



## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

ITEM 1 (CONT'D)

APPLICATION NO:

2017/1049/FUL

### SITE HISTORY

App Number	Proposal	Status	Decision Date
2017/1049/FUL	Change of use from residential (Class C3) to a 4 bed HMO for 4 people (Class C4)	PDE	

### RESPONSE TO CONSULTATION

THREE neighbouring properties have been consulted and the proposal was advertised on site. ONE LETTER OF OBJECTION has been received which is summarised as follows:

- 1) There are too many HMOs on the street.

TWO separate petitions of objection have been received, totalling 95 signatures from separate addresses, stating the following concerns:

- 1) Parking issues
- 2) Harmful concentration
- 3) Impact on neighbourhood
- 4) Increase in refuse

**Highways** - No objection

**Pollution Control** - No objection subject to conditions: 1. The dwelling being used by no more than 4 persons in the interest of highway safety. 2. Cycle Parking to be provided in accordance with details to be submitted to the LPA for approval, and maintained as such in perpetuity, prior to beneficial occupation of the HMO.

### APPRAISAL

This application is reported to committee at the request of Councillors Peter May and Mary Sherwood. The constitutional threshold has been met in terms of letters of objection and petitions received.

### Procedural Matter

This report has been drafted on the basis of there being no Adopted Supplementary Planning Guidance ('SPG') on the topic of Houses in Multiple Occupation (HMO). It is noted, however, that there are unique circumstances prevalent in that the application is presented to Planning Committee at the same time that the Draft SPG on Houses in Multiple Occupation & Purpose Built Student Accommodation is presented for Adoption. This application shall be determined having regard to the material considerations at the time of its determination.

### Description

Full planning permission is sought for the change of use from residential (Class C3) to a 4 bedroom HMO (Class C4) at 123 St. Helen's Avenue, Brynmill.

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The existing dwelling is two storey 3-bedroom terraced property which is situated within the residential area of Brynmill. The area comprises traditionally designed dwellings. The proposal would utilise a ground floor reception room as an additional bedroom i.e. 1 bedrooms at ground floor level and 3 bedrooms at first floor level.

No external alterations are proposed to the host dwelling. The applicant has, however, indicated that provision can be made for a covered cycle shed to the rear of the property for 4 cycles and bin storage area.

### **Main Issues**

The main issues for consideration in the determination of this application relates to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea UDP and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Whilst at the time of drafting this report there is no current SPG on the topic of HMOs the Council has drafted a SPG entitled Houses in Multiple Occupation & Purpose Built Student Accommodation following public consultation which has been presented for Adoption at the same Planning Committee. Should the Adoption of the SPG precede the determination of this application then significant weight shall be given to the document in the decision making process. Should the SPG not be adopted then no weight can be given to the SPG.

### **Principle of Use**

Up until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in some parts of Swansea which has happened 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 and whilst the LPA has had difficulty in determining the threshold at which a harmful concentration would arise from HMOs within individual streets work has been on going on providing for a Supplementary Planning Guidance document to deal with both HMOs and Student related developments. Recent planning appeal decisions have set out that in the absence of Adopted Supplementary Planning Guidance on this matter, where or not a proposal is harmful depends on planning judgement.

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

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance

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

The criteria of the above is addressed below:

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

On the basis of the information provided, it is acknowledged that the proposal would result in the increase of one bedroom to provide for a four bedroom property. 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 4 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house.

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

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

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

Following on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016)'. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident and individuals and/or small households unable to afford self-contained accommodation.

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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.

St Helens Avenue is a long street running horizontally southwest to northwest through Brynmill and is intersected vertically by Gorse Lane, Francis Street, St Helens Crescent and St Helens Road. From viewing the Council's own HMO register, updated by Environmental Health, there are currently 88 HMOs registered along St Helens Avenue (as of 23 June 2017). There are approximately 213 properties on this road which is an approximate percentage of 41.2%. Approval of this application would therefore take this figure to approximately 41.7%.

Regard should also be given to recent planning permissions granted on appeal at No. 57 St Helen's Avenue for a 6 person HMO (Reference 2016/1688) on 25th April 2017 and No. 124 St Helens Avenue for a 5 bedroom HMO (Reference 2016/1038) on 4th May 2017. These properties do not currently feature on the HMO register but having regard to them, given that they could be implemented within a period of 5 years from their permission, would take the percentage to 42.7%.

It is clear that approval of the application would therefore result in the addition of a further HMO in to a ward area that already comprises a high concentration of HMOs, however, whilst this is the case there has been no empirical 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 most notably those mentioned above in relation to similar schemes along St Helens Avenue. In those decisions Planning Inspectors have set out 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.

In the absence of a percentage or other similar calculation based approach without an Adopted SPG there would be no empirical evidence to suggest that there is harm such that the LPA could refuse the application. On this basis it would be regarded that the development complies with the aims of this criterion.

Notwithstanding this it can be noted that the Council has been preparing a Draft SPG and that this document is on this Planning Committee agenda for Adoption at the same time of considering this individual planning application. This document at the time of drafting this report defines a specific threshold, above which further concentration or intensification of HMOs will normally be deemed harmful, which strikes an appropriate balance in allowing for sustainable future growth in HMOs. This threshold has been identified based on an understanding of: current HMO concentrations; demand and supply for HMOs and PBSA; a review of other local authority approaches; and other available evidence, including findings of national research undertaken by the Welsh Government. Reflecting the current uneven concentrations of (licensed) HMOs and the identified impacts of high HMO concentrations, a two-tier threshold approach is suggested to be applied to determine whether an area has reached a point at which further HMOs would have a harmful effect.

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**ITEM 1 (CONT'D)**

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Two areas are recognised with one being a HMO Management area whereby a threshold of 25% of all properties will be used. The Management Area incorporates part, but not all, of the Uplands and Castle Wards. Outside the defined HMO Management Area, a threshold of 10% of all properties being HMOs is proposed to be used. Parts of the Uplands and Castle Wards are outside the HMO Management Area, as are all other Wards across the City & County.

In considering whether a proposal breaches the defined threshold level for that area, the SPG proposes that LPA will assess the concentration of HMO properties within a 50 metre radius of the HMO planning application and that the LPA will seek to resist planning applications for HMOs that breach the identified threshold for that area, unless there are material considerations that demonstrably outweigh the identified concerns regarding harmful concentration or intensification.

In addition to the 25% and 10% areas the draft SPG sets out exceptions for small streets. It advises that there are certain street patterns that are characteristic of Swansea where applying the threshold on a radius basis could fail to protect against an unacceptable concentration of HMO uses. A small street is defined as being a street of more than 10 properties but fewer than 35, includes properties on both sides of streets and is the uninterrupted section of road that is fronted by properties and not divided by any other street. It is recognised that under this definition, in certain instances, the street to be included in the calculation may be a subsection of a longer street in terms of street name.

Calculations have been carried out taking into account the draft SPG and defined thresholds. In this instance St Helen's Avenue falls within the HMO Management Area which sets a threshold of 25% within a 50m radius of the property proposed for conversion.

Evidence is provided in the SPG (Chapter 4) which suggests that there are existing community sustainability and cohesion issues that are resulting from harmful concentrations of HMOs and thus the threshold approach seeks to limit any further harmful concentration or intensification of HMOs within this area to the extent that proposals for a HMO will normally be resisted where it would result in more than one in four properties being HMOs within the given radius.

The calculations highlight that within the 50m radius there are 36 properties and currently 11 HMOs based upon the licencing data. This equates to a percentage of 30.5%. Adding an additional HMO within this area would result in the concentration for 12 HMOs being 33.3% and would therefore exceed the 25% threshold set out in the SPG.

Further to this regard can be given to a recent planning permission granted on appeal at No. 124 St Helen's Avenue which falls within the 50m zone. Clearly this application has yet to be implemented and resultantly included in the HMO register, however, its inclusion, along with the application property, would result in the concentration percentage being 36.1% within the 50m radius.

The SPG also sets out 'other material considerations and exceptional circumstances' which can be a determining factor in the decision making process. It states that whilst the LPA will normally seek to resist HMO proposals that would breach the 25% threshold, in the case of very high concentrations (those being 80% within a 50m radius) consideration can be given to any supporting assessments provided to justify the use.

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In this instance the threshold is below the suggested 80% threshold and no supporting information has been provided to justify this proposed HMO as representing an exceptional circumstance.

On this basis, should Members accept the evidence base and the Draft SPG is formally adopted by the Council prior to the determination of this application, the proposal would fail to accord with the thresholds and thus a recommendation of refusal can be justified on the basis that the proposal would contribute to a harmful concentration and intensification of HMOs in the area contrary to the requirements of Policy HC5 criteria (ii) of the UDP.

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

There are no dedicated parking spaces available as part of the existing or proposed development. Parking on street is controlled via the use of residents' permits and the property will remain eligible for two permits as is currently the case. The application form makes reference to cycle parking being included in the form of a shed to house the cycles and this should mitigate for the lack of car parking. There is rear lane access which could provide access to a parking area although it is narrow in width and the part adjoining the lane has not been included in land within the applicant's ownership. Consultation has been undertaken with the Highway Authority and no objection has been raised on highway grounds.

Reference can be made to the Parking Standards SPG which sets out that for a HMO for up to 6 persons there is no requirement for additional parking over and above that of a dwellinghouse. Details can be secured for cycle storage via an appropriate planning condition and this will encourage sustainable means of transport.

Appropriate refuse storage arrangements can be provided

There appears to be adequate areas for bin storage to the rear of the property and the applicant has indicated on plan the locations of such facilities. A condition is recommended to ensure that such a facility is provided.

### **Response to consultation**

With regard to the points raised in the letter of objection and petitions, these have been addressed above.

With regard to the consultation response from the Highway Authority, the cycle condition is recommended in the interests of sustainability. It is, however, considered unreasonable to restrict the dwelling to 4 persons in light of C4 use class allowing up to 6 persons, the fall-back position of the property that could be occupied in excess of 4 persons and the size of the dwelling being appropriate and therefore the restrictive condition is not recommended.

### **Conclusion**

In the absence of an Adopted SPG it can only be concluded that the Local Planning Authority has no basis upon which to justify a recommendation of refusal on grounds that the use of the property as a HMO would result in a harmful concentration of HMOs within this area and accordingly. Recommendation A is therefore one of approval.

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If, however, the current Draft and the associated evidence base of the SPG is adopted prior to the determination of this application then the recommendation would be one of refusal as detailed in Recommendation B below.

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.

