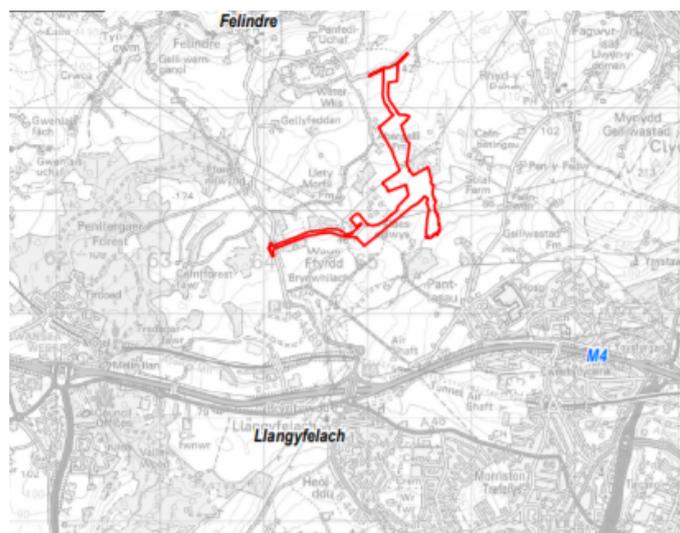
1.0 Introduction:

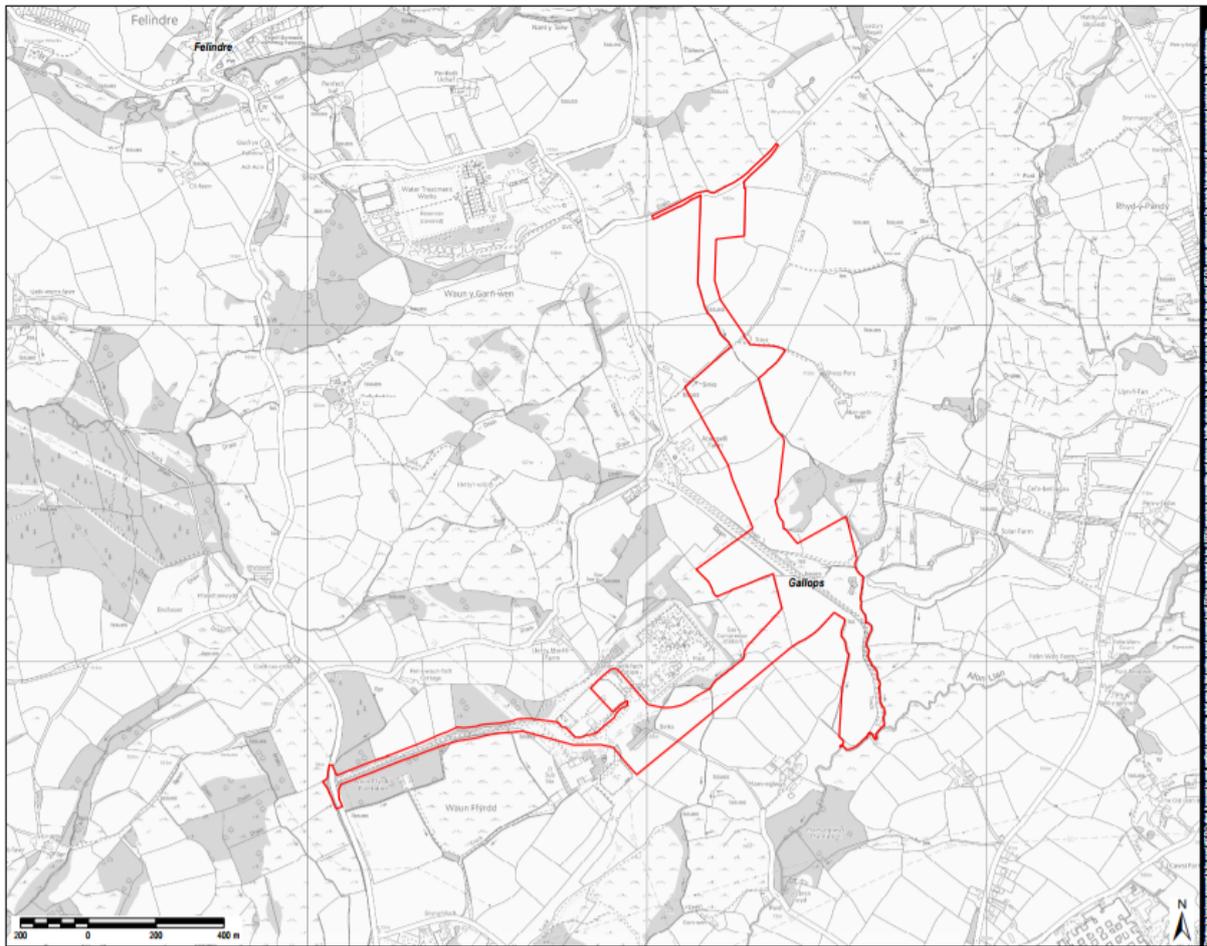
- 1.1 Abergelli Power Limited (APL), a subsidiary business of Drax Group, wishes to build a gas-fired power station on land located at Abergelli Farm, south of Felindre, adjacent to the National Grid Gas Compressor Station and to the north of the M4 motorway.

- 1.2 The Project includes a power generation plant and its electrical and gas connections. The Project would have a rated electrical output of up to 299MW. The power generation plant is designed to provide back-up generation capacity which can operate flexibly to respond quickly and efficiently to both short-term variation in customer demand and intermittent output from renewable power generation. It is anticipated that it will operate for up to 2,250 hours p.a. and 1,500 running hours rolling average over 5 yrs.
- 1.3 Given that the proposal is for a thermal generating station with an electrical output in excess of 50 MW the output, the Project is classified as a Nationally Significant Infrastructure Project, which means that a Development Consent Order (DCO) is required to build, operate and maintain it.
- 1.4 The DCO Application will be examined by the Planning Inspectorate (PINS) who will make a recommendation to the Secretary of State for Business, Energy & Industrial Strategy. The Secretary of State will take a decision on the application on receipt of a recommendation from PINS. PINS take around six months to examine an application once submitted. The process will be similar to that of the Tidal Lagoon DCO, albeit that the proposed technology is more common place than the tidal lagoon and various other 'peaking' plants have been already been granted a DCO (such as Hirwaun, RCT) so the process should be more straightforward in this regard.
- 1.5 PINS have informed the Local Planning Authority that APL intend to submit their application for an order granting development consent to them on **Friday 25 May 2018**.

2.0 The Site and its Surroundings:

- 2.1 The red line boundary of the project, encompassing all the elements proposed and the maximum extent of land over which powers are sought, is shown below.





- 2.2 The land at Abergelli Farm consists of grazing fields for sheep, is divided by hedgerows and is generally flat in a slightly undulating landscape. The site is located within the open countryside and lies approximately 1.5km north west of Morrison Hospital. The western extent of the project site encompasses National Grid's Swansea North electrical substation and Felindre Gas Compressor Station.
- 2.3 The whole of the site is located within the administrative area of the City & County of Swansea. Abergelli Farm is located 2km south east of Felindre, 2.4km north of Llangyfelach and to the north of Junction 46 of the M4 and would be accessed via this junction. The overall farm is approximately 97Ha and is currently used for sheep grazing and horse training/ breeding and there is a planning history associated with these uses. The application site is currently accessed via a network of farm tracks that lead to the B4489 to the south and an unnamed road to the north which leads to Felindre and Rhyd y Pandy.
- 2.4 There are no residential dwellings located within the boundary of the project site. Most of the site is improved grassland but there are areas of marshy grassland in the south eastern part of the Generating Equipment Site. There are parts of a Site of Importance for Nature Conservation (SINC) within the Project Site (Llety Morfil SINC). A block of broadleaved woodland, classed as Ancient Woodland is located in the western portion of the site, surrounding the substation.

- 2.5 The Generating Equipment Site is located primarily within fields used for grazing, bounded by a mixture of drainage ditches, fencing and poor quality hedgerows with gaps in them. The Generating Equipment Site and the Laydown Area are both crossed by a soft surface horse training track known as 'the gallops' which runs diagonally north-west to south-east. Other features of the area include public footpaths, bridleways and tracks located in and around the Project Site, linking it to the wider area.
- 2.6 The wider surrounding area is generally rural in character although there is a large amount of utilities' infrastructure in the vicinity e.g. gas and water pipelines, electricity pylons and substations, a gas compressor station and a water treatment plant. A large water main also crosses the site. Further afield lies the former Felindre Tin Plate works which is identified as a Strategic Business Park. Several solar farms have been proposed in the surrounding area with several completed and operational.

3.0 The Project:

- 3.1 The Project is a gas-fired 'peaking' plant which is designed to operate when there is a surge in demand for electricity (e.g. where there is a sudden demand in power required by consumers or a sudden drop in power being generated by plants that suffer a breakdown). Peaking plants also help to 'balance out' the grid at times of peak electricity demand and at times when other technologies, such as wind and solar farms, cannot generate electricity due to their reliance on weather conditions and intermittent operation.
- 3.2 The Project Site is approximately 30 ha in area, and is situated on open agricultural land located approximately 2 km north of Junction 46 of the M4 within the administrative boundary of the City and County of Swansea Council.
- 3.3 The Project will involve the combustion of gas to generate electricity. There are three key components to the Project:
- 1) A new Power Generation Plant, in the form of an Open Cycle Gas Turbine. It will have an electrical output of up to 299 MW.

The Power Generation Plant will include:

- Generating Equipment including one Gas Turbine Generator with one exhaust gas flue stack (between 35m and 45m in height); and
- Balance of Plant (BOP), which is all infrastructure required to support the Gas Turbine Generator (together referred to as the 'Generating Equipment') which are located within the 'Generating Equipment Site';
- An Access Road to the Project Site from the B4489 which lies to the west, formed by upgrading an existing access road between the B4489 junction and the Swansea North Substation (the Substation) and constructing a new section of access road from the Substation to the Generating Equipment Site; and
- A temporary construction compound for the storage of materials, plant and equipment as well as containing site accommodation and welfare facilities, temporary car parking and temporary fencing (the Laydown Area). A small area within the Laydown Area will be retained permanently (the Maintenance Compound).
- Ecological Mitigation Area - area for potential reptile translocation and ecological enhancement. Location and area to be confirmed in discussion with

NRW and CCS and likely to be commensurate with the extent of mitigation required and within the Project Site Boundary.

- Permanent parking and drainage to include: a site foul, oily water and surface water drainage system.

- 2) The Gas Connection will be in the form of a new above ground installation (AGI) and underground gas connection (the Gas Pipeline). This is to bring natural gas to the Generating Equipment from the National Gas Transmission System.
- 3) The Electrical Connection will be an underground electrical cable to export power from the Generating Equipment to the National Grid Electricity Transmission System (NETS).



3.4 The proposed application for a Development Consent Order (DCO) will seek consent for all works required for construction, use, operation and maintenance of the Power Generation Plant (including the Access Road and the Laydown Area/Maintenance Compound, which are integral to the NSIP). The Gas Connection and Electrical Connection are considered to be Associated Development within the meaning of the Planning Act 2008.

3.5 As the Project is a generating station in Wales below 350 MW, development consent cannot be granted for Associated Development (gas and electricity connections) in the DCO. However, the Gas Connection and the Electrical Connection will be considered and assessed in the Environmental Statement to provide full information on the effects of the Project as a whole.

4.0 Need for the Project:

4.1 There is a considerable national need for this type of project, acknowledged at all levels of Government policy. National planning policy supports the need for new power stations to replace the current ageing coal fired power plants, many of which are scheduled to close, and also meet expected increasing demand for electricity over the coming decades. The supply of electricity in

the UK relies on the generation of electricity from several sources, more traditionally through baseload thermal generation plants such as coal, gas and nuclear. These generators all provide power to keep the national grid at a steady frequency of 50 Hertz (Hz), essential to the smooth operation of electrical equipment throughout the UK. At present, the total capacity of peaking power plants in the UK is relatively small due to the nature of the historic approach to power production in the UK.

- 4.2 There is a clear and significant requirement for further capacity to meet the projected need for reactive/flexible generation in the future, as the methods of power generation diversify. Gas is acknowledged by the Government as having an important role to play in our transition to a low carbon economy, whilst at the same time supporting the country's energy security. In addition, gas peaking plants such as the Project would provide back-up to power generation from renewable sources, particularly wind power, which supply an increasingly important share of the country's electricity demand. Modern gas fired power plants are among the most efficient forms of electricity power generation.
- 4.3 An Environmental Impact Assessment (EIA) of the proposed development will be submitted as part of the suite of documents that accompany the application for development consent. The EIA will examine likely significant environmental effects of the Abergelli Power project. Issues such as noise, air emissions, ecology, visual impact, archaeology and traffic and transport will be considered.
- 4.4 The Abergelli Power project can bring a range of benefits to the area during both construction and operation. Construction will take around two years and will provide job opportunities for approximately 150 skilled and semi-skilled people.
- 4.5 The power plant is expected to have an operational life of at least 25 years during which up to 15 full time employees will be required to support the management and maintenance of the plant.
- 4.6 This investment will also support indirect jobs in the local community in areas such as facility maintenance and other support services. A detailed socio-economic impact study will be submitted as part of the application.

5.0 Adequacy of Consultation:

- 5.1 On receipt of an application, the Planning Inspectorate has 28 days to decide whether or not to accept the application. In accordance with section 37 of Planning Act 2008, the developer must submit a consultation report with the application. This consultation report should set out the developer's pre-application consultation processes, a summary of the relevant responses to its consultation and how it has taken account of responses received in developing the application. Developers must have regard to relevant guidance on the pre-application process issued by the Secretary of State.
- 5.2 As soon as PINS receive the application, they will invite the Council as host local authority, to submit an 'adequacy of consultation representation' which the Planning Inspectorate must have regard to in deciding whether or not to accept an application. This adequacy of consultation representation means a representation about whether the developer has complied, in relation to the

proposed application, with its duties under sections 42, 47 and 48 of Planning Act 2008 relating to consultation and publicity.