### **RECOMMENDATION A**

**This recommendation is made subject to this application being determined prior to the Council adopting the Draft Supplementary Planning Guidance entitled "Houses in Multiple Occupation and Purpose Built Student Accommodation July 2017".**

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: block plan, proposed floor plans received on 10th May 2017; bike and bin store plan received 15th June 2017.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Details of facilities to be provided for the secure storage for 4 cycles and refuse storage shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained in perpetuity.  
Reason: In the interest of sustainability and general amenity.

### **RECOMMENDATION B**

**This recommendation is made subject to the application being determined following the Council adopting the Draft Supplementary Planning Guidance entitled "Houses in Multiple Occupation and Purpose Built Student Accommodation July 2017".**

**REFUSE, for the following reason:**



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1. The proposal, in combination with existing Houses in Multiple Occupation (HMOs) within St Helens Avenue will result in a harmful concentration and intensification of HMOs in the HMO Management Area due to the proposal exceeding the 25% threshold of HMOs within a 50m radius as set out in the Adopted Supplementary Planning Guidance Document entitled Houses in Multiple Occupation & Purpose Built Student Accommodation (Adopted July 2017). Following evidence set out in the Adopted SPG it can be concluded that the impact of an additional HMO will lead to negative impacts in the wider area including higher levels of transient residents, isolation of remaining family households and harm to the balance of the community and be contrary to Policy HC5 criterion (ii) of the Swansea Unitary Development Plan (2008) and the National Policy aims set out in Planning Policy Wales (Edition 9 November 2016) of creating sustainable and inclusive mixed communities.

### INFORMATIVES

- 1 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
  - 2 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, AS6 and HC5 of the City and County of Swansea Unitary Development Plan 2008.
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## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

ITEM 2 (CONT'D)

APPLICATION NO:

2017/0993/FUL

### SITE HISTORY

App Number	Proposal	Status	Decision Date
2017/0493/PRE	PRE-APP Change of use from 4 bed residential property (Class C4) to 5 bed HMO (Class C4)	MIXPR E	29.03.2017
2017/0993/FUL	Change of use from residential dwelling (Class C3) to a 5 bedroom HMO for 5 people (Class C4)	PDE	

### RESPONSE TO CONSULTATION

THREE neighbouring properties have been consulted and the proposal was advertised on site. FIFTY EIGHT LETTERS OF OBJECTION have been received which are summarised as follows:

- 1) Not in keeping with the area
- 2) Rubbish and noise concerns
- 3) It should be rented to professionals not students
- 4) Parking concerns
- 5) HMOs are not maintained properly
- 6) Building works have commenced and is causing problems
- 7) Where would the bike racks be?
- 8) The number of HMOs should be limited
- 9) Effect on house prices
- 10) Overintensive use of the property
- 11) The hill is too steep for people to cycle
- 12) Emergency access concerns due to parking problems
- 13) The application should be delayed until the adoption of the HMO SPG

TWO separate petitions of objection have been received, totalling 79 signatures from separate addresses, raising similar concerns as those outlined above.

ONE LETTER OF SUPPORT has been received which is summarised as follows:

- 1) If there's a parking problem it is due to existing residents owning excessive number of cars.
- 2) This will provide much needed accommodation in the area
- 3) Overriding issues not relating to the actual use of the property.

### Highways - No objection

The current Parking Standards allow for up to six people in a property without the need for any additional parking. Prior to the introduction of the C4 Classification (for between 3 and 6 persons) in March 2016 up to six people could share without the need for planning permission.

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**ITEM 2 (CONT'D)**

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Given that the parking standards do not reflect the new use class C4 and based on recent appeal decisions I do not consider that a refusal from highways could be justified at appeal despite my ongoing concerns regarding the cumulative impact of increasing sizes of HMO's in the area.

As part of the HMO SPG currently being drafted a review of the existing parking standards which specifically relate to HMO's and purpose built student accommodation will be included. This should be in place by March 2017 and will take into account data specific to Swansea and not generic information for Wales as a whole. In the interim the existing SPG on parking is the relevant document that any Inspector would use in a Planning appeal situation.

This application is for a change of use from C3 to C4 (For 5 persons) hence it is still below the six person threshold.

There are no dedicated parking spaces available. The parking on street is controlled via the use of residents' permits and the dwelling will remain eligible for two permits as is currently the case. The application form makes reference to cycle parking being included in the form of a shed to house the cycles and this should mitigate for the lack of car parking, although no actual details have been provided. There is rear lane access which could provide access to a parking area although it is narrow in width, this has not been referenced in the application form.

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

1. The dwelling being used by no more than 5 persons in the interest of highway safety.
2. Cycle Parking to be provided in accordance with details to be submitted to the LPA for approval, and maintained as such in perpetuity, prior to beneficial occupation of the HMO.

**Pollution Control** - No comment to make.

### **APPRAISAL**

This application is reported to committee at the request of Councillors Peter May and Mary Sherwood. The constitutional threshold has been met in terms of letters of objection received and signatures in the petition of objection.

### **Procedural Matter**

This report has been drafted on the basis of there being no Adopted Supplementary Planning Guidance ('SPG') on the topic of Houses in Multiple Occupation (HMO). It is noted, however, that there are unique circumstances prevalent in that the application is presented to Planning Committee at the same time that the Draft SPG on Houses in Multiple Occupation & Purpose Built Student Accommodation is presented for Adoption. This application shall be determined having regard to the material considerations at the time of its determination.

### **Description**

Full planning permission is sought for the change of use from residential (Class C3) to a 5 bedroom HMO (Class C4) at 90 Hawthorne Avenue, Uplands.

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**ITEM 2 (CONT'D)**

**APPLICATION NO:**

2017/0993/FUL

The existing dwelling is two storey 3-bedroom terraced property which is situated within the residential area of Uplands. The area comprises traditionally designed dwellings. The proposal would utilise two ground floor reception rooms as additional bedrooms i.e. 2 bedrooms at ground floor level and 3 bedrooms at first floor level.

No external alterations are proposed to the host dwelling.

### **Main Issues**

The main issues for consideration in the determination of this application relates to the principle of this form of use at this location and the resultant impact of the use upon the residential amenities of the area and highway safety having regard for the provisions of the Swansea UDP and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Whilst at the time of drafting this report there is no current SPG on the topic of HMOs the Council has drafted a SPG entitled Houses in Multiple Occupation & Purpose Built Student Accommodation following public consultation which has been presented for Adoption at this Planning Committee. Should the Adoption of the SPG precede the determination of this application then significant weight shall be given to the document in the decision making process. Should the SPG not be adopted then no weight can be given to the SPG.

### **Principle of Use**

Up until March 2016 planning permission was not required for the use of a property as a HMO for up to 6 people and as such there has been historically a large concentration of HMO properties in some parts of Swansea which has happened 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 and whilst the LPA has had difficulty in determining the threshold at which a harmful concentration would arise from HMOs within individual streets work has been on going on providing for a Supplementary Planning Guidance document to deal with both HMOs and Student related developments. Recent planning appeal decisions have set out that in the absence of Adopted Supplementary Planning Guidance on this matter, where or not a proposal is harmful depends on planning judgement.

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

- (i) There would be no significant adverse effect upon residential amenity by virtue of noise, nuisance and/or other disturbance

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

The criteria of the above is addressed below:

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

On the basis of the information provided, it is acknowledged that the proposal would result in the increase of two bedrooms to provide a five bedroom property. 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 5 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house.

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

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

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

Following on from the change in legislation the Welsh Government published a document entitled 'Houses in Multiple Occupation Practice Guidance (February 2016)'. Within this it is identified that HMOs provide a source of accommodation for certain groups which include students temporarily resident and individuals and/or small households unable to afford self-contained accommodation.

## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

**ITEM 2 (CONT'D)**

**APPLICATION NO:**

2017/0993/FUL

It further identifies the concerns, as set above, that were raised in the study into HMOs as well as setting out good practice measures in relation to the management of HMOs.

From viewing the Council's own HMO register, updated by Environmental Health, there are currently 13 HMOs registered along Hawthorne Avenue out of approximately 90 properties (as of 23 June 2017). This equates to an overall percentage within the street area of approximately 14.4%. Approval of this application would therefore take this figure to approximately 15.5%.

It is clear that approval of the application would therefore result in the addition of a further HMO in to a ward 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 decisions Planning Inspectors have set out 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. It would be difficult therefore to suggest that an increase from approximately 14% to 15% within the street area would be harmful.

In the absence of a percentage or other similar calculation based approach without an Adopted SPG there would be no empirical evidence to suggest that there is harm such that the LPA could refuse the application. On this basis it would be regarded that the development complies with the aims of this criterion.

The Draft SPG which is on this Planning Committee agenda for Adoption defines a specific threshold, above which further concentration or intensification of HMOs will normally be deemed harmful, which strikes an appropriate balance in allowing for sustainable future growth in HMOs. This threshold has been identified based on an understanding of: current HMO concentrations; demand and supply for HMOs and PBSA; a review of other local authority approaches; and other available evidence, including findings of national research undertaken by the Welsh Government

Reflecting the current uneven concentrations of (licensed) HMOs and the identified impacts of high HMO concentrations, a two-tier threshold approach is suggested to be applied to determine whether an area has reached a point at which further HMOs would have a harmful effect.

Two areas are recognised with one being a HMO Management area whereby a threshold of 25% of all properties will be used. The Management Area incorporates part, but not all, of the Uplands and Castle Wards. Outside the defined HMO Management Area, a threshold of 10% of all properties being HMOs is proposed to be used. Parts of the Uplands and Castle Wards are outside the HMO Management Area, as are all other Wards across the City & County.

In considering whether a proposal breaches the defined threshold level for that area, the Draft SPG proposes that LPA will assess the concentration of HMO properties within a 50 metre radius of the HMO planning application and that the LPA will seek to resist planning applications for HMOs that breach the identified threshold for that area, unless there are material considerations that demonstrably outweigh the identified concerns regarding harmful concentration or intensification.

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**ITEM 2 (CONT'D)**

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In addition to the 25% and 10% areas the Draft SPG sets out exceptions for small streets. It advises that there are certain street patterns that are characteristic of Swansea where applying the threshold on a radius basis could fail to protect against an unacceptable concentration of HMO uses. A small street is defined as being a street of more than 10 properties but fewer than 35, includes properties on both sides of streets and is the uninterrupted section of road that is fronted by properties and not divided by any other street. It is recognised that under this definition, in certain instances, the street to be included in the calculation may be a subsection of a longer street in terms of street name.

Calculations have been carried out taking into account the Draft SPG and defined thresholds. In this instance the application site falls outside of the HMO Management Area and is therefore within a zone that sets a threshold of 10% within a 50m radius of the property.

Evidence is provided in the Draft SPG (Chapter 4) which suggests that the tipping point is described as a threshold beyond which a community can 'tip' from a balanced position in terms of demographic norms and impacts associated with this demographic change. This evidence based approach therefore provides a robust rationale for applying a 10% threshold for all areas outside the HMO Management Area.

Hawthorne Avenue is not a small street as defined in the Draft SPG and calculations highlight that within the 50m radius there are 45 properties with 1 existing HMO amounting to 2.2%. Approval of the application within this area would take this figure to 4.4%.

On the basis of this approach therefore it can be concluded that there would be an acceptable mix of HMOs within this area and there would be no resulting harmful concentration or intensification of HMOs in this area which complies with the requirements of Policy HC5 criterion (ii).

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

There are no dedicated parking spaces available as part of the existing or proposed development. Parking on street is controlled via the use of residents' permits and the property will remain eligible for two permits as is currently the case. The application form makes reference to cycle parking being included in the form of a shed to house the cycles and this should mitigate for the lack of car parking. There is rear lane access which could provide access to a parking area although it is narrow in width and the part adjoining the lane has not been included in land within the applicant's ownership. Consultation has been undertaken with the Highway Authority and no objection has been raised on highway grounds.

Reference can be made to the Parking Standards SPG which sets out that for a HMO for up to 6 persons there is no requirement for additional parking over and above that of a dwellinghouse. A condition restricting the number of residents is, therefore, not considered reasonable. Details can be secured for cycle storage via an appropriate planning condition and this will encourage sustainable means of transport.

Appropriate refuse storage arrangements can be provided

There appears to be adequate areas for bin storage to the rear of the property. A condition is recommended to ensure that such a facility is provided.



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Response to consultation

With regard to the points raised in the letters of objection, points 1, 2, 4, 7, 8, 10, 12 and 13 have been addressed above. Points 5, 8 and 11 are not material planning considerations and therefore cannot be taken into consideration. Point 3 relates to the type of future occupiers. The Local Planning Authority cannot discriminate between potential occupiers of premises and this cannot form part of the assessment. Additionally the behaviour of occupiers is not under the control of the Planning Authority, but other legislation would have remit to investigate issues such as noise complaints. With regard to works commencing (point 6), such works such as internal reconfiguration would not require planning permission. It is only when the use commences that such a development would be considered to have taken place. Such matters are considered to be a risk that the developer takes on.

With regard to the consultation response from Highways, the cycle condition is recommended. It is, however, considered unreasonable to restrict the dwelling to 5 persons in light of the fall-back position and the size of the dwelling and therefore the restrictive condition is not recommended.

Conclusion

It is considered that the Local Planning Authority has no evidence to suggest that the use of this property as an 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, AS6 and HC5 of the Swansea UDP and 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 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 3rd May 2017; proposed ground floor plan, proposed first floor plan received on 15th May.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.

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- 3 Details of facilities to be provided for the secure storage for 5 cycles and refuse storage shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained in perpetuity.  
Reason: In the interest of sustainability and general amenity.

**INFORMATIVES**

- 1 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 2 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, AS6 and HC5 of the City and County of Swansea Unitary Development Plan 2008.
-



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### ITEM 3 (CONT'D)

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#### UDP - EV23 - Green Wedges

Within green wedges development will only be permitted if it maintains the openness and character of the green wedge and does not contribute to the coalescence of settlements or adversely affect the setting of the urban area. (City & County of Swansea Unitary Development Plan 2008)

#### 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 - 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 - 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 - 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 - 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)

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**ITEM 3 (CONT'D)**

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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 - AS2 - Design and Layout

Accessibility - Criteria for assessing design and layout of new development. (City & County of Swansea Unitary Development Plan 2008)

UDP - AS5 - Walking and Cycling

Accessibility - Assessment of pedestrian and cyclist access in new development. (City & County of Swansea Unitary Development Plan 2008)

UDP - AS6 - Parking/Accessibility

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

**SITE HISTORY**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/0775/FUL	Residential development for the construction of 41 units, including access and all other associated works.	PDE	
2015/2506	Residential development for the construction of 41 units with associated access and landscaping works	S106	30.09.2021
2016/3168/DOC	Discharge of conditions 5, 6 _ 7 of planning permission 2015/2506 granted 30th September 2016 (archaeological and site investigation)	APP	04.01.2017
2017/0650/DOC	Discharge of condition 8 of planning permission 2015/2506 granted 30th September 2016 (Construction Pollution Management Plan)	APP	03.05.2017
2017/0775/FUL	Residential development for the construction of 41 units, including access and all other associated works.	PDE	

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2017/1019/DOC	Discharge of condition 9 of planning permission 2015/2506 granted 30th September 2016 (materials)	APP	12.06.2017
2017/1161/DOC	Discharge of condition 11 of planning permission 2015/2506 granted 30th September 2016 (Scheme for the ownership and maintenance of the surface water system)	APP	19.06.2017
2005/0678	Residential development (outline)	WDN	31.05.2005

### Background

This application is being reported to Planning Committee as it is a departure from the Unitary Development Plan currently in force.

Following the extensive public consultation exercise on The City and County of Swansea Deposit LDP in 2016, the council as the planning authority are currently carrying out a comprehensive review of the representations received and considering the requirement for any refinements to be made to the plan prior to its submission to the Welsh Government for examination. The site is allocated within the Deposit LDP for residential development.

A Tree Preservation Order is in place on a group of Oak trees along the western boundary of the site.

There have been three previous applications for the residential development of this land since 1994. The first application contained the application site and adjoining land to the west and was dismissed on appeal (ref: LV/94/0254/03).

The second application was submitted in 2005, utilised a smaller section of land and proposed 39 dwellings on the indicative plan submitted with the application. This application raised similar concerns to the previous application and the applicant subsequently withdrew the application prior to the Committee meeting.

The most recent application (ref: 2015/2506) granted planning permission for the development of 41 dwellings on the site at Planning Committee in September 2016. The timeframe for implementation was reduced to one year to ensure the development contributed towards the Council's housing shortfall. Since this permission was granted, Elan Homes have sold the site to Barratt Homes who have sought to amend the application in terms of keeping a culvert running along the eastern boundary in situ rather than relocating it to land to the west of the site (as previously proposed). This has necessitated a redesign of the scheme given the requisite easements from the culvert. The current application site remains the same as per the previous approval and the number of dwellings proposed remains the same.

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Alongside this, Barratt Homes have undertaken some site clearance works and have discharged all of the pre-commencement conditions attached to the previous consent in order to implement the extant permission before it expires.

### Neighbour comments:

The development was advertised in the Press on 2nd May 2017, on site with two site notices, and 30 no. properties were consulted individually.

10 LETTERS OF OBJECTION have been received in response to this application which are summarised below:

- Application has been refused on numerous occasions - what has changed?
- Road and junctions around the development (especially junction with Frampton Road) are inadequate, dangerous and congested - increasing vehicle numbers could result in the Council having to find remedies at a later date and result in increased tax rates
- Increase in local population will change the local environment - loss of greenfield land could result in re-evaluation of property for taxation purposes
- Site has been sold as drainage problems could not be resolved
- Why has work started on site - trees have been cut destroying wildlife habitat
- Land is green wedge - detrimentally changed forever - should be on nearby brownfield site
- Access road is narrow and vehicles parking opposite each other make it difficult to get past
- Extra strain on local services including schools and emergency services - doctors at full capacity
- Increase traffic in the area - in particular the entrance to Queensgate Village and on Frampton Road - would be hazardous
- Nearby residential developments have added to the congestion and resulted in illegal parking at nearby facilities
- Inconsiderate parking obscures visibility at Junction with Frampton Road
- Overbearing effect on Queensgate Village
- Concerns over flooding and sewerage
- Site has been decimated
- Site on the verge of the saltmarsh which offers trees and shelter to wildlife
- Number of vehicles is likely to be higher than predicted
- Proximity to SSSI - Loughor Estuary
- LDP refers to 40 dwellings as opposed to 41 as proposed
- Transport Assessment uses data from 3 years ago and is therefore outdated
- Impact on neighbours during the construction phase in terms of traffic/ congestion and amenity concerns / hours of operation
- Parking allowance of 1 car per bedroom would mean in excess of 120 spaces
- Dwellings too close to the trees as noted by Tree Officer
- New development would increase amount of surface run off while reducing natural soak off areas
- Development would affect wildlife and trees/ shrubs and PROW
- Previous application by Elan Homes was held up and subsequently withdrawn
- Yellow lines are routinely ignored
- Development opposite entrance on to Frampton Road would make things worse

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### Consultation Responses

#### Highways:

##### "1 Introduction

1.1 This proposal is for the construction of 41 dwellings on undeveloped land fronting Heol Pentre Bach in Penyrheol. The site is to be accessed from three locations along the site frontage and is supported by a Transport Statement that assesses the sites accessibility and traffic impact.

1.2 The site benefits from a previous consent for residential (2015/1670) so the principle of that level of development has already been established.

1.3. The site has also been identified as suitable for residential development under the Swansea LDP

##### 2 Traffic Generation

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

##### 3 Accessibility

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

##### 4 Site Layout

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

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

##### 5 Highway Safety

5.1 Some local concern has been raised about the additional traffic and difficulties currently experienced due to on street parking in the area. The predicted traffic generation is relatively low and unlikely to result in any congestion issues.



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Parking is provided within each plot and therefore is acceptable and in accordance with adopted standards so the risk of overspill parking is low.

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

I recommend no highway objection subject to the following;

- i. 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.

Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- ii. No building works shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established].
- iii. The site shall not be brought into beneficial use until such time as speed reduction measures at the junction of Heol Pentre Bach and Frampton Road have been completed in accordance with details to be agreed with the Highway Authority.
- iv. All internal roads must be constructed to adoptable standards.

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

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### **Pollution Control:**

"I have no objection to this application as long as the previously approved details relating to comments made by the Pollution Control Division are adhered to."

### **Drainage:**

"Based on the Engineering Layout dwg 10162-001 Rev F now supporting the Drainage Strategy ref 7444/FRA/JRV/2 dated 14 April 2016 we can recommend the following.

#### Condition

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

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

2. 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 chosen surface water management system from additional impermeable areas that the SW system is not designed to accommodate.

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

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

#### Informatives.

Please be aware that under the Flood and Water Management Act 2010 the City and County of Swansea is now classified as the Lead Local Flood Authority (LLFA) and as part of this role is responsible for the regulation of works affecting ordinary watercourses. Our prior written consent for any works affecting any watercourse may be required irrespective of any other permissions given and we encourage early engagement with us to avoid any issues."