- 5.3 Given the short statutory time limit for the acceptance stage, PINS will be **seeking a representation from the authority within 14 calendar days of the date of the invitation**. In light of this, authorisation is sought from Committee for the Head of Planning and City Regeneration to formally respond on behalf of the Council.
- 5.4 In this regard, APL first discussed this proposal with the Council in 2014 in anticipation of an application in 2015. The Project was taken through the first stages of the DCO consultation process in 2014 and several public consultation events were undertaken in 2014/ 2015 before the project was put on hold due to market uncertainty. Under the new ownership of the British energy company Drax Group plc, the Project is now once again being taken forward. A second round of community consultation has been undertaken with local residents, businesses and Members in anticipation of the submission.
- 5.5 Section 42 of the 2008 Act states that the applicant has a duty to consult prescribed people on an application for DCO. Section 47 provides a duty to consult with the local community on an application, and the applicant has to prepare a statement outlining how they are going to consult the community in consultation with the Local Planning Authority. The applicant must then carry out the consultation in accordance with the Statement. Section 48 provides for the applicant to publicise the application in the proposed manner.
- 5.6 The Local Planning Authority previously advised on the 2014 statement and had significant input into the application documents as there was on-going dialogue between the parties. Once again, the applicant has sought advice / input from the Local Planning Authority on updating their proposals.
- 5.7 The Council were consulted on the Statement of Community Consultation (SOCC) in November 2017. Local Ward Members, the Leader, several Cabinet Members and the Chair of Planning Committee were made aware of the proposed consultation statement. As well as being made available online throughout the consultation period (which ran for 35 days from 16th January until 19th February 2018 inclusive), information was available to view at Swansea Library, Clydach Library, Pontarddulais Library, Gorseinon Library and Morriston Library. Residents and businesses located within a 3.5km group also received a leaflet about the project on/ around January 16th 2018. Four public exhibitions were also held at Llangyfelach Church Hall, Felindre Welfare Hall, Forge Fach Resource Centre and Tircoed Village Hall in February. The Authority also advised on the translation requirements and “hard to reach” community groups were also consulted.
- 5.8 On the basis that the consultation was undertaken in accordance with the SOCC and upon receipt of the Consultation Report, it is requested that authorisation is sought for the Head of Planning and City Regeneration to be able to respond to the adequacy of consultation response.
- 5.9 At this stage, it is envisaged that this response will be positive in that the applicant has entered into an open dialogue with the LPA throughout the process and consultation appears to have been carried out in accordance with the applicant’s duties set out in Sections 42, 47 and 48 of the Planning Act 2008.

5.10 ***The adequacy of consultation representation is not a representation on the impacts of the scheme or the merits of the case, and the submission of any such representations prior to an acceptance would be premature.***

6.0 Local Impact Report (LIR):

6.1 PINS will not consider the merits of an application unless it is accepted for examination. Should the application be accepted, host authorities will automatically be registered to participate in the examination.

6.2 If the application has been accepted for examination, the relevant Secretary of State will appoint an 'Examining Authority' to examine the application. The Examining Authority will be from the Planning Inspectorate, and will be either a single Inspector or a panel of three or more Inspectors.

6.3 If accepted for examination, the Examining Authority will invite local authorities to submit a LIR in which the Authority should give details of the likely impact of the proposed development upon the Authority's area. **The deadline for the submission of the LIR will be set by the Examining Authority following the Preliminary Meeting**, which is likely to take place a few months after the acceptance of an application. The Authority are therefore encouraged to begin preparation of the LIR now, and put in place internal approval procedures.

6.4 At this stage, it is envisaged that the Local Impact Report will be reported back to Committee for consideration. Officers will start preparing this in due course.

6.5 In addition, authorisation may be sought to agree a Statement of Common Ground with the applicant as well as preparing written statements on individual topics depending on the timeframes for comment. The timeframes for the process will become clearer following the Preliminary Meeting (assuming the application is accepted by PINS).

6.6 The Planning Inspectorate have prepared an Advice Note on preparing Local Impact Reports which can be viewed via the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/04/Advice-note-1v2.pdf>

6.7 As part of the examination process, the Examining Authority will invite relevant local authorities to submit LIRs by a given deadline. After the examination has been concluded, the Examining Authority will make a recommendation to the Secretary of State, who will make the decision on whether or not to make a development consent order (DCO) authorising the project.

6.8 In coming to a decision, the Secretary of State must have regard to any LIRs that are submitted by the deadline. Local authorities are therefore strongly encouraged to produce LIRs when invited to do so. Relevant local authorities should prioritise preparation of their LIR irrespective of whether the local authority considers the development would have a positive or negative impact on their area. The local authority will be able to submit a separate written representation if it wishes to express a particular view on whether the application should be granted.

- 6.9 The sole definition of an LIR is given in S60(3) of the Act as ‘a report in writing giving details of the likely impact of the proposed development on the authority’s area (or any part of that area)’. The content of the LIR is a matter for the local authority concerned as long as it falls within this statutory definition.
- 6.10 Topics which may be of assistance in the report include:
- Site description and surroundings/ location
 - Details of the proposal
 - Relevant planning history and any issues arising
 - Relevant development plan policies, supplementary planning guidance or documents, development briefs or approved master-plans and an appraisal of their relationship and relevance to the proposals
 - Relevant development proposals under consideration or granted permission but not commenced or completed
 - Local area characteristics such as urban and landscape qualities and nature conservation sites
 - Local transport patterns and issues
 - Site and area constraints
 - Designated sites
 - Socio-economic and community matters
 - Consideration of the impact of the proposed articles and requirements within the draft Order (such as the scheme) in respect of all of the above
 - DCO obligations and their impact on the local authority’s area.
- 6.11 This list is neither exhaustive nor prescriptive. Local authorities should cover any topics they consider relevant to the impact of the proposed development on their area. In producing a LIR, the local authority is not required to carry out its own consultation with the community.
- 6.12 The report should consist of a statement of positive, neutral and negative local impacts, but it does not need to contain a balancing exercise between positives and negatives; nor does it need to take the form of a formal committee report. The Examining Authority will carry out a balancing exercise of relevant impacts, and these will include those local impacts specifically reported in the LIR.
- 6.13 By setting out clearly evaluated impacts in a structured document, local authorities will assist the Examining Authority by identifying local issues which might not otherwise come to its attention in the examination process. It will also be very helpful to have the local authority’s appraisal of the proposed development’s compliance with local policy and guidance. In this instance, the proposal will be considered against both the current UDP and the Emerging LDP.
- 6.14 It will be important for the Examining Authority to have the local authority’s views on DCO articles, requirements and DCO obligations. Where specific mitigation or compensatory measures are proposed by the applicant, by way of suggested DCO articles and requirements; or DCO obligations, these should be identified and commented upon. Local authorities should mention them explicitly. The same applies to DCO articles; requirements; and obligations that the local authority considers ought to be included.

6.15 National Policy Statements (NPSs) may be helpful to local authorities in preparing their LIRs as a guide to matters of local impact that are likely to be relevant to the determination of an application. There is, however, no need for the local authority to undertake an assessment of compliance with an NPS; this would duplicate the Examining Authority's role.

6.16 It is open to the local authority to make representations to the Examining Authority about an NSIP application separately from the LIR if it so chooses.

7.0 Recommendation

7.1 It is recommended that Committee grant delegated powers to the Head of Planning and City Regeneration to provide a response to the 'Adequacy of Consultation' Representation from PINS given the 14 day consultation period.

8.0 The Process:

Figure 1 The 2008 Act Process

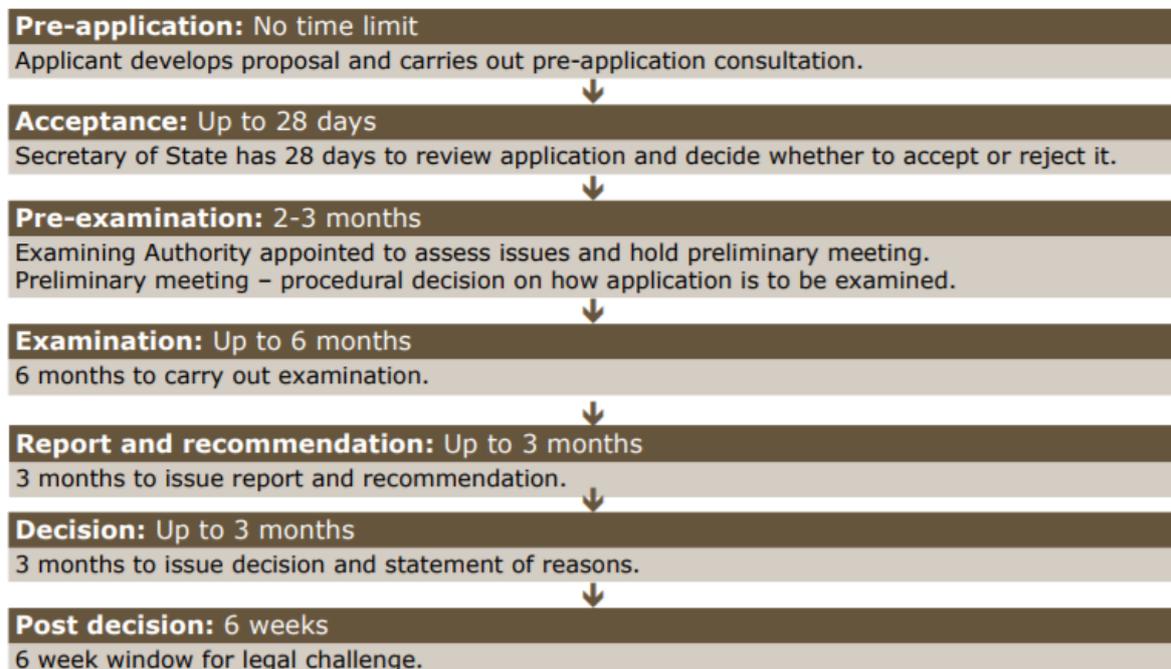
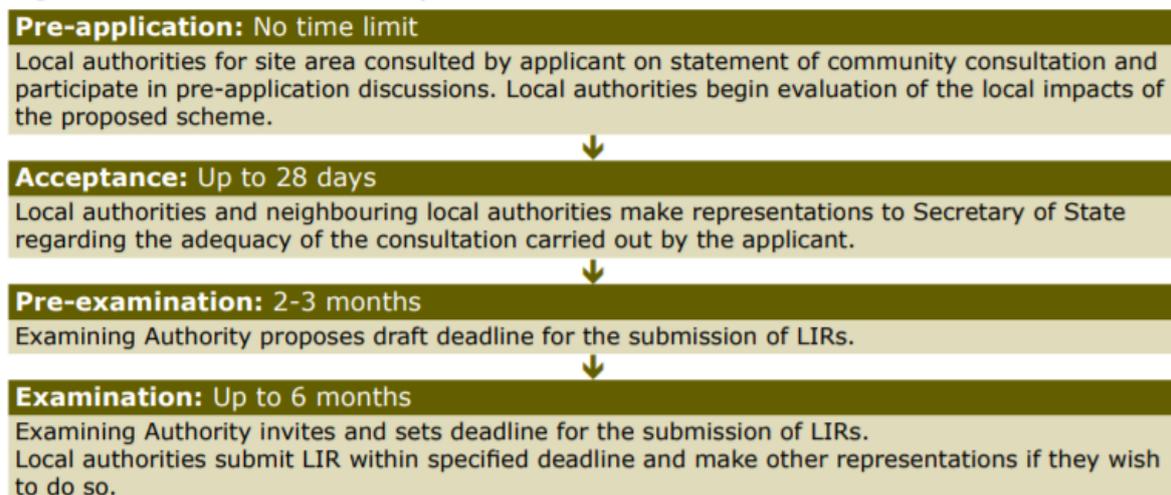


Figure 2 How the local authority fits in



Contact Officer: Ian Davies

Extension No: 5714



Planning Application Reference 2017/2677/FUL

Mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works – Land at Heol Ddu Farm, Birchgrove Road, Birchgrove. Swansea. SA7 9NS

Purpose:	This report provides advice to Committee on possible reasons for refusal of the above planning application following the decision to defer consideration of the application under the two stage voting process at the Planning Committee held on 1 st May 2018.
Recommendation:	1) That planning permission be granted subject to conditions as outlined in the report to Planning Committee on 1 st May 2018 and subject to the amendments to conditions 2, 21 and 26 detailed below.
For Decision	

1.0 Introduction:

- 1.1 This application was reported to Planning Committee on 1st May 2018 with the recommendation that planning permission be approved subject to conditions. Committee did not accept the recommendation but resolved that the application be deferred under the two stage voting process so that further advice could be provided on reasons for refusal. The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Committee.
- 1.2 In reaching a decision, Committee will need to consider advice on the award of costs in planning appeals in Section 12 Annex: Award of Costs of the Development Management Manual. This states that all parties involved in appeal proceedings are expected to behave reasonably to support an efficient and timely process. Parties must normally meet their own expenses. However, where it is deemed that one party has behaved unreasonably, either directly or indirectly, and this has caused another party to incur 'unnecessary or wasted expense' in the appeal or application process, they may be subject to an award of costs.
- 1.3 Local Planning Authorities are at risk of an award of costs being made against them if they behave unreasonably with respect to the substance of the matter under appeal or subject to a call-in or application directly to the Welsh Ministers. Examples of this include:

Failure to produce evidence to substantiate the impact of the proposal, or each reason, or proposed reason for refusal (i.e. taking a decision contrary to professional or technical advice without there being reasonable planning grounds to do so);

- 1.4 Local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority. Following a change in legislation, costs can now be claimed when an appeal is considered by way of written representation in addition to appeals considered by Hearings and Inquiries.
- 1.5 A copy of the report to Planning Committee on 1st May 2018 is attached as Appendix A.