### **Urban Design Officer:**

"A previous permission was granted on the site under application ref: 2015/2506 and this set out the principle of residential development as well as broad parameters of an acceptable layout and design principles.

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### Comments:

\* The proposed layout is based on a logical approach of strong building lines and outward facing development fronting onto the existing street and Public Open Space (POS) areas with secondary internal streets/cul-de-sacs behind this public 'front'.

\* The outward facing approach, which also provides for corner turning units at each of the cul-de-sac junctions, provides a good level of articulation to the public façades of the dwellings as well as a good level of fenestration onto these public areas. This helps to provide a good level of natural surveillance onto the public realm as well as integrate the scheme into the wider existing context.

\* The proposals provide for a good mixture of dwelling sizes and tenures to improve housing choice for a mixed community and the mixture of dwelling types also adds variation and interest to the scheme.

\* Given the prominence of the dwellings at plots 36 - 41 fronting onto the existing POS areas, the mixture of dwellings with different roofs and the terraced, staggered nature of this row we will need to see a streetscene of this group to assess its visual coherence.

\* Whilst overall the scheme provides for well-designed dwellings with corner turning units also there is one exception to this which is the FIR type. This has an odd front door arrangement and is lacking in front and rear windows which give this a non-standard appearance which lacks the quality of the remainder of the dwelling types. It is therefore recommended that this dwelling type be amended to provide the front doors side by side facing the street to provide better balance and legibility to the principal elevation of this type. In addition to this small first floor windows should be provided above these repositioned doors (alternatively a recessed panel of the same size can be provided above the right side door given the location of the store above the stairs at first floor level). In addition to this an additional pair of windows should be included to the rear elevation in a mirrored location to the existing in order to serve the proposed bathrooms and provide balance to this elevation.

\* In addition to this the FIR house type at plots 36 & 37 should be flipped so that the lounge and kitchen areas lie to the northern side where these will provide greater overlooking of the path in this location with the more private bedrooms set away from this path.

\* The parking strategy for the scheme is a mixture of detached garages, integrated garages, side drives, frontage parking and rear row parking also. Overall this mixture of parking methods is utilised effectively to reduce the visual dominance of parked vehicles within the scheme and is considered acceptable.

In summary, subject to the changes and additional information requirements set out above, the proposals are considered to be appropriate and are considered to be an improvement to the extant planning permission granted under app ref: 2015/2506 by virtue of providing a more coherent design approach with strong building lines and articulated dwellings which face outwards onto the existing street and POS areas. Once the points set out above have been satisfactorily addressed the scheme will be recommended for approval."

### Housing:

"We will require the provision of 30% Affordable Housing.

We require the scheme to include a range of DQR complaint house types, dispersed across the site in clusters. The design and specification of the affordable units should be of equivalent quality to those used in the Open Market Units.

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We agree with the proposed 12 social rented units, 4 x 1 bedroom walk up flats, 3 x 2 bedroom houses, 4 x 3 bedroom houses and 1 x 4 bedroom house.

60% intermediate units at 70% of ACG or OMV (whichever is lower at the point of transfer) and 40% social rented at 42% ACG or OMV (whichever is lower at the point of transfer.)"

### **Strategic Planning:**

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

The emerging Local Development Plan (LDP) is of relevance to the determination of the proposal. The LDP Preferred Strategy identifies opportunities for appropriate greenfield releases on the edge of the settlement boundary at Gorseinon and Loughor on a small scale where these would constitute appropriate rounding off. The site in question was identified under Candidate Site Reference UL002 as one these potential allocations and was as one of the sites included in the Deposit Local Development Plan (LDP). The site was attributed with a provisional capacity for 40 residential units.

The housing land supply currently stands at 3.2 years (2016 JHLAS), which is less than the 5 years required under national planning policy. The Council has demonstrated its commitment to increasing the available housing land supply through publication of the Developer Guidance - Planning Applications for Non-Householder Residential Development.

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

- \* are less likely to deliver associated wider community facilities and highway improvements
- \* will deliver fewer units than larger strategic sites
- \* could divert the attention and resources of a developer away from delivering units and infrastructure on Strategic Sites; and
- \* would require multiple releases to redress the shortfall

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

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The Guidance states that such departure applications will need to demonstrate that the proposed development:

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

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

### Site Assessment

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

Land around the estuary has been identified as the Lower Loughor Valley and Estuary Special Landscape Area (SLA) demonstrating its outstanding quality visual, sensory and habitat landscapes that make it a landscape of significant local importance. Emerging LDP policy will seek to ensure no significant adverse effect on the features and characteristics for which the SLAs have been designated. The effects of the proposal on the sensitive landscape area beyond and the importance therefore of delivering a strong permanent western boundary is clearly of key significance to determining the suitability of the proposal. It is also requested that the street/mews highway details are configured to exclude the opportunity for the proposed estate road to be extended at a later date or utilised by increased volumes of traffic.

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

2. The proposal has potential to deliver housing land supply before LDP adoption. There appear to be no major constraints which might delay the site's commencement and I understand that the developer maintains that it can demonstrate, with evidence, that the development economics of the scheme enable it to come forward immediately and that the company has a track record of building out sites in the vicinity soon after planning permission.

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It is noted that the Planning Statement states that they have a firm intention to proceed with development in the shorter term.

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

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

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

### Conclusion

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

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

### Education:

"Review of the effect on Catchment Schools of Proposed Development

1. Planning Application: Land at Heol Pentrebach, Gorseinon, Swansea.  
Planning Application No. 2017/0775/FUL now submitted by Barratt Homes.  
Previous Planning Application for same development site was submitted by Elan Homes and was given approval on 30/09/2016 with £52,440 Section 106 being approved ( i.e. Penyrheol Comp: £31,696; YGG Pontybrenin £20,744) - same number of dwellings as previously approved (4 of which are 1 bed flats)  
Proposed residential development of 41 dwellings:
2. **Catchment Schools, capacity and projected capacity**  
The catchment area for this development is Upper Loughor, and the catchment schools are:

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	Catchment schools	Number of unfilled places Date <b>Jan. 2017</b>	%	<b>Previous Application</b>	DIFF	Projections Jan 2023	%
English Medium Primary	Tre Uchaf Primary	28	13.59	41	-13	44	21.36
English Medium Secondary	Penyrheol Comprehensive *	89	9.13	63	+23	75	7.69
Welsh Medium Primary	YGG Pontybrenin *	7	1.48	14	-7	-43	-9.07
Welsh Medium Secondary	YG Y Gwyr *	227	21.06	105	+122	-139	-12.4

**3. Demountables \***

There are currently two double demountable buildings at YG Y Gwyr and one at Penyrheol Comprehensive (all deemed Category B). The current two double demountable buildings at YGG Pontybrenin are both Category A.

The demountables are currently considered fit for purpose.

**4. SPG Pupil Generation (37 Dwellings)**

	<b>Pupil Numbers</b>	<b>£</b>	<b>Pupil Numbers</b>
<b>Primary</b>	11.47	£118,966.84	E9 / W2
<b>Secondary</b>	8.14	£129,002.72	E6 / W2

Whilst the pupil numbers and projections at the catchment schools have changed slightly. The position for education remains the same as the original agreement. There remains capacity issues at three of the catchment schools and therefore it is considered that the previous request remains valid and reasonable and therefore you request £20,744 for YGG Pontybrenin and £31,696 for Penyrheol Comprehensive school in order to improve capacity at the schools."

**Ecology:**

My comments are largely as for the previous application - but have added some additional comments regarding bats. The development will have an effect on the ecology of the site, this impact can be minimised by following the guidance indicated in section 5 of the Reptile Survey (WYG December 2015) and the recommendations in appendix C of the updated ecological survey.

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A condition should be added to any permission we give to ensure that this guidance is followed. Habitat mitigation should include enhancement of retained habitats and the planting of ecologically friendly landscape planting. The stream adjacent to the site is suitable for occasional use by otters, this habitat and the adjacent strip of habitat should not be disturbed. Any scrub on the site may contain nesting birds; scrub should only be cleared outside the bird nesting season (March to September). The boundary trees should be retained. Any category 2 trees which are to be felled or affected by works should be treated as described in section 5.3.3 of the updated phase 1 ecological survey. The hedges and trees around the perimeter are used by foraging and commuting bats the recommendations in section 5.3 of the Bat Activity Survey Report Feb 2017 should be followed and a lighting plan agreed with council.

### **Natural Resources Wales:**

"NRW do not object to the above proposal, however we wish to make the following comments.

#### Ecology and Protected Species

We note the submission of the document entitled; 'Barratt Homes Ltd South Wales: Land at Heol Pentre Bach, Gorseinon: Update Extended Phase 1 Habitat Survey Report', dated February 2017, by WYG Limited.

Section 5.2 of the Update Extended Phase 1 Habitat Survey report states that mature trees located along the site boundary are of higher ecological value and that these will be retained where possible.

We support the recommendations made in Section 5.3.3 which states that any Category 2 trees, which will be felled or affected by other works will be subject to precautionary measures in line with BCT 2016 Guidelines.

Given the uncertainty over the amount of time between any potential planning permission being granted and work commencing on site, we advise that immediately prior to felling (or other tree works), an assessment/survey of any Category 2 trees, which would be affected should be undertaken. If any bat roosts are found then work must stop immediately, and NRW contacted for further advice.

We advise that trees are surveyed and assessed in accordance with 'Bat Surveys for Professional Ecologists; Good Practice Guidelines 3rd Edition' published by the Bat Conservation Trust 2016. If any survey finds that bats are present at the site and you require further advice, then please feel free to contact us again.

NRW also support the recommendations made in relation to otters, which are laid down in Section 5.3.5. We advise that you consult your Authority's Planning Ecologist regarding the proposals made in relation to other species within the above report.

In addition, we note the submission of the document entitled; 'Barratt Homes Ltd South Wales: Land at Heol Pentre Bach, Gorseinon: Bat Activity Survey Report', dated February 2017, by WYG Ltd.



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We welcome the recommendations laid down in Section 5.3 of the report in relation to: avoidance, compensation and lighting design which we advise would be best delivered via an appropriate Landscaping & Lighting Plan, which should be agreed with your Authority's Planning Ecologist.

### Flood Risk

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

### Land Contamination / Geoscience

We consider 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. In this instance, we would recommend that your Authority refers to its own environmental advisors.

### Protected Sites

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

There is a requirement for the Local Authority to assess any potential impacts under the Conservation of Habitats and Species Regulations 2010. Regulation 61 of the Regulations. The competent authority must undertake a test of the likely significant effects of the proposal on the SAC. If it cannot be demonstrated that there will not be a significant effect, either alone or in combination with other plans and projects, your Authority are required to undertake an appropriate assessment of the implications of the proposed scheme for the SAC in view of its conservation objectives, before granting planning permission

### Pollution Prevention & Waste Management

The biggest risk in relation to pollution, occurs during construction and we would remind the applicant/developer that the responsibility for preventing pollution rests with those in control on the site. Works should therefore be carefully planned, so that contaminated water cannot run uncontrolled into any watercourses (including ditches). As best practice, we would advise the applicant/developer to produce a site specific construction management plan / pollution prevention plan, with particular reference given to the protection of the surrounding land & water environments.

We would also recommend that a Site Waste Management Plan (SWMP) is produced. Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money. Guidance for SWMPs are available from the DEFRA website: ([www.defra.gov.uk](http://www.defra.gov.uk)). We acknowledge that a SWMP may be something best undertaken by the contractor employed to undertake the project. Furthermore, we note that these documents are often 'live' and as such may be best undertaken post permission.

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Please note, we have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development."

### **Arboricultural Officer:**

"The proposed layout appears to place plots 15 - 19 closer to the retained protected trees than the approved Elan layout. The trees overhang a significant proportion of the gardens of these plots and will lead to ongoing pressure to prune these trees. The trees are oaks which have dense foliage exacerbating the problem. The increased separation from these trees was a revision in the approved scheme and should be replicated to reduce the ongoing conflict with the important trees.

The previously required storm drain is not shown on the new layout, if this is not now required it is an improvement on the previous scheme, however if it is still required, its impact on the retained trees must be provided.

The provided landscaping plan does show tree planting to compensate for the previous loss of trees. The specification for the trees does not indicate what type of stock will be used. The size of trees and species identified should be planted as pot grown or root balled not bareroot. The confirmation of this type of stock will also necessitate an alteration to the staking detail for the trees as a single stake is not suitable for these stock types.

In the event of the proposal being approved please condition a tree protection plan for the site to protect the trees during construction."

### **Arboricultural Officer (Amended Plan):**

"The changes to the layout have moved it closer to the previously approved plan. I am content in this respect.

Please append the following condition to ensure the trees are protected during construction.

#### Condition

Protective measures, including fencing, ground protection, supervision, working procedures and special engineering solutions shall be carried out in accordance with the Arboricultural report written by WYG referenced A083749 V3. Any deviation from the works prescribed or methods agreed in the report will require prior written approval from the Local Planning Authority.

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

### **Landscape Officer:**

"Generally the scheme is repetitive and limited in variety / palette. Some species e.g. lavender will not always survive at all locations (unless in full sun with good drainage) but as there is limited detail shown on the plans it is difficult to comment further on the locations and mixtures of shrub species or the locations of individual trees. This scheme should be redrawn and submitted to include some of the information requested and suggested changes for further more targeted comments.

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It would also help if the plot numbers were labelled to give more meaningful comments and grass areas should be shown. All access / maintenance paths / hard surfacing around buildings for future maintenance etc. should also be shown.

Note that it will be our intention to protect all trees planted as part of this permission with Tree Preservation Orders. Prunus is also not particularly long lived; consideration should be given to alternatives and greater tree species variety (see more detailed comments below).

Comments on Plant Selection:

Viburnum tinus and Photinia Red Robin can be large growing shrubs, there are smaller varieties e.g. V.t 'Eve Price' and Ph. Little Red Robin (which has an ultimate height of 600-900) that are more appropriate for some of the available spaces and have less maintenance requirements.

Betula spp. and Prunus Autumnalis are shallow rooted and should not be planted adjacent to pavements unless there is provision for root containment with adequate rooting space elsewhere. Prunus is also not particularly long lived; consideration should be given to alternatives and greater variety. I note that Prunus and Betula J are planted within say 2m of each other.

Root deflection to be provided for Birch and Cherry species within 3m of hard paving to avoid future damage / lifting of paving. Where space is limited consideration should be given for deeper rooted species.

Please provide details for tree planting in paved areas.

Some of the footpath planting adjacent to footpaths is incongruous e.g. the mixture of Berberis Purpurea (small and thorny) feature shrubs of Buxus Cones and Phormium and more robust and larger growing Photinia Red Robin and Prunus lusitanica.

The mixture of Heuchera, Hydrangea and Viburnum tinus with feature planting of Phormium and Fatsia is unlikely to be successful.

I note the planting of single specimens of Fatsia and Buxus cones in a 'verge' area that will look incongruous."

**Public Rights of Way Officer:**

- o It looks from the plans as if a small walkway is going to link the development to footpath LC46 in the North West. If this is so, the Countryside Access Team would look for footpath LC46 to have works completed on it through planning gain to include some clearance, levelling and surfacing in the form of tarmacking.
- o Other footpaths in the area may be affected by the development, specifically LC18, which is on route to the sewage treatment plant. The developer should be aware that if they need to work on public rights of way, or dig them up, they should contact the Countryside Access Team to discuss.

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- o Barrett's would be completing the works on our (the highways authority's) behalf. As such we would give them permission to do the works as it would be an improvement to the footpath. They would need to let us know when the works are programmed in so that we can inform the public that works are to be undertaken. 2 weeks' notice of this would give us ample time to get a notice up at either end of the footpath to warn people of the impending works. I am assuming it would take them no more than a couple of days. Due to this short time period, we wouldn't need to do a temporary closure on the path. They would not need to tender or be on our contractor list as no money / budget would be changing hands at all from us to them, whether they are using a sub-contractor or completing the works themselves. They would be completing the works at their own expense on our behalf.
- o Footpath improvements would involve a digger scrape of vegetation off the path to make a wider more convenient walking surface for the local populace. In terms of surfacing, we'd be looking for the improved path to be surfaced with tarmac to 1200mm wide. I haven't measured the path's exact length, but would estimate it at no more than 200m.
- o 2 of the stiles should be replaced with kissing gates as this improves the access for walkers.

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

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

### **SEWERAGE**

#### **Conditions**

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

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

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

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

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### 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](http://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 on 0800 085 3968 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.

### SEWAGE TREATMENT

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

### WATER SUPPLY

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

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

Thank you for consulting us about this application; consequently we have reviewed the detailed information contained on your website and can confirm that the proposal has an archaeological restraint.

As you may remember we commented on the previous application for this site (2015/2506), as well as the subsequent discharge of condition (2016/3168), and our understanding of the archaeological resource of the area remains unchanged.

We note the submission of an archaeological desk-based assessment, compiled by Archaeology Wales (Report no. 1419, dated December 2015). The document assesses the archaeological resource of the development area and the potential impact of the proposal. It concludes that there is the potential to impact on Post-medieval archaeological remains; notably a small farmstead known as Pen Y Cae. The assessment indicated that there was a need to record the upstanding remains of Pen Y Cae prior to work commencing on site and for an archaeological watching brief to be maintained during groundworks associated with the development. A recommendation with which we concur.

Therefore, in our role as the archaeological advisors to your Members we recommend that two conditions be attached to any consent, ensuring that archaeological and architectural investigations are carried out to mitigate the impact of the proposed development.

We have no objection to the determination of the consent as long as these conditions are attached and implemented.

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In order to preserve the remains of Pen Y Cae by record we recommend that a Level 2 building survey (Historic England 2016) is made prior to work commencing. To ensure that work is carried out in a suitable manner, we therefore suggest that a condition worded in a manner similar to model condition 73 given in Welsh Government Circular 016/2014 is attached to any consent that is granted in response to the current application. This condition is worded:-

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

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

The second condition will require 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 envisage that this programme of work would take the form of a watching brief during the groundworks required for the development, with detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations 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.

We also recommend that a note should be attached to the planning consent explaining that: The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA), ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.

### **Coal Authority:**

"The Coal Authority is a non-departmental public body sponsored by the Department for Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

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The Coal Authority Response: Material Consideration

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

The planning application is supported by a Site Investigation Report (November 2015, prepared by Intégral Géotechnique (Wales) Limited). We note that this Report was submitted in support of a previous residential development proposal for 43 dwellings at the site under planning application 2015/2506.

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

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

The Site Investigation Report goes on to detail the results of subsequent intrusive investigations carried out at the site, which comprised the excavation of eight trial pits and the drilling of six rotary boreholes. These investigations only encountered one coal seam of any note at the southern end of the site which was found to be 0.5m thick and at depth of in excess of 25m. No coal was encountered where records suggest the outcropping coal seam should be present.

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

The Coal Authority Recommendation to the LPA

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

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

"I am pleased with the layout with the layout. Parking is within curtilage and/or overlooked.

Side windows must be installed in plots 36/37 to overlook the path that leads from the parking bays to the doors of the properties. These windows must be protected by defensible planting to prevent them from being accessed easily.

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Rear gardens adjacent to paths or open fields should also be protected by fencing at least 2 metres in height.

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

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

### **Llwchwr Town Council:**

Object to the application. The reasons being that the proposal constitutes an over development of the site, there are highway concerns and there should be no access from Borough Road.

### **Gorseinon Town Council:**

"Object to the proposal. Concern was expressed that the site has already been cleared of existing trees which was illegally done during the nesting season March - August, and this should be noted and reported. Members have previously requested an upgraded junction (mini roundabout) be created by the developers at the site junction with Frampton Road to address the poor exit conditions from this estate. It was noted that the developer has utilised the previous drainage proposals/ culvert design from Elan Homes scheme which it is noted by the City Drainage engineers is unacceptable, and objected to. He suggests the application be withdrawn or deferred for amendment. The Tree Officer also notes that plots 15-19 are now nearer the protected trees and are likely to affect the trees adversely."

### **Cllr Cole:**

Raised concerns regarding trees backing on to Heol Y Nant and queried whether TPO trees would be affected.

### **Site Location**

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

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



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### Description of Development

This is a full application for planning permission for 41 dwellings comprising a mix of 1, 2, 3 and 4 bed dwellings and associated access and landscaping works.

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

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

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

The application has subsequently been amended to relocate dwellings along the western boundary further away from the existing trees and to cover comments raised by the Urban Design Officer. The Engineering Details have also been amended following comments from the Drainage Officer.