2.0 Update to the Scheme

- 2.1 Since last Committee, the Applicant has submitted a supporting statement in respect of the application. The statement is re-produced below:

'Applicant's Supporting Statement

The applicants attended Planning Committee on the 1st May 2018 and have subsequently sought to take on board the concerns that were raised by Members. Significantly we observed that the two principal concerns were in respect of traffic impact and residential amenity impact associated with the commercial use on the site. The applicant wishes to respond positively to these concerns by proposing the following.

1. *Right Hand turn lane – We observed that Members were concerned about the potential for vehicles waiting to enter the commercial facility to cause queuing onto the Motorway roundabout. Through discussions with their highway consultant the applicant wishes to propose a new dedicated right hand turn lane into the commercial facility, thereby removing the risk of such queues from developing. This would be done via a S278 works package at the applicant expense as indicated on the attached plan. Whilst we understand that this is not a technical requirement of the scheme, given the specific concerns raised by Committee the applicant is prepared to make such an undertaking.*

2. *Hours of Operation – The hours of operation proposed within the application are 5.00 am until 11pm. We observed that Members were concerned about the impact of these hours on residential amenity. In light of this the applicant has been back to the operator to relay the concerns who have since advised us that they would be prepared to propose a reduction in hours from 6am until 10pm in order to respond to the residential amenity concerns.*

We also observed that some concern was expressed about the site's allocation for 10 dwellings in the UDP and that the commercial element was contrary to this. We trust that officers will clarify that this figure stemmed from a previous

outline consent for 10 executive homes, which didn't materialise for obvious reasons. The proposals for 23 units makes efficient use of a brownfield site in the urban area, whilst the commercial element is proposed to ensure the site can be economically developed to support the delivery of the 23 much needed affordable homes.

In addition to the above proposals we would also like to bring to Members attention about the likely additional job creation that would be brought about by this development. A typical Costa Drive Thru outlet will provide for 18 full/part time jobs with flexible shifts. This is typically the equivalent of 11 full time jobs.

In terms of the residential element the project will be delivered by Coastal Housing Association adopting the Welsh Governments Targeted Recruitment and Training Toolkit. This will ensure that the maximum number of training and employment opportunities will be directed towards the residents of Swansea. We believe that this will result in circa 12 new apprenticeships in construction skills (an area of significant need) across a wide range of trades, resulting in reduced dependency of social support and improved levels of wellbeing. The development is therefore anticipated to create 23 new jobs within the local area, and we feel that due weight should also be given to this important material consideration in the planning balance.

- 2.2 A copy of the amended plan will be displayed for Members to view at Committee.

3.0 Main Issues

- 3.1 Members of Committee identified the following areas as grounds for refusal of the application: highway safety and over-intensive commercial development which is contrary to the development plan allocation.

3.2 Highway Issues

- 3.3 In terms of highway safety issues, concerns were raised that the proposal would lead to congestion on Heol Ddu when vehicles were waiting to turn right into the site. As a consequence of this, vehicles would tail back towards the roundabout at junction 44 of the M4, thereby impacting on the free flow of traffic on the roundabout. Further concerns were raised that the speed at which vehicles exit the roundabout onto Heol Ddu would increase the risk of collisions as a result of stationary vehicles waiting to turn right into the site.

- 3.4 The Transport Assessment submitted with the application indicates that the number of vehicles trips generated by the drive-thru will be as follows:

3.5 AM Peak (8am – 9am)	Vehicle arrivals:	20
	Vehicle Departures:	<u>19</u>
	Total Vehicles:	39
PM Peak (5pm- 6pm)	Vehicle Arrivals:	15
	Vehicle Departures:	<u>15</u>
	Total Vehicles:	30

This data indicates that one vehicle will enter or leave the drive-thru every one and a half minutes during the morning peak hour. During the afternoon peak hour, one vehicle will enter or leave the site every two minutes. Vehicle numbers would be lower outside of peak hours.

3.6 As indicated in my report to Committee on 1st May 2018, the Head of Highways and Transportation raised no objection to the application. Notwithstanding this, the applicant has submitted an amended plan indicating the creation of a right turning lane into the site to alleviate any risk of tailbacks created by vehicles waiting to turn right into the site.

In addition, Committee is advised that the scheme has been designed to ensure that once vehicles intending to use the drive-thru element of the development enter the site, there is sufficient space within the site for vehicles to enter the drive-thru without causing queuing on Heol Ddu. Approximately 12 vehicles can be accommodated within the site without affecting circulation, on-site parking or vehicle movements on the highway. The Head of Highways and Transportation has provided the following comments on the proposed right hand turning lane:

'I have reviewed the recently submitted amendment to the drive through access junction entitled 'Figure 7'. This has include the provision of a ghost island right turn lane, and has been provided in response to Member concerns regarding the risk of vehicles queuing back towards junction 44

The application was submitted with a Transport Statement which considered the likely trip rates and effects of the proposals on the surrounding highway network. This contained Picady models of the access junction, the results of the analysis showed an average right turn queue of less than 1 vehicle. It should be noted that this is the average over the modelled period.

As such it was demonstrated that the access junction operated well within capacity and the risk of a vehicle waiting to turn right blocking straight ahead movements was small.

The amended proposal contains a ghost island right turn arrangement, with straight ahead lanes of 3.25m width East and West, and a right turn bay 3.0m wide with a length of approximately 16m. This is sufficient to hold 3 vehicles.

Given the results of the junction testing, the length of the right turn bay is sufficient to accommodate the anticipated demand for the right turn, without affecting straight ahead movements, and consequently remove the risk of blocking. All works can be carried out within the boundary of the adopted highway.

As such Highways has no objections to the proposals.

All works will be subject to a section 278 agreement'

3.7 It is considered that it is lawful to refuse an application on the grounds of highway safety, but Committee will need to consider whether sufficient evidence can be provided to demonstrate that the proposal will have an unacceptable impact on highway safety. Recent appeal decisions have clearly indicated that in the absence of any evidence to prove a proposal will be detrimental to highway safety, an appeal will be allowed. The Head of Highways and Transportation has indicated that he considers it will be difficult to produce any evidence to support a reason for refusal on highway grounds. Members will need to be satisfied that relevant evidence to support the decision can be provided. Failure to do so may result in costs being awarded against the Authority.

3.8 Based on the comments of the Planning Committee, it is considered that the following reason reflects the concerns raised:

'The proposed development, by virtue of the additional traffic movements generated by the proposal will have an adverse effect on local congestion on the nearby highway network to the detriment of the safe and free flow of vehicles and pedestrians, contrary to the provisions of policies EV1, AS2 and HC2 of the City and County of Swansea Unitary Development Plan (2008).'

3.9 Over-intensive Use

3.10 In terms of the use of the site, Members of Committee expressed concern that the introduction of a commercial use onto a site allocated in the UDP for residential use amounted to an over-intensive use of the site. The site is allocated in the UDP under policy HC1 (6) for residential development with the anticipated number units identified in the UDP as 10. It appears that this figure has been obtained from a planning permission for 10 dwellings that was extant at the time of the preparation of the UDP and the amplification to the UDP policy states that the number of dwellings identified in the policy may increase or decrease depending on the nature of the scheme.

3.11 It is not unusual for residential development to be accompanied by commercial development. Indeed, one of the key components of the LDP strategy is place-making which will see more mixed use developments being brought forward. It is noted that the applicant has indicated that in order to bring forward the residential element of this scheme, the commercial element is needed to support its delivery. Committee will also note that outline planning permission for this site was first granted in 1998. The fact that the site has not been developed since the grant of planning permission suggests that there may be issues with the viability of the site solely for residential development.

3.12 It is considered that it is lawful to refuse an application on the grounds of over-intensive development, but in doing so, Committee will need to demonstrate in any reason for refusal how the development is over-intensive and indicate the harm that is caused as a result of this over-intensive development. Failure to do so, may result in costs being awarded against the Authority. In terms of the proposed development, it is not considered that the proposal has an unacceptable visual or residential amenity impact and does not create a development that appears cramped or contrived. The density complies with the approved Residential Design Guide SPG and it is the view of your officers that the development is not over-intensive and would not warrant a reason for refusal. If however, Committee is minded to refuse the application for this reason, the reason could be worded as follows, with the relevant reason(s) and identified harm being inserted by Committee:

'The proposed development, by virtue of <insert reason>, constitutes over-development of the site which would have an adverse impact on <insert harm> contrary to the provisions of policies <insert policies> of the City and County of Swansea Unitary Development Plan (2008).'

4.0 **Conclusion**

4.1 My original report to Planning Committee on 1st May 2018 recommended approval of the application and I have received no evidence to change this recommendation. However, it is recognised that Committee may not accept my recommendation and should this be the case, any decision to refuse the application will need to take into account my advice given above in relation to each possible reason for refusal Committee identified previously.

5.0 Recommendation

The application be approved in accordance with the recommendation set out in Appendix A, and subject to amendments to conditions 2 and 21 to reflect the new Drawing Number. 'Figure 7 REV B' which details the revised highway works including the right turning lane and an amendment to condition 26 to reflect the proposed revisions to the operating hours.

If, however, Committee does not consider that the application should be approved, the reason(s) for refusal should take into account the advice given above.

BACKGROUND PAPERS

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

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

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

Contact Officer: *Ian Davies*

Extension No: *5714*

Date of Production: *21st May 2018*

Document Name: *Heol Ddu*

UDP - EC4 - New Retail Development

All new retail development will be assessed against need and other specific criteria. (City & County of Swansea Unitary Development Plan 2008)

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 - EV2 - Siting

The siting of new development shall give preference to the use of previously developed land and have regard to the physical character and topography of the site and its surroundings. (City & County of Swansea Unitary Development Plan 2008).

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 - EV30 - Trees, Woodland and Hedgerow Protection

Protection and improved management of woodlands, trees and hedgerows which are important for their visual amenity, historic environment, natural heritage, and/or recreation value will be encouraged. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV33 - Sewage Disposal

Planning permission will normally only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV35 - Surface Water Run-Off

Development that would have an adverse impact on the water environment due to:

- i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or,
- ii) A reduction in the quality of surface water run-off.

Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV38 - Contaminated Land

Development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated to the satisfaction of the Council, that measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV39 - Land Instability

Development which would create, affect or might be affected by unstable or potentially unstable land will not be permitted where there would be a significant risk. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV40 - Air, Noise and Light Pollution

Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because

of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC2 - Urban Infill Housing

Housing development within the urban area will be supported where the site has been previously developed, its development does not conflict with other policies, does not result in ribbon development, and the coalescence of settlements, overintensive development, significant loss of residential amenity, significant adverse effect on the character and appearance of the area, loss of urban green space, significant harm to highway safety, significant adverse effects to landscape, natural heritage, security and personal safety, infrastructure capacity, and the overloading of community facilities and services. (City & County of Swansea Unitary Development Plan 2008)

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)

UDP - HC24 - Play Areas/Public Open Space

Provision of public open space within new residential developments. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC1 - Housing Sites

Allocation of housing sites for 10 or more dwellings. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV34 - Protection of Controlled Waters

Development proposals that may impact upon the water environment will only be permitted where it can be demonstrated that they would not pose a significant risk to the quality and or quantity of controlled waters. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC18 - Leisure Facilities and Areas

New leisure facilities will be permitted at suitable locations within the urban area subject to compliance with a defined list of criteria including proven need, no harm being caused to vitality and viability of city centre and district shopping centres, passing the sequential test, acceptable access and car parking, and capacity of the local highway network. (City & County of Swansea Unitary Development Plan 2008)

Site History

App Number	Proposal	Status	Decision Date
2016/3063/PRE	Withdrawn	WDN	04.10.2016

2017/2677/FUL	Mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works	PDE	
2010/1548	Demolition of farm bungalow (application for Prior Notification of Proposed Demolition)	PNRE Q	04.11.2010
2003/2400	Residential development (renewal of outline planning permission 98/1144 granted 30th November 1998)	APP	03.02.2004
2003/2077	Variation of condition 02 of planning permission 2001/1903 granted on 26th March 2002 to allow for the extension of time in which to submit a reserved matters application for a further period of 3 years	WDN	23.01.2004
2001/1903	Variation of condition 02 of planning permission 98/1144 dated 30th November 1998 to allow an extension of time in which to submit a reserved matters application	APP	26.03.2002

Response to consultations

The application was advertised by site notices and a press notice, twenty five neighbouring properties were individually consulted. Eighty five letters of objection have been received and a petition of objection containing 467 signatures. These responses include those received following a further focused reconsultation following amendments to the scheme. The responses may be summarised as follows:

1. The new development with the 23 houses and flats is going to bring more than 50 cars a day on top of the 479 estimated trips to the drive thru and service traffic. The proposal would have a significant detrimental impact upon traffic in the surrounding area.
2. The motorway junction has severe traffic problems at peak times. The development will encourage more traffic to leave and re-join the motorway.
3. The two proposed entrances on the B4291 will cause traffic to back up due to cars turning right into the coffee shop and residential areas.
4. The traffic lights already cause stationary vehicles to back up and foul the motorway junction. Adding more traffic will make a bad situation worse.
5. There is no need for a coffee shop in this location. The area is already well served by similar facilities. Housing is needed not coffee shops.
6. The proposal would increase anti-social behaviour and reduce the quality of lives for elderly residents, especially in view of the late opening hours