### APPRAISAL

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

### Main Issues

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

### Principle of the Development

The application site is located within a green wedge, outside of the Urban Boundary as defined in the Adopted Unitary Development

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Plan. Local residents have stated that the proposal is contrary to Policy EV23 and various applications have been submitted, refused and dismissed on appeal on this site over the last 20 years. Policies EV18 and EV20 are not considered applicable as this is not a rural exception site proposed for affordable housing to meet an identified need and the proposal is not for persons primarily employed in agriculture, forestry or an appropriate rural use. The key policies are therefore Policy EV23, EV1 (which requires good design, including relationship to existing development patterns) and EV2 (which gives preference to the use of previously developed land over greenfield sites and requires regard to be had to its surroundings) along with guidance contained with Planning Policy Wales (9th Edition) and the accompanying Technical Advice Notes. Policy EV 22 seeks to control development in the countryside in order to conserve and enhance its value.

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

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

- (i) Justified development in association with agriculture or forestry;
- (ii) Essential facilities for outdoor sport and recreation or cemetery use;
- (iii) Limited extension, alteration or replacement of existing dwellings;
- (iv) Small scale farm diversification;
- (v) The re-use of existing permanent/substantial buildings;
- (vi) Affordable housing for local needs under Policy EV18;
- (vii) Other uses of land and forms of development that maintain the openness of the green wedge and do not conflict with the purpose of including land within it.

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

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

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

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The previous appeal decision from 1994 is materially different to the current application in that the site was significantly larger and included land to the west of the site and the decision was made over 20 years ago when the local/ national policy context was different.

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

In this instance, the applicant argues that the application site is proposed as an allocated site for residential development within the Local Development Plan and the Council do not currently have a 5 year housing land supply which constitutes the exceptional circumstances required by Planning Policy Wales. In addition, all of the 'pre-commencement' conditions of the most recent application (2015/2506) have been discharged and the applicant is about to make a material start on this development which would ensure that the previous permission was extant and remained live.

It should be noted that once the most recent permission is implemented, the principle of the residential development would not need to be considered further as the development would remain extant.

The Draft Local Development Plan was placed on Deposit last summer and the Council are currently in the process of reviewing all comments prior to submitting it to the Welsh Government for Examination (anticipated in late July). The site is allocated within the emerging LDP for housing for approximately 40 dwellings. One resident has noted that the proposal is for an increased number to that indicated in the LDP but it should be noted that the LDP has provided an indicative figure and 41 dwellings has been considered acceptable on site previously.

Para 2.14.1 of PPW states that the weight to be attached to an emerging LDP (or revision) when determining planning applications will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector delivers the binding report.

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

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The proposal has potential to deliver housing land supply before LDP adoption. There appear to be no major constraints which might delay the site's commencement. Indeed, work has already commenced on site in terms of site clearance (however at this time, it is not considered that a material start has been undertaken) and Barratt Homes are seeking to implement the existing permission and undertake works under the consent before the permission expires. They have advised that should permission be granted, they will progress with the scheme currently being considered. It is also of note that Barratt Homes do not currently have involvement in any of the LDP Strategic Sites and the proposal represents a non-strategic scale alternative site that does not compete with a strategic scheme being progressed in the vicinity.

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

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

Turning now to the matter of housing land supply, the most recent Joint Housing Land Availability Study (2016) concluded that there is only a 3.2 years supply of housing land available in Swansea, substantially less than the 5 years supply prescribed in national policy. PPW states that Local Planning Authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing, and TAN1 (Joint Housing Land Availability Studies) advises that, where a housing land supply shortage exists, the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies.

In conjunction with its preparations for the emerging LDP, the Council has produced a Guidance Note, Planning Applications for Non-householder Residential Development, which aims to provide a clear strategy to address the housing land shortfall and includes advice to prospective developers on how the planning authority intends to deal with planning applications for sites not currently allocated within the UDP. The main principle is to bring forward several strategic sites recommended for allocation in the emerging LDP. However, at the current time, only one application has been submitted on a strategic site and therefore these sites would not make any significant impact on the housing shortfall for several years. In the meantime, it is appropriate to give considerable weight to the need to increase supply when dealing with planning applications.

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

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

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

The layout has been designed with two new cul-de-sacs accessed off Heol Pentre Bach and the turning head at the end of the road extended to provide for a new turning head and a private parking court for residents of the northern half of the development. The site layout is similar to the previously approved scheme, albeit tweaked to enable the culvert that runs along the eastern boundary to remain in situ. This has resulted in the plots fronting Heol Pentre Bach to be set back from the road with private accesses at the front but maintains natural surveillance over the main access road. Comments raised at pre-application stage have been addressed in the general submission and additional comments raised have also resulted in further amendments to improve the overall scheme.

Plots 36 - 41 front onto the open space and public walkway between Heol Pentre Bach and Clos Y Morfa. Whilst the parking for these properties is at the rear, the parking is overlooked from several properties and the rear gardens are secured by robust brick walls. These walls have also been included in other sections that are within the public domain to provide secure boundaries adjacent to private drives.

The Urban Design Officer has advised that entrances to the site are well defined by corner turning houses and the vistas into the site are closed by focal buildings. Whilst the adopted residential Design Guide discourages the approach of cul-de-sacs in favour of connected streets, it is considered acceptable on this occasion given the shallow depth of the site and the short distance in terms of connectivity. The changes requested by the Urban Design Officer have been undertaken and the Urban Design Officer has no objections to the scheme.

In summary, the proposals are considered to be appropriate and are considered to be an improvement to the extant planning permission granted under app ref: 2015/2506 by virtue of providing a more coherent design approach with strong building lines and articulated dwellings which face outwards onto the existing street and POS areas.

In terms of finishes, red multi brick, golden buff brick and cream render were originally proposed. The use of render on several properties was considered acceptable during the consideration of the previous application on the basis that it has been used at first floor level in other parts of the Queensgate development and its use in a suburban location such as this is considered acceptable. However, Officers had significant concerns with the use of golden buff bricks given that the remainder of the estate has been built with different colour red multi bricks. Whilst there are a variety of different bricks used in the locality, they are similar given their red base which ensures that the various developments relate well to each other. The proposal has subsequently been amended to omit this brick and the proposed materials are considered acceptable for the suburban location given that there are examples of render in the area. The design of the dwellings is considered appropriate to this area and respect the scale and design of the existing vernacular.

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The Police Designing Out Crime Officer does not object to the proposals and is generally supportive of the layout as the parking areas/ public spaces are overlooked. He did request the consideration of windows on the side elevation of plot 36/37 however this would increase overlooking of an existing property at Clos y Morfa. The layout would have to be redesigned to ensure suitable planting in front of this elevation and this was not considered necessary. The footpath is a short length and the Fir property has been redesigned so that the living room windows are on the northern side of the building to ensure increased natural surveillance during the day. The other comments of the Police DOCO would be attached as an advice note.

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

Given that this site is allocated within the Deposit Local Development Plan for 40 dwellings and permission has been granted for 41 dwellings previously, the Council have acknowledged that the character of the site itself would change as a result of the development of this site. It is appreciated that the proposals would have a moderate adverse impact on the properties directly opposite the site to the east, which amounts to approximately 4 properties (of which 1 has no windows on the side elevation facing the site) although other properties adjoining the site would be impacted upon. Planning guidance indicates that there is no protection for private views and the LVIA concludes that impact would be partly mitigated by the retention of existing vegetation at the front of the site and within this context, whilst there would be an impact, it is not considered significant enough to warrant refusal on this issue. In addition, it is not considered that the proposal constitutes overdevelopment of the site.

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

### **Neighbouring/ Residential Amenity**

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

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In terms of separation distances, the developer has generally complied with the separation distances outlined within the Adopted Residential Design Guide. Sufficient space has been provided between Plots 1 and 3 and the existing adjoining property and whilst plots 36/37 are marginally closer to No.6 Clos y Morfa than the previous scheme at the nearest point, the building has been re-oriented 90° so that it is side on to reduce the impact and is considered acceptable. There are no windows in this flank elevation at first floor level ensuring no overlooking. Within the site, the dwellings achieve the minimum distances recommended within the Residential Design Guide with the exception of plots 28/29 and plot 2 which is 10.5m. However, these properties have an element of outlook either side of plot 22, and being south facing it is considered that the garden and rear windows would still receive sufficient sunlight. One property (plot 20) was indicated to have two side windows (one serving an en-suite) overlooking the neighbouring garden and property and whilst there would be an element of overlooking from adjacent properties, it is considered necessary to attach a condition requiring one window to be omitted and obscure glazing in the en-suite window given the increase overlooking this would provide of the area immediately at the back of the adjacent property. It is therefore considered that the proposals would not have an overbearing impact on the existing development and there are no concerns regarding a reduction of privacy for residents subject to conditions.

In terms of general noise/ disturbance/ light pollution, it is not considered that there would be a significant increase over and above the present situation given that the site is surrounded by existing residential development. As such, it is not considered that the proposed residential use of this site would have an adverse impact on the amenity of existing neighbouring uses.

Finally, residents have commented over disruption, noise and disturbance during the construction phase and queried operating hours. Given the proximity of nearby dwellings and the issues involved with the construction of the development on nearby residents, it was previously considered appropriate to attach a condition requiring the submission of a Construction Pollution Management Plan (CPMP) for the proposed development. This CPMP was previously agreed with the Pollution Control Officer, included hours of operation of plant and machinery and a condition ensuring it is complied with as a result of this development would be attached to any grant of consent.

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

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

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

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There were five other incidents during the period (4 of which were slight). However, traffic calming is proposed at the junction of Frampton Road and Pentre Bach Road given concerns from local residents and the Highways department on previous applications.

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

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

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

Some local concern has been raised about the additional traffic and difficulties currently experienced due to on street parking in the area and Gorseinon Town Council have requested a mini-roundabout at the junction of Frampton Road. The Officer has stated that predicted traffic generation is relatively low and unlikely to result in any congestion issues. However, there are general concerns regarding the speed of traffic along Frampton Road in the vicinity of the junction with Heol Pentre Bach. A recent planning application opposite the site was granted consent and required to provide some form of traffic calming which would also cover the Heol Pentre Bach junction, as was the previous consent on this site which was considered acceptable when considered together with that development. The same requirement should be imposed on this application. The Highways Officers does not object to the application subject to conditions. Whilst the Officer has requested a Construction Traffic Method Statement, this was not attached as a condition to the previous extant consent and is not considered necessary in planning terms and would be added as an advice note. Concerns over illegal parking would be a separate police matter and no access is proposed from Borough Road as part of this proposal.

In terms of public footpaths, the PROW Officer has advised that several footpaths are located within the vicinity and would be affected as a result of the development. The Officer has requested works to improve footpath LC46 to include clearance, levelling and tarmacking. A scheme for these works would be attached as a condition of any consent granted given that they would improve access to the countryside for residents of this development and would encourage walking.



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Finally, the Officer has advised that two existing stiles should also be replaced with kissing gates to improve access for all users of the adjacent footpaths and this would be included within a S106 agreement attached to any consent granted.

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

### **Ecology/ Trees/ Landscaping**

An Updated Extended Phase 1 Habitat Survey has been submitted along with reptile surveys and bat surveys. It is recommended that any removal of habitat suitable for breeding birds (trees and dense scrub) is completed outside the bird breeding season (considered to be March to September inclusive, although it can vary depending on weather conditions and species present). No reptiles were recorded during the presence/ likely absence surveys. However due to the timing of the surveys, at the end of the reptile season, it is considered possible very low numbers of common reptiles, including slow worm and common lizard, could be present. A precautionary clearance methodology is proposed including careful staged strimming of suitable habitat, long grass and scrub areas, to approximately 100 mm to encourage reptiles to move towards the suitable habitat in the wider landscape.

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

The Council's Ecologist has advised that whilst the development would have an impact on the ecology of the site, this impact would be minimised by following the guidance indicated in section 5 of the Reptile Survey (WYG December 2015) and section 5 of the Updated Extended Phase 1 Survey (WYG December 2017) and conditions to this effect would be attached to any grant of consent. Habitat mitigation should include enhancement of retained habitats and the planting of ecologically friendly landscape planting. The hedges and trees around the perimeter are used by foraging and commuting bats; the recommendations in section 5.3 of the Bat Activity Survey Report Feb 2017 should be followed and a landscaping and lighting plan agreed with council. The Ecologist has concluded that as the proposed development is entirely residential, the likely impacts on the protected site features include disturbance through noise and illumination and contaminated water running off the site. The development site falls on a slight eastward slope falling away from the Burry Inlet SAC; there are a series of hedges between the site and the SAC. Because of the geography and distance between the sites noise and light disturbance would not affect the SAC. Drainage issues are covered by the existing Habitats Regulation Assessment (David Tyldesley & Associates). It can be concluded that the development would not have a significant effect on the features of the Burry Inlet SAC. Further to this, the development is 1.5 km from the Burry Inlet SPA and Ramsar sites; this includes a large block of land with residential development which would act a significant buffer.

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This distance is sufficient to prevent disturbance of the bird features of the protected site. It is concluded that the development would not adversely affect the features of the Burry Inlet SPA or Ramsar sites.

Gorseinon Town Council commented that the site had already been cleared which was illegally undertaken during nesting season and note the Arboricultural Officer also raised concerns. Whilst the majority of the trees located on the site have already been cleared, permission was not required for this (as the trees/ scrub were not protected) and it is not illegal to remove vegetation during bird breeding season, although care should be taken to ensure an offence is not committed. Former Councillor Cole queried whether the trees at the rear of Heol y Nant would be removed as the neighbours consider these to be on their land. Firstly, the applicant has indicated that these trees are to remain and secondly, this would be a separate legal matter in any event between interested parties as these trees are not protected. Former Councillor Cole also queried whether the TPO trees along the eastern boundary would be impacted upon but this proposal would require the removal of one less oak tree given the revised drainage arrangements and the remainder would not be touched.

The Arboricultural Officer originally commented that the proposed dwellings are closer to the trees than previously approved, however the applicant has now amended the layout to provide for larger gardens and the Arboricultural Officer advised that the revision of the scheme has moved the houses further away from the category A oak trees on the western boundary. This would reduce further pressure on these trees and future pruning would be controlled as these trees are protected. The Officer also commented that the revised layout is an improvement given that the storm drain position has now changed and requested amendments to the landscaping scheme. These changes have subsequently been incorporated into the proposals and are considered acceptable providing a condition is attached to ensure the works are undertaken in accordance with the tree protection measures already approved. The Landscaping Officer has provided comments with regards to the landscaping scheme which have not been incorporated into the current proposals given the delay in receiving these comments. However, a condition would be attached to any grant of consent requiring further landscaping details to be submitted to and approved in writing notwithstanding those submitted to date. This would be tied in with the Lighting condition required for ecological purposes.

### **Contaminated Land**

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

The Council's Pollution Control Officer previously reviewed the site investigation report accompanying the application and had no objections provided that further assessment at the "Overgrown northern part of the site" and location TP7 is undertaken (due to the presence of asbestos and potential Asbestos Containing Materials). These details have already been provided in order to discharge condition 7 of the previous consent.

The Officer also requested a condition regarding unforeseen contamination and a Construction Pollution Management Plan which has also previously been agreed. NRW has no adverse comments subject to the inclusion of a condition regarding a Pollution Management Plan.

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A condition requiring the development to be undertaken in accordance with the approved CPMP would be attached to any grant of consent.

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

### **Affordable Housing**

The applicant has proposed 12 units of Affordable Housing within this development, split between the northern and southern sections of the site (4 x 1 bed, 3 x 2 bed, 4 x 3 bed and 1 x 4 bedrooms). This equates to 29% provision on site. All the units must be DQR compliant and should be pepper potted throughout the development. On the basis of the submitted information, the Housing Officer has not objected and the proposals are considered acceptable and these requirements would be secured via a S106 agreement.

### **Education**

The Education Officer has advised that whilst the pupil projections at the catchment schools have changed slightly from the previous application, the position for Education remains the same as the previous permission. There remains a capacity issue at three of the catchment schools and therefore it is considered that the previous request remains valid and reasonable which comprises a contribution of £20,744 for YGG Pontybrenin and £31,696 for Penyrheol Comprehensive school in order to improve capacity at the schools.

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

### **Archaeology**

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

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Subsequently, it is recommended that an archaeological watching brief, with contingencies, is conducted on any intrusive ground works within the proposed development area in order to record any below-ground archaeological remains that may be disturbed during development of the site.

The Glamorgan Gwent Archaeological Trust agree with the assessment and advise that two conditions should be attached to any grant of consent, one requiring historic building recording and one requiring a watching brief during the course of works. These details have already been discharged for the previous planning permission and therefore a condition would be attached to ensure that the development proceeds in accordance with the approved Written Scheme of Investigation which includes Historic Building Recording.

### **Drainage/ Flooding**

Residents have commented that the site is marshy, the previous scheme stalled due to drainage issues, the development would increase run off whilst reducing natural percolation and a flood assessment should be undertaken. Gorseinon Town Council have also referred to the Drainage Officer's objection.

The flood consequences and drainage assessment states that with the advent of the residential development which took place in the locality during the early 1990's, the adjoining watercourse along the eastern boundary has been culverted to allow development to take place. This runs for the length of the site to a chamber near the head of the Heol Pentre Bach road but located within the site. This culvert is proposed to remain in situ which has necessitated the redesign of the scheme and resulted in this application.

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

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

The Council's Drainage Officer originally raised concerns with the proposal as discharge rates were higher than previously approved and no indication of attenuation locations was provided. Following amendments to the engineering drawing (including the discharge rate), he has withdrawn the objection subject to the imposition of a condition that full drainage details be agreed prior to the commencement of development and provided run-off to the adjacent watercourse does not exceed 7.5l/s. The Drainage Officer requested that permitted development rights be removed for this development but as it was not included in the previous consent, it is not considered reasonable to include as part of this scheme. Dwr Cymru Welsh Water has not objected to the planning application.

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

### **Burry Inlet Habitat Regulations Assessment**

#### **Introduction**

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

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

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

#### **Water Quality**

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

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

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

The overarching Statement of Water Quality identified two areas of concern where development could potentially affect water quality in the estuary. The first point of concern related to the hydraulic load on the existing combined sewerage systems. The discharge of surface water to the combined system is the main cause of the problem and the MoU has addressed this by stipulating that no surface water from new developments shall discharge to the combined sewer. The second concern relates to nutrient loading on the Estuary.

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Certain nutrients are removed from the sewage by appropriate treatment at the WWTW but it has been determined that WWTW effluent discharges contain the highest percentage of phosphates when compared with other nutrient sources.

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

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

### **Other possible effects on CBEEMs features**

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

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

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

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

### **Conclusion**

In conclusion, DCWW have not objected to this scheme, and the Council's HRA which has been adopted for all development in the Gowerton WwTW drainage network area runs up until the end of 2017. The HRA has been agreed with NRW and concludes that 'It is the opinion of the Authority that this development can be accommodated within the post Review of Consents (RoC) discharge consent limits, and would not be likely to have a significant effect either alone or in combination on the Carmarthen Bay and Estuaries SAC, the Carmarthen Bay SPA, or the Burry Inlet Spa and Ramsar. Such effects can be excluded on the basis of the objective information available through the 2010 Environment Agency review.

In summary, there are no known hydraulic capacity or new water quality issues to address and there is no justification to refuse this proposal for planning permission on these grounds.

## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

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Subject to further control by conditions, it is considered that the drainage arrangements for this scheme are acceptable and can meet the overarching aims of sustainable development in this area, and satisfy the provisions of Policies EV33, EV34 and EV35.

### **Welsh Language**

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

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

Due to the nature of the scheme (residential), it is not considered that the proposals would lead to greater economic diversity resulting in in-migration of non-Welsh speakers or increased competition for Welsh speaking businesses. The price structure of the houses has been based on an assessment of local market need and are comparable with average 3 and 4 bed houses within Swansea. It is therefore considered unlikely that the development would force the local Welsh speaking community to leave the area. The proposed development would generate 11 children of primary school age, 8 children of secondary school age and 2 students of post-16 age. As a result of the limited number of pupils generated by the development, it is considered unlikely that the proposal would alter the balance between Welsh speaking and non-Welsh speaking students. The overall assessment equates to 4 positive scores, no negative score and 14 neutral scores which equates to the proposal scoring +4 on the PWL scoring system, and result in a positive impact on the Welsh language. However, mitigation is proposed in the form of promoting the proximity of Welsh speaking schools in advertising literature, strong advertising within the local area and bilingual sales to be made available on request and this would be included as an advice note to any permission granted.

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ITEM 3 (CONT'D)

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### Other issues

Despite resident concerns, there is no evidence of insufficient utility and local service infrastructure capacity within the area, this issue has not arisen through the LDP candidate site assessment and a contribution would be provided towards education. One resident has commented that the proposals could impact on their Council tax, however there is no evidence of this and the tax is based on property value so this issue is given very limited weight. Permission has also previously been granted for the development of this site for 41 dwellings which is currently extant and all of the pre-commencement conditions have subsequently been discharged.

### Planning Balance

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

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

In this instance, the applicant argues that the application site is proposed as an allocated site for residential development within the Local Development Plan and the Council do not currently have a 5 year housing land supply, both of which weigh in favour of the application. Further to this, the site benefits from an extant planning permission (granted 30th September 2016 with a condition that the development shall commence within 1 year) that is due to be implemented in due course.