7. Is low cost housing suitable in an area containing housing in the higher price range? The proposal could reduce house prices and potentially reduce council tax for the council.
8. The design of the development would not be in keeping with surrounding properties. The buildings surrounding the site are low density. The development is cramped over-intensive and would have a significant adverse effect on the character and appearance of the area.
9. Pedestrian safety, including that of school children, on the roads surrounding the area is already an issue and the development will not improve the situation.
10. Concerns regarding the increased levels of noise, air and light pollution from higher numbers of slow moving traffic, delivery lorries and waste management vehicles. The proposal would be detrimental to the health and well-being of residents.
11. Concerns the air quality is already poor in the area and the development would make the situation worse, to the detriment of the health of residents.
12. The development may impede Welsh Government plans to improve junction 44.
13. Future developments in Birchgrove have not been factored into the traffic movements within the submission.
14. Concerns the proposal would result in a loss of privacy due to the height and proximity of the development.
15. The site is within the Local Development Plan as a housing site for 10 units. Swansea planning department should not deviate from this.
16. The proposal will cut off residents of Upper Peniel Green Road from the village.
17. There are enough people in Birchgrove, infrastructure and services are overwhelmed as it is.
18. Concerns regarding litter arising from the development.
19. Concerns the traffic assessment has not captured a representative sample of traffic in the area.
20. Concerns regarding existing flooding on the site. The development may result in run-off across Peniel Green Road at junction 44, resulting in a potential traffic hazard and may result in run-off to neighbouring properties.
21. The proposal will be of no benefit to residents of Birchgrove.
22. Concerns regarding overlooking of the rear gardens of dwellings on Birchgrove Road and Peniel Green Road.
23. Concerns regarding the security of the rear boundaries of properties on Peniel Green Road.
24. Concerns regarding access to the garages to the south of the site and concerns this area may be used as a stop off for delivery vehicles, thereby blocking access to the garages.
25. Concerns the products sold at a drive through would not be healthy for school children.
26. Concerns regarding the disturbance of the Japanese knotweed on the site and that its eradication may result in environmental problems to wildlife and residents.
27. Concerns the development does not align well with the local public service board Well-being strategic plan or Well being of Future Generations (Wales) Act 2015.
28. Concerns the development may increase the instances of illegally/dangerously parked cars on Peniel Green Road and the surrounding roads.
29. Concerns the proposal is a motorway service station by stealth.
30. The drawings accompanying the application do not provide sufficient information. The plan fails to show the council & community, the road manoeuvres, the size of the road layouts and the distance between the junctions. Can delivery vans and trucks turn into either site? Lorries, trucks and cars will be unable to turn safely using the current road system.
31. Concerns a drive through will eradicate the heritage of the village. This area was once farmland.
32. Concerns the part of the site is not owned by the applicant and the correct notice has not been served on the land owner.
33. Concerns the bus stops may be moved from their current positions.

Summaries of Other Consultation Responses:

Highways Department

Introduction

The applicant is proposing the construction of 23 affordable homes; a mixture of 2 and 3 bed houses, and 1 and 2 bedroom flats, and also a drive through coffee shop on land at Heol Ddu Farm, Birchgrove.

The site is proposed to be accessed from the B4291 link road, which runs between junction 44 of M4 and Birchgrove Road. The existing highway is 8m wide, and lit with footways along either side, and is subject to a 30mph speed limit. There are bus stops on the link road, which are well served by a number of existing services.

The proposals are intended to be accessed by 2 separate priority junctions, the Western side (closest to the M4) for the coffee shop, and the Eastern side (closest to Birchgrove) for the residential use.

Asbri Planning have submitted a Transport Assessment to study the impact of the development on the surrounding highway network, together with a Stage 1 Road Safety Audit on the proposals, undertaken by The Safety Forum.

Transport Assessment

Trip Generation.

The likely trips associated with each use has been assessed using the TRICS database. This is a nationally accepted database, which provides an estimate of the number of generated person movements via all modes. A database of completed schemes, from which a sample can be generated matching the location characteristics and size of the development being assessed.

Coffee Shop

The TRICS database predicts 39 vehicle movements associated with the coffee shop in the AM peak hour and 30 during the PM peak. Generally trips associated with coffee shop or fast food uses are already present on the network during the peak hours, these are 'linked' or 'passby' trips where the trip will be linked with another, or a customer uses the drive through whilst passing the site.

The analysis has assumed that 20% of the trips are new, this is considered to provide a robust analysis.

Residential

The TRICS database predicts 102 total daily movements associated with the residential use, with a maximum of 10 vehicle trips during the AM peak hour and 10 in the PM peak. This is consistent with what would be expected of a development of this scale.

Analysis

Base flows were surveyed in June 2017, and these factored up using the National Trip end Model to provide 2019 (year of opening) flows and 2029 year of opening plus 10 years, background growth. The proposed development generated traffic is added, and the effect over the base flows assessed.

The worst case impact is around a 2% increase over the base plus background flows on Birchgrove Road South and Heol Tyllaun. It should be noted that average daily fluctuations on any road are approximately +/- 5%. As such the development traffic can be accommodated on the surrounding highway.

The additional traffic amounts to one car every 90 seconds during the peak hour, and will have no material impact.

Capacity analysis has also been undertaken at the 2 access junctions, this was undertaken using industry standard 'Picady' software, which is used to test priority junctions. The model data has been checked and is accurate. Results are presented in terms of RFC (ratio of flow to capacity) an RFC of 1 represents an approach at capacity, and Average Queue on each approach.

The worst case RFC at either access is 0.05 for the 2029 including development traffic scenario, with an average queue across the modelled hour on all legs of less than 1 vehicle. As such the proposed access junctions will operate well within capacity.

Road Safety Audit

A Road Safety Audit was prepared by The Safety Forum, and a Road Safety Audit response prepared by the Authority's Traffic section. This highlighted some concerns over visibility of the new accesses. A revised outline general arrangement drawing has been provided entitled 'Proposed S278 Highway Works (Draft)', this adds traffic islands on B4291 on the approach to each of the new accesses, and extended hatching. Together with the recommendation to crown lift the existing highway trees located on the radius from junction 44 to B4291, and amendments to the triangular island at the Birchgrove Road / Heol Tyllaun traffic signals, to reduce the radius for vehicles turning left from Birchgrove Road to the B4291.

The alterations above will provide improved access to the bus stops on B4291, and assistance in keeping vehicle speeds low, although speed surveys on the link road showed 85%ile speeds of 23-25mph.

Internal Layout

Residential

The residential element is accessed via a priority junction into a 5.5m carriageway with 2m footways each side, the main roads and turning heads could be considered for adoption. Shared / private drives are not suitable for adoption..

Street Lighting has not been detailed.

Car parking is provided broadly in accordance with the adopted parking standards, with a provision of 39 spaces, this is 10 less than the maximum standards. It is thought that due to the

type of tenure being offered car ownership rates will be lower, Statistical Bulletin SB100/2013 shows vehicle ownership levels for social rented households are significantly lower than those for market housing. This is considered to be acceptable and the proposed parking will cater for expected demand.

Coffee Shop

Cycle and car parking has been provided in accordance with the adopted standards, the drive through has been laid out to ensure customers enter all the way into the site before accessing, to remove risk of queuing onto the highway.

The Transport Assessment also details that a Travel Plan and Construction Management Plan will be implemented via a suitably worded condition.

There is no Highway objection to the scheme subject to:

1. The developer entering into a section 278 agreement for the construction of both site access junctions, and the detailed design and alterations to the B4291 detailed on plan 'Proposed S278 Highway Works (Draft)'
2. A system of Street Lighting for the residential area being designed and installed to adoptable standards.
3. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during demolition and construction; and
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
4. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the residential development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established].
5. All front boundaries to be kept below 1m in the interests of visibility.
6. The applicant be required to submit a Travel Plan for approval, and that the Travel Plan be implemented prior to the beneficial use of the building commencing.

Pollution Control Division

I have been through the air quality assessment supplied as part of the application and given the output of the modelling work carried out I have no grounds for objection relating to air quality.

Looking at the noise, as long as they utilise the construction methods set out within their noise impact assessment then that will be ok.

As for plant noise they have proposed noise limits for plant, but I'd like clarification of the background readings used; we could look to condition:

Prior to the beneficial use commencing the applicant shall submit confirmation, to the Local Planning Authority, to ensure that the plant noise rating level, LAr,Tr, including any character correction shall not exceed background sound pressure level (LA90) in the following time periods:

07:00 - 19:00

19:00 - 23:00

23:00 - 07:00

Also, given the historic use of the site as Heol Ddu Pit, I would condition land contamination.

Ecology Officer

Bats

No bat roosts were identified by the survey but there is some potential for roosts to occur within trees that will be impacted by the proposal. Therefore please ensure, as required by NRW, that:

The scheme be implemented in accordance with the recommendations laid down in Section 7 of the document titled 'Bat Roost Assessment, Trees and Building: Land at Heol Ddu, Birchgrove', dated December 2017, by Hawkeswood Ecology, secured through a planning condition.

Nesting Birds

It is likely that birds will nest in the habitats present on site despite the level of disturbance that the site has experienced. Please therefore include the following on any consent that the LPA may be minded to grant:

CONDITION: No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the local planning authority.

Reason: To ensure that nesting birds are not disturbed by development works and to enable the Local Authority to fulfil its obligation under Section 25 (1) of the Wildlife & Countryside Act (1981).

Reptiles

There is some limited potential for reptiles to be present on site. Therefore please include the following on any consent that the LPA may be minded to grant:

INFORMATIVE: Reptiles may be present. All British reptiles are protected under Schedule 5 of the Wildlife and Countryside Act 1981 as amended. It makes it an offence to intentionally kill or injure adder, slow worm and common lizard. If the reptiles listed above are encountered work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (0300 065 3000).

Non-native Invasive Species

The site contains Japanese knotweed and Himalayan Balsam. It is an offence under Section 14 (2) of the Wildlife and Countryside Act 1981 to 'plant or otherwise cause to grow in the wild' any plant which is listed in Schedule 9 Part II of the Act. Japanese knotweed and Himalayan balsam are listed in Schedule 9 Part II. Proper precautions must be taken to prevent the spread of these plants; failure to do so has the potential to result in prosecution. A scheme to prevent the spread of these species and to eradicate them from the site entirely, including the retained woodland area, must be secured through an appropriately worded planning condition.

Habitats and Sites

There are no designated sites within or close to the proposed development site.

The small area of woodland to be retained at the north eastern corner is to be retained and this is welcomed. However, I am concerned that the scheme leaves this small woodland patch isolated and disconnected. I would therefore advise that more tree planting be incorporated into the scheme as a whole but there is a particular opportunity for increased planting along the northern verge.

The scheme will result in an overall loss of habitat and the additional planting requested above will go some way to offsetting that loss. There is also an opportunity to improve the retained woodland with improved management. As well as the presence of non-native invasive species the woodland has been disturbed by fly tipping and den building activities and the ground flora is therefore limited. A management plan for the site must be produced and include how the remaining woodland shall be managed to improve the ground flora within it. This must be integrated with the scheme for eradication of the non-native invasive species on the site. This should be secured through the use of an appropriately worded condition.

Environment Officer

Recommends a condition in relation to the presence of Japanese knotweed on the site.

A detailed scheme for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented prior to the commencement of work on site.

Reason - In the interests of the ecology and amenity of the area

Tree Officer

None of the trees present on the proposed site are protected by TPO or by virtue of being in a Conservation Area. Under Section 197 of the Town and Country Planning Act 1990 it is the LPA's duty to ensure, whenever it is appropriate, that in granting planning permission for any

development adequate provision is made, by the imposition of conditions, for the preservation of trees that contribute to amenity.

The arboricultural impact assessment (AIA) shows the trees that will be removed to facilitate the development, there is no objection to these removals if suitable mitigation is offered. It is noted that 50% of individual category B trees will be removed (see below about T993); and half of G2, category B, will be removed. These removals are not too clear in the tree report. Their removal will require compensatory planting.

The AIA does not identify the impacts of shading, most notably plot 6 â the garden is significantly overhung by G2, these trees could be cut back to the boundary (as shown on the TPP). Although the overhang can be cut back the trees will still shade the garden significantly. Another conflict not identified is the proposed locations of a washing line in plot 12, this tree will require protection by TPO to prevent indiscriminate pruning.

The AIA does mention tree T993 and suggests that a suitable design of paving will be required to retain the tree, however, immediately east of the tree will require either extensive grading or infill. It is unlikely that T993 could be retained within this layout. Mitigation of its loss and that of T995 will be required.

The retention of most of the trees to the east of the site towards the traffic lights is welcomed. The conflict with plot 6 is not enough for an objection to be raised as the trees will remain as they are on neighbouring ground, however this juxtaposition is not ideal. In the event of approval please could you condition a tree protection plan and landscaping details.

Drainage and Coastal Management

We have no objection in principle to the proposed development however there are some missing details regarding the onsite watercourses which will require resolution at some point and may affect the final layout of the site and will be dealt with under the Land Drainage Act 1991 (as amended). However we consider that the surface water design can be conditioned as below to ensure the provision of an appropriately designed scheme.

Condition 1

The development shall not discharge to the watercourse network at any rate greater than 9.5l/s as stated in Section 4.5 of the Drainage Strategy Report C0959 dated 25/09/2017.

Reason

To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment and to minimise surface water run-off.

Condition 2

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

Reason.

To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment or the existing public sewerage system and to minimise surface water run-off.

Condition 3

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or amending that order), Classes A, B, C, D and E of Schedule 2, part 1 shall not apply.

Reason: To protect the integrity of the surface water management system from additional impermeable areas that it is not designed to accommodate.

Housing Department

I can confirm that Coastal have proposed a 100% affordable, grant funded scheme at the land at the Land at Heol Ddu Farm, therefore we support the 23 social rented units planned.

For the purpose of the Section 106 the Housing Service would expect to see 30% of the site conditioned to remain affordable in perpetuity.

Education Department

The catchment schools are Birchgrove Primary, Birchgrove Comprehensive, Ysgol Gymraeg Lon Las and Ysgol Gyfun Gymraeg Bryn Tawe. The proposal would generate a total of 3 primary school pupils (1 Welsh medium, 3 English medium) and 3 secondary school pupils (1 Welsh medium, 2 English medium).

Primary:

English-medium: the English medium catchment school currently has limited capacity (6.19%) and is forecasted to reduce further to 3.10% by September 2023; having less than 10% surplus capacity leaves the school with limited flexibility. With the added commitments stated above, this would put the school over capacity.

Welsh-medium: the Welsh medium primary school of YGG Lon Las has limited capacity (15.94%), and based on January 2017 figures is expected to be reducing to 7.78% by September 2023; leaving the school with limited flexibility.

Secondary:

English-medium: there is currently capacity at Birchgrove Comprehensive and the impact of this development and proposed developments does not pose any capacity risks for the school.

Welsh-medium: the Welsh medium secondary school (YG Bryn Tawe) based on January 2017 figures had 35.74% unfilled places, however by September 2023 is expected to be reduced capacity down to 22 (1.79%), leaving the school with no flexibility. In addition there are a large number of developments that have successfully obtained planning approval that will further exacerbate the situation; that and the impact of LDP will further increase the pressure for places at the school.

Requested Education Contribution

Providing the information above, the request for a Developer's Contribution from this proposed development is that Education request a Developer's Contribution for the English Medium Primary School of £31,116.00 plus indexation for Birchgrove Primary School to support improving the capacity.

No Developers Contribution is requested for the Welsh Medium Primary School or the English Medium and Welsh Medium Secondary/Post 16 provision due to the available capacity at those schools and or the low number and type of dwellings involved and how effective a small contribution would make.

Parks Service

No comments on the basis that this is for a low number of units, which includes 8 No. 1 bed units.

Natural Resources Wales

We recommend that you should only grant planning permission if you attach the following condition. This would address significant concerns that we have identified and we would not object providing that this condition was attached.

The scheme be implemented in accordance with the recommendations laid down in Section 7 of the document titled 'Bat Roost Assessment, Trees and Building: Land at Heol Ddu, Birchgrove', dated December 2017, by Hawkeswood Ecology, secured through a planning condition.

Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity, therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

We welcome the proposal to open a culverted watercourse and the consideration of a swale on site. In our statutory pre-application response, we encouraged the applicant to consider additional green infrastructure to manage surface water on site, which could also provide other benefits such as enhancing biodiversity. However, as the drainage system design is ultimately a matter for Local Authority Drainage Engineers, we advise that you should consult them with regards to the proposals and the final design.

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

As best practice, we would advise that the applicant/developer produces a site-specific Construction Environmental Management Plan (CEMP) / Pollution Prevention Plan (PPP), with particular reference given to the protection of the surrounding land & water environments.

We would also recommend that a Site Waste Management Plan (SWMP) is produced. Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money.

Coal Authority

In order to ensure that sufficient information is provided by the applicant to demonstrate to the LPA that the site is, or can be made, safe and stable for the development proposed you may wish to consider the imposition of planning conditions which cover the issues set out below.

Prior to the commencement of development:

- * The undertaking of the scheme of intrusive site investigations for shallow coal mine workings and recorded (unrecorded) mine entries, as outlined within the Desk Based Coal Mining Risk Assessment Report prepared by Terra Firma (Wales) Limited, dated August 2017 (Ref: 14346)
- * The submission of a report of findings arising from the above intrusive site investigations, and any remedial works and/or mitigation measures considered necessary; including the calculated exclusion zones and these to be annotated within the proposed layout plan
- * Implementation of the remedial works and/or mitigation measures.

In light of the above, the Coal Authority are satisfied that an adequate assessment of the risks to the proposed development have been carried out in accordance with the local emerging policy of the Swansea Local Development Plan 2010-2025: Deposit Plan (July 2016) RP 1: Safeguarding Public Health and Natural Resources, and Planning Policy Wales, paragraph 13.9). The Coal Authority has no objection to the proposed development, subject to the imposition of a planning condition or conditions to secure the above.

South Wales Police Designing Out Crime Officer

I am pleased with the proposed development layout. The parking is within curtilage and/or overlooked for both the dwelling properties and the coffee shop. Entry onto the estate must be restricted to the designated routes.

Note: Further specific observations provided in relation to the development obtaining the Secured by Design Award.

Dwr Cymru Welsh Water

In respect of the aforementioned planning application, we can confirm that Dwr Cymru Welsh Water have been previously informed of the proposed development and consulted, as a 'Specialist Consultee', in accordance with Schedule 1C Article 2D of the Town & Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.

We would advise that the content of our consultation response (Ref: PPA0002583) has been acknowledged within the accompanying Pre-Application Consultation (PAC) Report, prepared by Asbri Planning insofar as foul flows from the proposed development can be accommodated within the public sewerage system. Notwithstanding this, we remind that the proposed development site is crossed by a foul water public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs; however, having regard to the Proposed Site Plan (Drawing No. SP532 - P01 Rev A), it appears part of the proposed development, namely 'Drive - Thru', would be situated within the protection zone of the 305mm public sewer measured 3 metres either side of the centreline. It is possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act and we request that the developer contact us to discuss our concerns and consider possible solutions. In the first instance, it is recommended that the developer carry out a survey to ascertain the location of this sewer and establish its relationship to the proposed development.

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

Accordingly, if you are minded to grant Planning Consent for the above development, we would request that the Condition and Advisory Notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets:

Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made between manhole reference number SS70973501 and SS70973602 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. Thereafter no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

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

Glamorgan Gwent Archaeological Trust

A review of the First to Fourth Edition Historic Ordnance Survey maps (1879 to 1940) indicates Heol-ddu Drift Colliery in the proposed development area. Although modern aerial photography suggests that no above-ground remains survive, there is the possibility that below-ground structures persist and may be encountered during any ground intrusion works.

As a result, it is our recommendation that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource should be attached to any consent granted by your Members.

We recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014:

No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

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

Welsh Government Network Management

I refer to your consultation of 18/01/2018 regarding the above planning application. Following review of the Transport Assessment, the Welsh Government (Transport) considers that the proposal would not have a material impact upon the M4 or its slip roads and as highway authority for the M4, does not issue a direction in respect of this application.

Appraisal

This application is reported to Committee as the development exceeds the 20 dwelling threshold set out within the Council's constitution. The application was also requested to be reported to Committee by Councillor Ryland Doyle.

The development would be a mixed use scheme comprising an A3 use class drive through coffee shop (167sqm) and a residential element of 23 units comprising 8 No. 1 bed flats, 2 No. 2 bed flats, 6 No. 2 bed houses and 7 No. 3 bed houses. The residential element would provide social rented affordable units that would meet the definition of affordable housing defined within Technical Advice Note (TAN) 2: Planning and Affordable Housing.

The site is currently vacant and covered in scrub vegetation save for a parcel of woodland at the top (eastern) end of the site. Parts of the site have recently been cleared resulting in large areas of bare ground at its eastern end. The site has an irregular shape with frontages onto the M4 motorway junction 44, the B4291 and Birchgrove Road. The triangular shaped central portion of the site, which borders the rear boundaries of existing properties, is a relatively flat plateau whilst in the northern portion of the site the levels drop considerably in an east west direction to broadly follow the gradient of the B4291 down to motorway junction 44. The site is surrounded to the north and west by a highway verge which is covered in a mix of vegetation including trees, scrub and an area of Japanese knotweed in the north western corner. Heol Ddu Farm house once stood on the site but was demolished several years ago. The remains of the buildings and various hardstandings are still evident on the site.

In terms of the planning history of the site outline planning permission was granted at the site for residential development in 1998 (Planning Ref: 98/1144). This application was subsequently renewed in 2004 (Planning Ref: 2003/2400). A prior notification application for the demolition of the farm house was determined in 2010 (Planning Ref: 2010/1548).

Following officer concerns relating to the design and layout of the development, including the alignment of the watercourse, amended plans have been submitted to address officer concerns. The application has been considered on the basis of the information on the revised plans and documents.

Main Issues

The main issues are considered to be the principle of a new A3 commercial use in this location, the impacts of the development in terms of the character and appearance of the area, the living conditions of neighbouring residential occupiers, highway safety, health and ecology. Other important matters include the consideration of drainage, ecology, land stability and land contamination.

As this is a major development the application has been accompanied by a Pre-application Consultation (PAC) report. This report has been carried out in accordance with statutory requirements set out within the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended). The issues raised by statutory consultees and local residents have been addressed within the PAC report and are considered further within this report.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan is the City and County of Swansea Unitary Development Plan (UDP) which was adopted on 10th November 2008.

The application site is an allocated housing site under Policy HC1 (6), it was allocated on the basis that the site benefited from planning permission with an anticipated number of 10 units. The site is also allocated for housing in the deposit Local Development Plan for the same number of dwellings. It is noted, however, that there is now no extant planning permission on the site. On the basis that approximately one third of the site is proposed to be for a commercial use, rather than a residential use, consideration has been given as to whether the development should be considered as a departure to the extant development plan. In this respect, the purpose of the allocation is to support the provision of housing on identified sites. On the basis that the proposed development would include a residential element far in excess of the numbers identified under the current policies, it is not considered that the proposal would fundamentally conflict with the provisions of the extant development plan. In principle, therefore, the proposal would not conflict with UDP Policy HC1.

UDP policies EV1 and EV2 seek to ensure new development is appropriate, inter alia, to its local context and integrates into the existing settlement with no detrimental impact on local amenity. Developments must have regard to existing site features and existing adjacent developments and the possible impact of environmental pollution from those developments including light, air and noise pollution (see also EV40).

UDP Policies EV3, AS1, AS2, AS6 and AS10 require that new development provide satisfactory access, facilities for parking and traffic management. These policies are expanded upon and supported by the Supplementary Planning Guidance (SPG) document 'Places to Live: A Design Guide' adopted in 2014.

Policy HC17 allows the Local Planning Authority to enter into negotiations with developers to deliver planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), and these provisions should be fairly and reasonably related in scale and kind to the individual development.

Policy HC24 indicates that all new housing development will be required, where the level and nature of open space provision in the locality is inadequate to meet the needs of future occupiers of the development proposed together with the needs of the existing population in the locality, to make provision for areas of open space either within the site or at an appropriate location in relation to the development, or contribute towards the provision or improvement of existing off-site facilities in the locality through a commuted payment.

The current proposal needs to be considered in the context of the surrounding area. The natural environment of this site is further supported by Policy EV30 which particularly seeks to protect and improve trees, hedges and woodlands. This is pertinent as there are mature trees on the site. This policy is supported by the SPG 'The Protection of Trees on Development Sites'.

With regard to foul and surface water drainage, Policies EV33 and EV35, respectively, require developments to be served by the public mains sewer and to provide satisfactory means of surface water disposal. Moreover, as there is a partially culverted watercourse running through the site, Policy EV34 is relevant which states that proposals that may impact upon the water environment will only be permitted where it can be demonstrated that they would not pose a significant risk to the quality and or quantity of controlled waters.

The site is located within an area where there are former coal mine workings, in accordance with Policy EV39 development will not be permitted in such areas unless the Council is satisfied

that proposals to make the land capable of supporting the development are adequate. In this respect the Council is guided by the advice of the Coal Authority. The former industrial uses on or near the site may also result in localised land contamination. The development must therefore be considered against Policy EV38, whereby the Council must be satisfied that measure can be taken to address any potential land contamination issues.

Turning to the retail/leisure element of the scheme, the proposal is for a drive through coffee shop. Policy EC4 states that the acceptability of all retail development proposals will be assessed against the need for the development and sets out the tests for which applications will be assessed. As well as standard tests of establishing need and demonstrating sequential suitability of the site proposed, the policy requires the developer to demonstrate the unit is in a highly accessible location and that the proposed scheme is unlikely to have any material adverse impact upon the vitality or viability of established shopping centres. These policy criteria are broadly replicated under Policy HC18 which refers to the provision of new leisure facilities.

In terms of the need for the facility, it is evident from letters of objection that local residents dispute the need for such a facility in this location. In this respect little information has been provided to quantify the need for the facility. Its location on a motorway junction does indicate that it could provide a facility to those travelling on the motorway in search of a break and refreshment with the nearest similar facilities on the motorway being located off the Penlleger junction or the Llandarcy Junction. The facility could also be used by commuters from Birchgrove and the surrounding areas travelling to and from work. Moreover, whilst there is a small supermarket within Birchgrove there is no shopping centre and the pubs and existing takeaways are located at the northern end of the settlement. As such the site could also potentially serve as a leisure destination for the locality, as there is no similar facility within the immediate locality, with the nearest similar facility being located within the Swansea Enterprise Park some 2.5km from Birchgrove. There is, therefore, some evidence to suggest a qualitative need for the proposal and this is supported by the fact that there is commercial interest in developing the site by a national chain. On balance, whilst the need for the facility has not been robustly demonstrated, neither is there considered to be sufficient grounds to refuse the application for this reason.

Clearly the site is within an out of centre location; that is, it is not located within the city centre, district centre or local centre. The nearest established shopping centre to the site would be Trallwn Road some 1km from the site (as the crow flies) with Morriston the nearest district centre some 3km from the site (as the crow flies). It is accepted that the very nature of the facility would not lend itself to a city centre location, given the land take required, moreover there is an existing 'Costa coffee' (who are the potential occupiers) drive through facility within Parc Tawe and a Starbucks drive thru along Fabian Way. The majority of Morriston district centre is densely built up and located within a conservation area. There are no sites available either within the centre or the edge of centre that could accommodate the proposed use. The same can be said of Trallwn local centre where there are no available sites. It is therefore considered that there are no more sequentially preferable sites that could accommodate the proposed drive through

In terms of the impact of the development upon established shopping centres, in view of the relatively small floor space of the proposed building and that it is likely to serve travelling customers as well as those within the immediate locality, it is not considered that the proposal either singularly or cumulatively, would undermine the vitality and viability of established shopping centres.

The design, access and highway safety aspects of the proposal, which are also covered within the criteria of Policy EC4 and HC18, will be considered below against the specific UDP policies relevant to these matters. In principle, however, in terms need and the sequential test, it is considered that the proposal would not conflict with the requirements of Policies EC4 and HC18, which seek to ensure that proposals would undermine the established retail and leisure hierarchy within the city.

Visual Amenity

Turning firstly to the commercial element, this would be located in the far western end of the site closest to the roundabout junction and would comprise the provision of a new single storey building. Like other similar buildings recently erected in the city, the design would be modern with large areas of glazing and feature timber panelling. The building would measure approximately of 17.5m in width, 14m in depth and would achieve a height of 5.9m above the proposed ground level to the top of the signage board. The street scene elevation submitted within the proposals show that the slab of the building would be elevated above existing ground levels where there is currently a dip in the site where standing water currently collects. The access route snakes around the proposed parking areas past the proposed entrance to the building and around to the drive through area back to the shared access and egress road. There is an existing highway verge on the northern and western side of the drive thru building which will be retained, save for where the new access is being created. Much of the existing tree and scrub vegetation on the motorway junction elevation will be removed to facilitate the watercourse diversion within the highway verge. There is, however, land within the commercial area which is indicated to be landscaped including the planting of trees and the retention of one large sycamore.

Concerns have been raised by local residents regarding the appropriateness of a commercial building on the site, given surrounding residential context. These concerns are noted, however, the nearest existing residential properties to the commercial building are the properties on Dan Y Coed Road to the north. These properties do not form part of the immediate street scene, being separated from the B4291 by a high brick wall and an established line of trees. The residential properties to the south fronting onto Peniel Green Road would be visually separated from the site by lock up garages and landscaping. These properties clearly front onto Peniel Green Road whereas the proposed building will front onto the B4291 and the roundabout junction. It is noted there are residential properties that front onto the roundabout junction, however, these are located some 85m away on the opposite side of the motorway. It is therefore considered given the distances and spatial relationships to surrounding residential properties, and the overall character of the motorway junction and the B4291, which are not inherently residential in character, that the proposed development would not conflict with the prevailing mixed context, which is that of a motorway junction and a B-road with no residential properties fronting onto it.

In relation to the proposed residential properties, there will be a clear distinction, in visual terms, between the residential element of the development and the commercial element, which will be separated by a suitable means of enclosure and landscaping which will serve to define, screen and separate the respective uses. Overall, therefore it is not considered, in visual terms, that the proposed A3 use would have a significant detrimental impact upon the character or appearance of the area.

In terms of the proposed residential element, the scheme would provide 23 units arranged in terraces of three, semi-detached pairs, a single detached dwelling and two blocks of flats. All buildings would be two storey in scale. Following pre-application discussions, the development has incorporated frontage development onto the B4291. This will provide natural surveillance along this route and the provision of a 3m wide pedestrian/cycle link in front of the dwellings will encourage sustainable travel choices within and around the site. The parcel of land in the far eastern corner of the site will be retained as a woodland area.

The street structure comprises a dog leg shaped access road terminating at a turning area with access drives off the hammerheads serving two courtyard style developments. The provision of frontage development onto the B4291 has resulted in some prominent rear boundaries within the street scene, however, these are indicated to be 1.8m walls which, subject to the submission of further details, should provide robust boundaries to the street and are indicated to be softened by landscaping. Prominent corners within the site have been treated with housing units with dual aspects frontages which provide natural surveillance and visual interest throughout the development. Parking areas have, where possible, been located to the sides of dwellings and frontage parking would be broken up with landscaping. Where courtyard parking areas are provided these are well overlooked by the blocks of flats.

Two blocks of flats are proposed within the development within the southern portion of the site. Block 1 is a long elongated block with its entrance adjacent to the side gable of plot 13, whereas block 2 is a larger T-shaped block with a two storey projection from the main rear elevation and an amenity area to the rear. The access drive for the flats is located adjacent to the rear boundaries of properties on Peniel Green Road. The blocks are arranged around a central parking court which is well overlooked by habitable windows within the blocks.

Concerns have been raised that the design of the development is not in keeping with the character and appearance of the area, these concerns in relation to the commercial element have been discussed above. In relation to the residential element, there is currently no residential street scene to speak of along the B4291, other than glimpses of the rear elevations of properties on Dan Y Coed and their rear boundaries. The proposals will retain the woodland area in the north eastern corner of the site and a green frontage onto the B4291 will be maintained through the retention of the modified highway verge. The site has been vacant for a number of years, it is overgrown and currently adds very little to the character or appearance of the area. In contrast, the proposal will create a residential street scene, which, it is considered, will improve the appearance of the area. The house types follow a simple modern design characterised by duo pitched roofs and vertical window. The house types and blocks incorporate feature canopies and provide balanced elevations to the street scene. In view of the mix of scales, designs and materials displayed in the residential properties in the streets around the development site, and in the absence of any established street scene on the B4291, it is considered the layout and design approach to the development is satisfactory. Moreover, the development would not appear overly cramped, as has been suggested in letters of objection. The Council's urban design officer has made a number of suggestions to refine and improve the proposals and, where possible, these have been incorporated into the design. The South Wales Police Designing Out Crime Officer has reviewed the proposals and, whilst making specific comments in relation to achieving the secure by design standard, has offered no objection to the proposals. The final choice of materials for the development and the type of boundary treatments will be secured by conditions.

In relation to the loss of trees at the site none of the trees present on the proposed site are protected by TPOs. The submitted arboricultural impact assessment shows the trees that will

be removed to facilitate the development. The Council's tree officer has offered no objection to these removals if suitable mitigation is offered. It is noted that 50% of individual category B trees will be removed and half of G2, category B, will be removed. Their removal will require compensatory planting and those proposed to be retained will require specialist tree protection measure. These matters can be dealt with by a planning condition.

Overall, therefore, it is considered that the design of the development would be acceptable and would be appropriate to the surrounding context. The development would therefore accord with UDP Policies EV1, EV2, EV30, HC2 and the supplementary planning guidance 'Places to Live: A Design Guide'.

Residential Amenity

The introduction of an A3 drive through operating between 5:00am and 11:00pm as proposed clearly has the potential to result in noise disturbance to neighbouring properties from vehicle movements, plant/equipment and comings and goings. In order to assess the impacts upon both existing and proposed residential properties a Noise Impact Assessment has been submitted by the applicant. This assessment takes into account the existing noise environment which is dominated by road traffic from the M4 and the B4291.

The assessment compares the predicted internal noise levels at the noise sensitive existing and proposed residential dwellings against the British Standard (BS 8233:2014) criteria for internal noise levels. The assessment demonstrates that the predicted internal noise levels from the drive through would be 'easily' within the British Standard criteria at proposed and existing residential properties with windows partially open for ventilation. On this basis the assessment states that the noise impact from the development would be low and acceptable against the British Standard. In the absence of any information to the contrary, and following the comments from the Council's Pollution Control officer who has offered no objection to the application, it is not considered the proposed drive through would result in any significant adverse noise impacts upon existing or proposed residential properties.

Concerns have also been raised in letters of objection regarding anti-social behaviour arising from the development and the potential disturbance this could have upon neighbouring residential properties. In response to this concern, the behaviour of the patrons of such premises is clearly beyond planning controls. Any anti-social behaviour, including littering, would more appropriately be dealt with by good management of the premises and through appropriate law enforcement, where necessary. There is insufficient justification, therefore, to refuse planning permission for this reason.

In terms of the overall noise environment for the future occupiers of the development, following monitoring, the noise assessment indicates that the site is within Noise Exposure Categories (NECs) B and C of Technical Advice Note (TAN) 11: Noise. NEC B states that 'noise should be taken into account when determining planning applications and where appropriate, conditions imposed to ensure an adequate level of protection. NEC C states that 'planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise'.

Reference to the noise assessment shows that only plots 1, 7, 8 and 9 fall within NEC C, whereas the remainder of the plots are within NEC B. It will be necessary to provide noise mitigation measures on all parts of the site that fall into NEC C and NEC B. For the plots within

NEC B this will comprise of conventional wall and roof construction with specific double glazing, window construction and vents. Those plots within NEC C will, however, require specific mechanical ventilation. Whilst this scenario is not ideal for the living conditions of the future occupiers, this scenario has come about by the requirement to have a meaningful street frontage with active overlooking and habitable windows facing onto the B4291, which is necessary in street scene terms. As this arrangement will affect only four properties within the development and when weighing up the positive benefits of having an active street frontage onto the B4291, this relationship is considered to be acceptable.

Overall therefore, having regard to existing noise levels and the potential noise and disturbance arising from the proposed drive through, on balance, the development is considered to be acceptable and, in this respect, would accord with UDP Policies EV1, EV2 and EV40.

In terms of the physical impacts of the development on the living conditions of the existing occupiers, the drive thru would be single storey only and whilst it may be visible from neighbouring properties to the north on Dan Y Coed, which are sited at a higher land level, the drive thru building would not be so close to these properties as to result in any physical overbearing, overshadowing or overlooking impacts.

The proposed dwelling on plot 6 would be sited some 4m from the rear corner boundary of No. 357 Peniel Green Road. The proposed dwelling would be orientated away from the rear garden and would not therefore result in any significant overlooking of this property. Moreover, as the rear garden is over 40m in length, there would be no significant overbearing or overshadowing impacts upon the occupiers of No. 357.

The south west elevation of block 1, which contains bedroom windows, would be sited some 10.5 m from the rear boundaries of properties on Peniel Green Road. This separation distance, together with a back to back separation distance of some 60m between existing and proposed building faces, would ensure that there would be no significant overbearing, overshadowing or overlooking impacts upon the occupiers of existing properties on Peniel Green Road from block 1.

The windowless side gable of block 2 would be sited approximately 1.5m from the rear boundary of No. 377 and 379 with the gable being sited mainly to the rear of No. 379. The existing dwellings on Peniel Green Road are sited at a lower land level than the application site, moreover, the proposed plans and sections indicate the side gable of this block would be built up above a 1m retaining wall resulting in the overall ridge height of the building being some 9.5m above the existing levels at the rear boundary of No. 379. The levels of the gardens on Peniel Green Road rise up towards the application site and it is estimated that the levels at the rear boundary are some 2.5 - 3m above the ground floor level of the existing dwellings. The 'Residential Design Guide' SPG states that a 15m minimum distance should be achieved between existing windowed elevations and opposing proposed windowless walls, however, where there is a change in levels this separation distance should be increased by 2m for every 1m increase in land levels. It is estimated that the ground floor level of block 2 would be approximately 4m above the ground floor level of No. 379. Based on this estimate a back to side separation distance of some 23 metres would be required in order to comply with the SPG. In this case a separation distance of some 27m would be maintained, which is considered to be acceptable and would ensure there would be no significant overbearing impacts upon the occupiers of No. 379 Peniel Green Road or the existing dwellings either side of this property (No. 377 and No. 381). Block 2 is located to the north east of the gardens of the dwellings on Peniel Green Road as such there would be no significant overshadowing impacts to the

occupiers of existing properties. There are bathroom windows in the south west facing elevation of the rear projection of block 2, it is therefore recommended that these windows are conditioned to be fixed with obscure glazing to prevent any significant overlooking of properties on Peniel Green Road.

On its eastern side the corner of block 2 would be sited some 2m from the rear boundary of No. 71 Birchgrove Road. Block 2 would be set down below the adjacent garden levels of neighbouring properties and a retaining wall of between 0.5 and 2m is indicated along the rear boundaries of the properties on Birchgrove Road. At its closest the eastern corner of block 2 would be sited some 26.5m from the rear extension of No. 71 and approximately 28m from the rear of No. 73. This separation distance is considered to be sufficient to ensure there would be no significant overbearing impacts upon the occupiers of adjacent properties on Birchgrove Road. Whilst there will be some overshadowing of these gardens, this would not be significant, and would only impact on the rear portion of the gardens in the afternoon and evenings. In terms of potential overlooking impacts, there are habitable windows, including a French door with a flush fitting balustrade, in the rear elevations of Block 2 which will afford some views towards the rear boundaries and gardens of No. 69 and 71, however, the limited angle of view and separation distance to the rear boundary taking a direct line of sight from the proposed window is considered to provide sufficient mitigation to ensure that there would be no significant loss of privacy to the occupiers of these properties. Moreover the semi-mature trees along the rear boundary will provide some screening between the site and the proposed development and these trees are indicated to be retained within the tree survey.

In terms of the living conditions of the future occupiers of the development the dwellings are designed to provide satisfactory levels of outlook and ventilation to habitable rooms. The private garden areas for the dwellings broadly accord with the design guide SPG which states that private amenity space serving new dwellings should be no smaller than the footprint of the dwellings they serve. There will be overshadowing of plot 6 from a group of trees on/near to the southern boundary of this plot, the cutting back of the trees to the site boundary, as indicated on the tree survey, will improve this relationship and the impacts would be mitigated by the design of the dwelling which has large areas of glazing in the rear elevation. This impact, it is considered, would not be so significant as to refuse planning permission for this reason alone.

Overall, therefore, it is considered the proposed development would not result in any significant impacts upon the living conditions of neighbouring occupiers. The development would therefore accord with UDP Policies EV1, EV2 and the Residential Design Guide SPG.

Air Quality

The application has been accompanied by an air quality assessment to assess the impacts of traffic emissions from the drive through restaurant and local roads on air quality in relation to the future residents and existing residents. The assessment has been made using data held by the local planning authority and information gathered by the Department of Environment Food and Rural Affairs (DEFRA). The assessment has used road traffic data produced by the applicant's transport consultants.

There is no official guidance in the UK in relation to the assessment of traffic/air quality impacts of developments. The approach developed jointly by Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) (Moorcroft and Barrowcliffe et al, 2017) has therefore been used. The overall assessment of significance, however, is determined using professional judgement.

Concentrations of nitrogen dioxide, PM10 and PM2.5 have been predicted at a number of locations within the proposed development. Receptor were chosen to represent worst case exposure within these locations, being located on the facades of the proposed dwellings closest to the access road to the drive through restaurant. Concentrations were also modelled at the diffusion tube monitoring site located on Peniel Green Road, on the opposite side of the roundabout junction, in order to verify the model outputs. The report acknowledges that concentrations at the monitoring location are likely to be lower than at the application site, due to the proximity of the roundabout and M4 motorway.

The Government has established a set of air quality standards and objectives to protect human health. The 'standards' are set as concentrations below which effects are unlikely even in sensitive population groups, or below which risks to public health would be exceedingly small. They are based purely upon the scientific and medical evidence of the effects of an individual pollutant. The 'objectives' set out the extent to which the Government expects the standards to be achieved by a certain date. They take account of economic efficiency, practicability, technical feasibility and timescale. The objectives for use by local authorities are prescribed within the Air Quality (Wales) Regulations 2000 (2000) and the Air Quality (Wales) (Amendment) Regulations 2002 (2002).

The site is not within an Air Quality Management Area (AQMA). In terms of estimated background concentrations at the site, using DEFRA's 2017 background maps, the concentrations of Nitrogen Dioxide, PM10 and PM2.5 are described in the report as being 'well below the objectives'.

The expected traffic generation for the proposed development, as indicated within the applicant's transport assessment, is below the methodology screening criteria as such no detailed assessment of road traffic impacts have been undertaken at existing receptors.

In terms of impacts on the future residents from the drive through and existing sources, all values for nitrogen dioxide and particulates at the receptor sites are below the objectives, therefore air quality for future residents would be acceptable and the operational air quality effects without mitigation are judged within the air quality assessment to be 'not significant'.

The Council's Pollution Control officer has assessed the findings of the report and does not object to the proposal on air quality grounds. On this basis it is considered that the proposed development would not result in any significant air quality impacts upon existing or future residents. The proposal would not, therefore, conflict with UDP Policies EV2 or EV40.

Access and Highway Safety

The site is proposed to be accessed from the B4291 link road, which runs between junction 44 of the M4 and Birchgrove Road. The existing highway is 8m wide, it is lit with footways along either side, and is subject to a 30mph speed limit. There are bus stops on the link road, which are well served by a number of existing services.

The existing access to the site is to be removed and replaced with two separate priority junctions, the Western side (closest to the M4) for the coffee shop, and the Eastern side (closest to Birchgrove) for the residential use.

The application has been supported by Transport Assessment prepared to study the impact of the development on the surrounding highway network, together with a Stage 1 Road Safety Audit (RSA).

In terms of trip generation the assessment has been undertaken using the TRICS database. This is a nationally accepted database, which provides an estimate of the number of generated person movements via all modes.

The coffee shop element is predicted to generate 39 vehicle movements in the AM peak hour and 30 during the PM peak. Generally trips associated with coffee shop or fast food uses are already present on the network during the peak hours, these are considered 'linked' or 'passby' trips where the trip will be linked with another, or a customer uses the drive through whilst passing the site. The analysis has assumed that 20% of the trips are new, and the highways officer considers this provides a robust analysis.

The TRICS database predicts 102 total daily movements associated with the residential use, with a maximum of 10 vehicle trips during the AM peak hour and 10 in the PM peak. The highways officer considers this is consistent with what would be expected of a development of this scale.

Base flows were surveyed in June 2017, and these were factored up using the National Trip end Model to provide 2019 (year of opening) flows and 2029 year of opening plus 10 years, background growth. The proposed development generated traffic is added, and the effect over the base flows assessed.

The predicted worst case impact is an approximate 2% increase over the base plus background flows on Birchgrove Road South and Heol Tyllaun. It should be noted that average daily fluctuations on any road are approximately +/- 5%. As such the highways officer considers the development traffic can be accommodated on the surrounding highway with the additional traffic amounting to one car every 90 seconds during the peak hour. This, it is considered, will have no material impact on the operation of the surrounding road network.

Capacity analysis has also been undertaken at the two access junctions, this was undertaken using industry standard 'Picady' software, which is used to test priority junctions. The model data has been checked and is accurate. Results are presented in terms of RFC (ratio of flow to capacity) an RFC of 1 represents an approach at capacity, and Average Queue on each approach.

The worst case RFC at either access is 0.05 for the 2029 including development traffic scenario, with an average queue across the modelled hour on all legs of less than 1 vehicle. As such, the proposed access junctions will operate well within capacity.

A RSA has been prepared to support the application and this has been assessed by the Council's Traffic section. This highlighted some concerns over visibility of the new accesses. A revised outline general arrangement drawing has been provided entitled 'Proposed S278 Highway Works (Draft)', this adds traffic islands on B4291 on the approach to each of the new accesses, and extended hatching. Together with the recommendation to crown lift the existing highway trees located on the radius from junction 44 to B4291, and amendments to the triangular island at the Birchgrove Road / Heol Tyllaun traffic signals, to reduce the radius for vehicles turning left from Birchgrove Road to the B4291.

With these works undertaken, the Highways officer considers there will be improved access to the bus stops on B4291, moreover the works will assist in keeping vehicle speeds low, although speed surveys on the link road showed 85%ile speeds of 23-25mph.

In terms of the road layouts within the site the residential element is accessed via a priority junction into a 5.5m carriageway with 2m footways each side, the highway officer has advised the main roads and turning heads could be considered for adoption. Shared / private drives are not suitable for adoption. Street Lighting has not been detailed. Car parking for the residential element is provided broadly in accordance with the adopted parking standards, with a provision of 39 spaces, this is 10 less than the maximum standards. It is thought that due to the type of tenure being offered car ownership rates will be lower, Statistical Bulletin SB100/2013 shows vehicle ownership levels for social rented households are significantly lower than those for market housing. The Highways officer considers the provision to be acceptable and the proposed parking will cater for expected demand. These are not large dwellings and the site is served by frequent bus services as such maximum parking standards are not considered to be necessary in this instance.

In terms of the coffee shop, cycle and car parking has been provided in accordance with the adopted standards, the drive through has been laid out to ensure customers enter all the way into the site before accessing. This is considered to remove risk of traffic queuing onto the highway. On this basis the highways officer is satisfied with the proposed layout for the coffee shop.

In view of the foregoing, the Highways officer has offered no objection to the planning application subject to a condition to secure the highway improvement works. Other conditions are recommended to provide details of street lighting, to provide a construction method statement, and to provide details of the management and maintenance of the road. Conditions are also recommended in relation to maintaining low front boundaries and for a travel plan to be submitted and implemented.

The above requirements are considered to be reasonable and necessary in the interests of highway safety in and around the site and to promote more sustainable modes of transportation. These matters can be dealt with by conditions with the exception of the construction method statement, which can be included as an informative note.

Overall, therefore, having regard to the comments from the Highways officer, it is considered that the proposal would not have a significant detrimental impact on highway safety and would therefore be in accordance with UDP Policies EV3, AS1, AS2, AS6 and AS10.

Drainage

The applicants have submitted a drainage strategy. In terms of surface water drainage the existing partially culverted watercourse is proposed to be diverted through the site via a new culvert and as an open watercourse along the northern and western boundaries within the highway verge. Surface water would be discharged to the watercourse via attenuation systems to limit the discharge rate to 9.5 litres per second. The Council's drainage officer has no objection in principle to the proposals subject to the discharge rate being secured by a condition and the provision of a detailed drainage design for the development. This additional information can be secured by a condition. It is also noted that the drainage officer has requested the removal of certain permitted development rights to ensure the integrity of the surface water management system is not compromised. Whilst in principle this condition is appropriate, it is not considered necessary to remove permitted development rights for roof alterations (Classes

B and C) as this will not result in an increase in the impermeable area. However, it is also considered expedient to remove permitted development rights for Class F (hardstandings) and this should be added to the recommended condition.

Foul water is proposed to be discharged to an existing on site public sewer. Dwr Cymru Welsh Water (DCWW) has confirmed foul flows from the proposed development can be accommodated within the public sewerage system and have recommended a condition specifying the discharge point. DCWW has noted the site is crossed by a public sewer and that part of the proposed drive-thru would be within the protection zone of the sewer. An informative note is therefore recommended to advise the applicant of this potential constraint.

Subject to conditions, therefore, it is considered the proposal would accord with UDP Policies EV33 and EV35.

Land Instability

The application site is partially located within a development high risk area for former coal mine workings. The application has been accompanied by a Desk Based Coal Mining Risk Assessment Report. The Report author acknowledges that the area is known to have been heavily mined and considers that the risk to surface stability at the site from shallow unrecorded workings is low to medium.

Recommendations have therefore been made that intrusive site investigation works in the form of rotary probeholes should be carried out to quantify the risk posed from past shallow mine workings in the 'Swansea Two Foot' seam. The report also identifies the presence of the recorded mine shaft and recommends investigation works will also need to include searching for this mining feature.

In view of the requirement to undertake further investigative work and, if necessary, undertake remedial and/or mitigation measures, the Coal Authority are satisfied that, subject to the imposition of a condition requiring the above measures to be implemented, an adequate assessment of the risks posed by to the development has been undertaken and has offered no objection.

Subject to a condition, therefore, the development has had regard to potentially unstable land at the site and the development is therefore considered to be in accordance with UDP Policy EV39.

Land Contamination

In view of the past mining activities on or near to the site there is a potential for land contamination. In order to address the residual risks posed by potential contamination to human health and the environment, the Council's pollution control officer has recommended a condition requiring the submission of progressively more detailed reports to assess and, where necessary, mitigate, the risks posed by potential contamination at the site. Subject to a condition to address this matter, therefore, it is considered that the development would not conflict with UDP Policy EV38.

Ecology

The application site is not a nationally designated or locally designated nature conservation site. A preliminary ecological assessment has been submitted with the application and the Council's

planning ecologist considers that sufficient information has been provided to assess the ecological impact of the development.

No bat roosts were identified at the site, however, there is some potential for roosts to occur within trees that will be effected by the development. Mitigation measures have been recommended within the report and subjection to a condition for these mitigation measures to be implemented, which is considered to be reasonable given the findings of the ecological assessment, the development would not have an adverse impact upon potential bats using the site.

The planning ecologist has also recommended a condition in relation to nesting birds and the timings of clearance works. This matter can be dealt with by way of an informative note. Similarly, given the limited potential for reptiles to be present, an informative note is recommended to alert the developer to this potential constraint.

There is a small parcel of woodland which is proposed to be retained. The Council's planning ecologist is supportive of this element but has raised concerns indicating that this area would be isolated and disconnected from other features of ecological interest. This could be addressed by a suitable landscaping scheme which could go some way to offset the loss of ecological features within the site. It is also considered necessary for a condition relating to the management of the woodland and for a scheme to eradicate the Japanese knotweed at the site. Subject to the above conditions and informatives, it is not considered that the proposed development would result in any significant impacts upon the ecology of the area. The development would therefore be in accordance with UDP EV2, which requires developments to assess species and habitats within the site and implement mitigation measures, where necessary.

Section 106 Planning Obligations

HC17 allows the Local Planning Authority to enter into negotiations with developers to deliver planning obligations, which can enhance the quality of the development and enable proposals to go ahead which might otherwise be refused. Any proposed obligation must be: necessary, relevant to planning, directly related to the development, fair and reasonable in scale and kind to the proposed development and reasonable in all other respects.

In terms of open space/play provision, of the 23 units proposed, 8 units would be one bed flats, only 15 units would therefore potentially be occupied by families with children. In view of this relatively low number, there is considered to be insufficient justification to request a financial contribution for upgrades to local play facilities, the nearest being at Parc yr Helig. The Parks Department has not requested a financial contribution in this instance.

The Education Department have requested a financial contribution of £31,116.00 plus indexation for Birchgrove Primary School to support improving the capacity of this school. According to the Council's adopted 'Planning Obligations' supplementary planning guidance the proposed development would generate an estimated number of 3 English medium pupils. Reference to the Council's capacity figures for this school shows that the current surplus capacity would reduce to 13 pupils in 2023, even when taking this into consideration, the development would not result in Birchgrove Primary School exceeding its estimated future capacity. For this reason it is not considered that a contribution request for this school is justified.

The Council's Housing officer has confirmed that 100% affordable grant funded scheme has been proposed and have requested that 30% be conditioned to remain affordable in perpetuity. UDP Policy H3 explains that the Council will seek to negotiate an appropriate element of affordable housing and this will focus on new housing developments of 25 or more dwellings or sites of 1ha or more. In this case the development would be under the unit threshold and the residential element would be below the 1ha threshold, as such there it is not necessary for the applicant to enter into a S106 to secure a minimum percentage of affordable housing on the site. It should be noted that an element of control for the affordable housing would be available through the grant funding.

Other Matters

The concerns raised by third parties are summarised above and have been addressed within the above appraisal. This includes reference to the impact of the development on the character and appearance of the area, the impact on the residential amenities of existing occupiers, noise, air quality, drainage, the appropriateness/need for a coffee shop, parking and highway safety issues.

Concerns have been raised in letters of objection regarding the potential impact of the development on property values in the area. This is not considered to be a material planning matter and is accordingly afforded little weight in the consideration of this application

Concerns have been raised that affordable housing would not be appropriate within this area. National planning guidance emphasise the importance of sustainable mixed communities and the provision of affordable housing on this site is considered to be entirely appropriate and would be in keeping with the community of Birchgrove. This concerns is accordingly afforded little weight.

Concerns have been raised that the development may impede Welsh Government plans to improve junction 44. Welsh Government network management has raised no objection to the application and consider that the proposal would not have a material impact upon the M4 or its slip roads.

Concerns have been raised that future developments in Birchgrove have not been factored into the traffic analysis within the submission. This application has been considered on the current and predicted traffic movements at the site and the development has been found to be acceptable in this respect. Clearly any new developments in and around Birchgrove which require planning permission will need to demonstrate, where necessary, that they would not have a significant impact upon highway safety in the area.

Concerns have been raised that the proposal will cut off residents of upper Peniel Green Road from the village of Birchgrove. Little weight is given to this concern on the grounds that the M4 junction is already a significant physical barrier between the communities either side of the motorway on Peniel Green Road. The proposal, it is considered, would not materially change this existing situation.

Concerns have been raised that infrastructure and services within Birchgrove are already overstretched and this development would make matters worse. In response to this concern it was not considered necessary or justified in this instance to require a financial contribution for improvements to existing parks or local education provision. Highway improvements are proposed to mitigate the impact of the development as discussed above.

Concerns have been raised regarding the security of the boundaries at the site. In order to ensure the development is suitably enclosed a condition is recommended to address this matter.

Concerns have been raised relating to the access to the existing garages in the southern portion of the site. In response to these concerns reference to the proposed drawings show no alterations to the access to these garages off Peniel Green Road. This area is highly unlikely to be used as a stop off for delivery vehicles in association with the development, as suggested in a letter of objection, as adequate access is provided within the site itself. This concern is accordingly afforded little weight.

Concerns have been raised that the products sold at a drive through would not be healthy for school children. Whilst this may or may not be the case, in view of the distance from the site to local schools (the nearest being Birchgrove Primary some 750m away) it is not considered that the site would be frequented by large numbers of school children. In any event such premises often provide a range of more healthy food and drink options. This concern is therefore afforded little weight.

Concerns have been raised that the development may increase the instances of illegally/dangerously parked cars on Peniel Green Road and the surrounding roads. As there is adequate parking provision being provided within the development, this concern is afforded little weight.

Concerns have been raised that the proposal is a motorway service station by stealth. In response to this concern, the proposal is for a drive through coffee shop and a residential development. A motorway service station would constitute an entirely different form of development and would fall within a different use class. Whilst the coffee shop may attract motorway traffic this would not be significant.

Concerns have been raised that the submission drawings do not provide sufficient information to consider the proposals. In response to this concern the submission drawings have been supplied to a recognised scale and the highways officer is satisfied that the drawings and supporting documents provide sufficient information to confirm that the internal road layout and highways layout are satisfactory. This concern is therefore afforded little weight.

Concerns have been raised that the applicant does not own the entire application site and that part of the site is owned by a neighbour. Reference to the application forms shows that certificate B has been signed and the applicant's agent has confirmed that the correct notice has been served on the land owners.

Concerns have been raised that the bus stops on the B4291 may be moved to facilitate the development. This is not a planning matter and is therefore afforded little weight in the determination of this planning application. However, it is considered unlikely that the bus stops would need to be moved to accommodate the proposals on the basis that the highway safety risk of retaining them in their current position would be low.

Finally concerns have been raised that the proposals would eradicate the heritage of the village. As explained above, it is not considered that the proposal would have a significant impact upon the character and appearance of the area. The land has been allocated for housing for some 10

years as such the principle of development on this site is well established. For these reasons this concern is afforded little weight.

Conclusion

The proposal would develop a long standing housing allocation on a brown field site for affordable housing and, if developed, would more than double the number of residential units on the site specified within the housing allocation, whilst also providing a leisure/retail use that may be used by the community and commuters/visitors to the area. The development is considered to provide an appropriate design response in an area of mixed character that would have an acceptable impact on the character and appearance of the area. Moreover, the development would not result in any significant residential amenity impacts to neighbouring properties and is considered to be acceptable in parking and highway safety terms. Matters relating to noise, air quality, ecology, land stability, land contamination and drainage have been given full consideration and, subject to conditions the development is considered to be acceptable in all respects. Consideration 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 section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation due regard has been given to the ways of working set out at section 5 of the WBFG Act and it is considered that this recommendation is consistent with the sustainable development principle as required by section 8 of the WBFG Act. For the above reasons, the proposal is considered to be in accordance with UDP policies and SPG and is accordingly recommended for approval.

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: SP532 - P02 (Proposed House Type A Plans), SP532 - P03 (Proposed House Type A Elevations), SP532 - P04 (Proposed House Type B Plans), SP532 - P05 (Proposed House Type B Elevations), SP532 - P06 (Proposed House Type C Plans), SP532 - P07 (Proposed House Type C Elevations), SP532 - P13 (Proposed Drive-Thru Unit Plans + Elevations), received 15th December 2017. SP532 - P12 (Proposed Street Elevations), received 26th January 2018. SP532 - P09 A (Proposed Flats (Block 1) Elevations), received 8th March. SP532 - P08 REV A (Proposed Flats Block 1 Plans), SP532 - P15 (Proposed Site Sections), SP532 - P10 A (Proposed Flats (Block 2) Elevations), SP532 - P11 A (Proposed Flats (Block 2) Elevations) received 14th March 2018. Figure 7 (Proposed S278 Highway Works (Draft)), received 11th April 2018. SP532 - P100 B (Site Location Plan), SP532 - P00 B (Existing Site Plan), SP532 - P01 E (Propose Site Plan), C-SK02 G (Access Road Long Section), received 16th April 2018
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the commencement of development, the following must have taken place to address the risk posed to the development from former coal mining features:

- a) A scheme for intrusive site investigations shall be undertaken for shallow coal mine workings and recorded (unrecorded) mine entries, as outlined within the Desk Based Coal Mining Risk Assessment Report prepared by Terra Firma (Wales) Limited, dated August 2017 (Ref: 14346)
- b) The findings of the investigation shall be reported to the Local Planning Authority for approval.
- c) A scheme of remedial works, where identified as necessary under b), shall be submitted to the Local Planning Authority for approval.
- d) The implementation of the works identified within c) and the submission of a validation report to the Local Planning Authority for approval to confirm the works, as approved, have been undertaken.

Reason: To ensure the site can be made safe and stable for the proposed development.

- 4 Notwithstanding the details hereby approved, no superstructure works shall commence within the commercial part of the development hereby approved until details and/or samples of the materials to be used within construction of the external surfaces of the commercial development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

- 5 No development shall take place until a detailed scheme for the eradication of Japanese Knotweed, including timescales, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timescales.

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

- 6 Notwithstanding the details hereby approved, no superstructure works shall commence within the residential part of the development hereby approved until details and/or samples of the materials to be used within construction of the external surfaces of the residential development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

- 7 No development or further site clearance shall take place within the commercial part of the development until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping for the commercial part of the development. The scheme shall include indications of all existing trees (including spread and species, exact location and diameter of tree boles) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the commencement of the use or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed

or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The approved tree protection measures shall be implemented during the construction phase of the development.

Reason: To ensure the site is adequately landscaped and to ensure that reasonable measures are taken to safeguard existing trees and hedges

- 8 A landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas within the commercial part of the development, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the commercial unit. The landscape management plan shall be carried out as approved for the lifetime of the development.

Reason: In the interest of protecting visual amenity and the qualities of the area.

- 9 No development or further site clearance shall take place within the residential part of the development until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping for the residential part of the development. The scheme shall include indications of all existing trees (including spread and species, exact location and diameter of tree boles) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

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

The approved tree protection measures shall be implemented during the construction phase of the development.

Reason: To ensure the site is adequately landscaped and to ensure that reasonable measures are taken to safeguard existing trees and hedges

- 10 A landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas within the residential part of the development, shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwelling hereby approved. The landscape management plan shall be carried out as approved for the lifetime of the development.

Reason: In the interest of protecting visual amenity and the qualities of the area.

- 11 No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include details of a sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network and management/maintenance/adoption details. The development shall not be brought into beneficial use until the works have been completed in

accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved unless otherwise agreed in writing by the Local Planning Authority.

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

- 12 The development shall not discharge to the watercourse network at any rate greater than 9.5l/s as stated in Section 4.5 of the Drainage Strategy Report C0959 dated 25/09/2017.

Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment and to minimise surface water run-off.

- 13 The applicant shall submit a phased scheme, comprising three progressively more detailed reports, detailing measures to be undertaken in order to investigate the presence of land contamination, including relevant gas, vapour and, where appropriate, radiation related risks, at the proposed site. Where the initial investigations indicate the presence of such contamination, including the presence of relevant gas/vapour and/or radioactivity, subsequent reports shall include:

- o a list of potential receptors
- o an assessment of the extent of the contamination
- o an assessment of the potential risks
- o an appraisal of remedial options, and proposal for the preferred remedial option(s).

The reports shall be submitted individually. The provision of Phase 2 (detailed investigation) and Phase 3 (remediation option appraisal and verification/validation) reports will be required only where the contents of the previous report indicate to the local planning authority that the next phase of investigation/ remediation is required.

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

- 14 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme. The final report shall be submitted to the local planning authority within 3 months of the completion of the fieldwork.

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

- 15 Prior to the beneficial use commencing the applicant shall submit confirmation to the local planning authority, to ensure that the plant noise rating level, L_{Ar,Tr}, including any character correction shall not exceed background sound pressure level (LA₉₀) in the following time periods: 07:00 - 19:00, 19:00 - 23:00 and 23:00 - 07:00.

Reason: To ensure a satisfactory noise environment for existing and future residents.

- 16 Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made between manhole reference number SS70973501 and SS70973602. Thereafter no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

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

- 17 The scheme shall be implemented in accordance with the mitigation measures described in Section 7 of the submitted document entitled 'Bat Roost Assessment, Trees and Building' produced by Hawkswood Ecology dated December 2017. The mitigation measures shall be retained thereafter.

Reason: In the interest of protecting species listed under Schedule 2 and 4 of the Conservation (Natural Habitats) Regulation 1994.

- 18 The noise mitigation measures in relation to external wall construction, roof construction, window construction and ventilation as detailed within sections 5.3-5.7 of the 'Noise Impact Assessment' produced by Acoustic Consultants Ltd shall be fully implemented within the construction of the development and shall thereafter be retained for the lifetime of the development.

Reason: In the interests of ensuring a satisfactory noise environment for the future residents.

- 19 Prior to any superstructure works commencing on the commercial part of the development, the positions, height, design, materials and type of boundary treatment to be erected within and around the commercial development shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed as approved before the commercial unit is occupied and shall thereafter be retained as such for the lifetime of the development.

Reason: In the interest of maintaining a satisfactory scheme of landscaping and to protect the visual amenity of the area.

- 20 Prior to any superstructure works commencing on the residential part of the development, the positions, height, design, materials and type of boundary treatment to be erected within and around the residential development shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed as approved before any residential unit is occupied and shall thereafter be retained as such for the lifetime of the development.

Reason: In the interest of maintaining a satisfactory scheme of landscaping and to protect the visual amenity of the area.

- 21 Prior to works being commenced on site, full details of a scheme of proposed highways improvements works as illustrated in draft form on Drawing No. 'Figure 7 Rev A' shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to any part of the development hereby approved being brought into beneficial use.

Reason: In the interest of highway safety, to minimize the impact of the development of the free-flow of traffic and to provide safe vehicle and pedestrian access to the site.

- 22 Prior to the occupation of any dwelling hereby approved a scheme for street lighting within the residential element of the development shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be constructed and operational prior to the occupation of any dwelling hereby approved.

Reason: In the interests of pedestrian and highway safety.

- 23 Prior to the occupation of any dwelling hereby approved and prior to the operation of the commercial unit a travel plan or plans covering the respective elements of the development shall have been submitted to and approved in writing by the local planning authority. The travel plan shall be implemented in accordance with the approved details.
Reason: In order to promote more sustainable modes of transportation to and from the development.
- 24 All windows in the south west elevation of Block 2 shall be fitted with obscure glazing and shall be non-opening unless any part of the window which can be opened is, when measures at any point along the lowest edge of that part, at least 1.7 metres above the internal floor or stair of the dwellinghouse directly below that point and shall be permanently retained as such for the lifetime of the development.
Reason: To prevent any significant overlooking and loss of privacy to neighbouring properties.
- 24 Notwithstanding the provisions of Schedule 1, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or amending that order) no boundary wall shall be constructed forward of the principle elevation of the dwellings hereby approved unless otherwise approved under condition 15.
Reason: In the interests of visual amenity
- 25 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or amending that order), Classes A, D, E and F of Schedule 2, Part 1 shall not apply.
Reason: To protect the integrity of the chosen surface water management system from additional impermeable areas that the surface water system is not designed to accommodate.
- 26 Customers and delivery vehicles are not permitted on the commercial unit outside the hours of 05:00am to 11:00pm on any day.
Reason: To protect the amenities of the occupiers of nearby dwelling houses.
- 27 No superstructure works shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed residential streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
Reason: To ensure the roads are maintained to a satisfactory standard in the interests of highway safety.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS1, AS2, AS6, AS10, EC4, EV1, EV2, EV3, EV30, EV33, EV34, EV35, EV38, EV39, EV40, HC3, HC17, HC18 and HC24.
- 2 Management and Maintenance of Estate Streets - The applicant is advised that to discharge this condition, that the local planning authority requires a copy of a completed

agreement between the applicant and the local highway authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

3 The Developer must contact the Highway Management Group , The City and County of Swansea , Guildhall Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Principal Engineer (Network Management), e-mails to networkmanagement@swansea.gov.uk , tel. no. 01792 636091

4 Under the provision of the Highways Act 1980, the approval of the Highway Authority must be obtained for the construction of any retaining wall that is both within 4 yards of a highway and over 4ft 6ins (1.37m) in height.

Under the provision of the West Glamorgan Act 1987, the approval of the Highway Authority must be obtained for the construction of any retaining wall that exceeds 1.5m in height.

5 No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared. This is to ensure that nesting birds are not disturbed by development works and to enable the Local Authority to fulfil its obligation under Section 25 (1) of the Wildlife & Countryside Act (1981).

6 Reptiles may be present. All British reptiles are protected under Schedule 5 of the Wildlife and Countryside Act 1981 as amended. It makes it an offence to intentionally kill or injure adder, slow worm and common lizard. If the reptiles listed above are encountered work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (0300 065 3000).

7 The drive through element would be situated within the protection zone of the 305mm public sewer measured 3 metres either side of the centreline. It is possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act and DCWW request that the developer contact them to discuss our concerns and consider possible solutions. In the first instance, it is recommended that the developer carry out a survey to ascertain the location of this sewer and establish its relationship to the proposed development.

8 The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.

9 As best practice, the applicant/developer is advised to produce a site-specific Construction Environmental Management Plan (CEMP) / Pollution Prevention Plan (PPP), with particular reference given to the protection of the surrounding land & water environments.

It is also recommended that a Site Waste Management Plan (SWMP) is produced. Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money.