The housing land supply currently stands at 3.2 years (2016 JHLAS), which is less than the 5 years required under national planning policy. The Council has demonstrated its commitment to increasing the available housing land supply through publication of the Developer Guidance - Planning Applications for Non-Householder Residential Development.

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



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**ITEM 3 (CONT'D)**

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

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

The site is allocated within the Deposit LDP for housing for approximately 40 dwellings. Further to this, it is noted that the Council cannot meet its future housing land supply needs without allocating greenfield sites.

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

The planning balance in this respect is therefore finely balanced.

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

When assessing all of these issues, it is considered that the clear benefits of the development, with a legitimate fallback position for residential development that could be commenced (given that all pre-commencement conditions have been discharged), outweigh the policy breach of restricting development within a green wedge, and constitute very exceptional circumstances providing that a condition is attached requiring the development to be implemented within one year of permission being granted to ensure the prompt delivery of much needed housing.

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### Planning Obligations:

The Planning Obligations associated with this development include:

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

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

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

and

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

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

### RECOMMENDATION

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

- \* **Provision of 12 affordable housing units on site to DQR (29% of the development - of which 60% intermediate units at 70% of ACG or OMV (whichever is lower at the point of transfer) and 40% social rented at 42% ACG or OMV (whichever is lower at the point of transfer) - all to be disposed of via a RSL)**
- \* **£52,440 contribution towards Education (£31,696 would be required towards Penyrheol Comprehensive School and £20,744 towards YGG Pontybrenin)**

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ITEM 3 (CONT'D)

APPLICATION NO:

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- \* **£750 contribution to replace two existing stiles with kissing gates**
- \* **£1,064 contribution towards ongoing management and monitoring fees (2% of obligation)**

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

Reason: To ensure the development is commenced in a short timeframe to enable the delivery of dwellings to help meet the identified shortfall and to comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.

2 The development shall be carried out in accordance with the following approved plans and documents:

Location Plan (Drawing No. 1619 101) received on 6th April 2017; Enclosure Details Sheet 1 (1619 175) and Enclosure Details Sheet 2 (1619 176), Enclosure Sheet Details 3 (1619 177) and Garage Details Sheet 4 (1619 174) received on 18th April 2017; Planning Layout (1619 100F), External Works Layout (1619 102A), Materials Layout (1619 103A), Storey Heights Layout (1619 104A), Affordable Housing Layout 1619 105A), Parking Strategy Layout (1619 106A), Adoption Layout (1619 108A), Ennerdale Semi Detached Floorplans (1619 152A), Ennerdale Semi Detached Elevations (1619 153A), Ennerdale Detached Floorplans (1619 154A), Ennerdale Detached Elevations (1619 155A), Hemworth Floorplans (1619 156A), Hemworth Elevations (1619 157A), Hemworth Render Elevations (1619 158A), Kingsley Floorplans (1619 159A), Kingsley Elevations (1619 160A), Hale Floor Plans (1619 161A), Hale Elevations (1619 162A), Alderney Floorplans (1619 163A), Alderney Elevations (1619 164A) and Radleigh Floorplans (1619 165A) received on 25th May 2017; Maidstone Floorplans (1619 150B), Maidstone Elevations (1619 151B), Radleigh Elevations (1619 166A), Fir Floorplans and Elevations (1619 167B), Olive Floorplans and Elevations (1619 168B), Larch Floorplans and Elevations (1619 169B), Cherry Floorplans and Elevations (1619 170B), Garage Details Sheet 1 (1619 171A), Garage Details Sheet 2 (1619 172A), Garage Details Sheet 3 (1619 173A) received on 26th May 2017, Engineering Layout (10162-001F) received on 7th June 2017; and Existing and Proposed Ground Levels (1619 B002A) received on 9th June 2017.

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

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

Reason: To comply with the requirements of Section 71ZB(1) of the Town and Country Planning Act 1990 (as amended).

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

Reason: To comply with the requirements of Section 71ZB (2) of the Town and Country Planning Act 1990 (as amended).

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### ITEM 3 (CONT'D)

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- 5 The development hereby permitted shall be undertaken in accordance with the Written Scheme of Investigation dated 1st August 2016, prepared by Archaeology Wales Limited, submitted to discharge condition 6 of planning permission 2015/2506 as confirmed in the letter from Barratt Homes dated 20th June 2017. A copy of the Watching Brief Report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.  
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.
- 6 The development hereby permitted shall be undertaken in accordance with the Construction Method and Management Statement dated 20th March 2017, prepared by Barratt Homes, submitted to discharge condition 8 of planning permission 2015/2506 as confirmed in the letter from Barratt Homes dated 20th June 2017.  
Reason: To protect residential amenity and the environment during the construction phase.
- 7 Prior to the commencement of development, samples of all external finishes for the development shall be submitted to and approved by the Local Planning Authority in writing. The scheme shall thereafter be implemented in accordance with the approved details.  
Reason: In the interests of visual amenity.
- 8 Prior to the commencement of development, and notwithstanding the details submitted to date, a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with shall be submitted to, and approved in writing, by the Local Planning Authority. Thereafter development shall be carried out in accordance with the approved details, and the development shall not be beneficially occupied before it is served by the approved foul water, surface water, land drainage systems and the systems shall be retained in perpetuity.  
Reason: To ensure that effective drainage facilities are provided for the proposed development and that no harm occurs to the environment, public amenity or the existing public sewerage system.
- 9 Prior to the commencement of development, a scheme for the ownership and maintenance of the surface water system shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be maintained in accordance with the approved details.  
Reason: To ensure the satisfactory long-term operation of the surface water management scheme to prevent the increased risk of flooding to the development itself and surrounding third parties.
- 10 The works hereby approved shall be undertaken in accordance with the recommendations contained within section 5 of the Update Extended Phase 1 Habitat Survey Report prepared by WYG dated February 2017.  
Reason: To ensure ecological mitigation is provided in accordance with best practice during the course of the works.

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**ITEM 3 (CONT'D)**

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- 11 The works hereby approved shall be undertaken in accordance with the recommendations contained within Section 5 of the Reptile Presence/ Likely Absence Survey Report prepared by WYG dated December 2015.  
Reason: To ensure a precautionary approach is undertaken to protect reptiles during the course of development.
- 12 The works hereby approved shall be undertaken in accordance with the recommendations contained within Section 5 of the Bat Activity Survey Report prepared by WYG dated February 2017.  
Reason: To ensure a precautionary approach is undertaken to protect bats during the course of development and in the future.
- 13 Prior to the first beneficial occupation of any dwelling hereby permitted, full engineering details of the highways and footpaths within the residential development and the phasing/ timescales for their construction shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details and timescales.  
Reason: In the interests of highway safety and to ensure that all properties have sufficient access arrangements are provided at an appropriate time during the course of development.
- 14 Prior to the first beneficial occupation of any dwelling on the residential site hereby permitted, full details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.  
Reason: In the interests of highway safety and to ensure that the highways within the development are maintained appropriately thereafter.
- 15 The dwellings hereby permitted shall not be brought into beneficial use until such time as speed reduction measures at the junction of Heol Pentre Bach and Frampton Road have been completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.
- 16 Notwithstanding the details submitted to date, full details of a Lighting and Landscape Plan (to include the infill native planting along the western boundary and a timescale for implementation) shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial occupation of any of the dwellings hereby permitted. The landscaping and lighting shall be completed in accordance with the approved details.  
Reason: To ensure appropriate landscaping is provided along the site boundary and within the site to mitigate for tree loss, improve connectivity for bats using native species and ensure insensitive lighting does not impact on bats.

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**ITEM 3 (CONT'D)**

**APPLICATION NO:**

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- 17 All planting and grass seeding or turfing comprised in the approved details of landscaping for the residential site shall be carried out in the first planting and seeding seasons following the first beneficial occupation of any dwelling or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.  
Reason: To safeguard landscape and amenity interests.
- 18 Prior to the first beneficial occupation of any of the dwellings hereby permitted, a scheme for improvements to public footpath LC46 between the tarmac path adjacent to the existing pumping station and Pentrebach Farm to include details of surfacing and width along its length, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details prior to the beneficial occupation of the 20th dwelling hereby permitted.  
Reason: To ensure access to the surrounding area is improved given increase usage and to encourage walking for residents within the development as a mode of transport.
- 19 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. Within 2 months of the written notice being received by the Local Planning Authority, an investigation and risk assessment must be undertaken in accordance with the requirements of the latest guidance, and where remediation is necessary a remediation scheme must be prepared which sets out a timetable for the work, which is subject to the approval in writing of the Local Planning Authority. The approved remediation scheme shall be undertaken in accordance with the approved timetable of works. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the first beneficial occupation of the development permitted on that particular site.  
Reason: To ensure that risks from unknown land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.
- 20 The development shall not discharge to the local watercourse network at any rate greater than 7.5 litres per second.  
Reason: To prevent surface water flooding occurring both onsite and adjacent third parties.
- 21 Protective measures, including fencing, ground protection, supervision, working procedures and special engineering solutions shall be carried out in accordance with the Arboricultural Report written by WYG referenced A083749 V3 prior to the commencement of development and shall be retained thereafter for the duration of the construction works. Any deviation from the works prescribed or methods agreed in the report will require prior written approval from the Local Planning Authority.  
Reason: To ensure that reasonable measures are taken to safeguard trees in the interests of local amenity.

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ITEM 3 (CONT'D)

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- 22 Notwithstanding the details shown on the elevations and floorplans for the Hale Detached dwelling, the window on the side elevation at first floor level serving the 2nd bedroom of plot 20 shall be omitted completely and the window serving the en-suite of plot 20 shall be fitted with obscure glazing, to a minimum level 3 and retained as such thereafter.  
Reason: In the interests of residential amenity and for the purposes of clarity as to the details hereby approved.

### INFORMATIVES

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV2, EV22, EV23, EV30, EV33, EV34, EV35, EV38, EV40, HC3, HC17, AS2, AS5 and AS6.

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

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

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

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

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

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

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

## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

### ITEM 3 (CONT'D)

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- 5 The Pollution Control Officer has advised the following:
- 1 Construction Noise  
The following restrictions should be applied to all works of demolition/ construction carried out on the development site All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays. The Local Authority has the power to impose the specified hours by service of an enforcement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.
- 2 Smoke/ Burning of materials  
No burning of any material to be undertaken on site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.
- 3 Dust Control:  
During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.
- 4 Lighting  
During construction work the developer shall operate all best practice to minimise nuisance to local's residences from on-site lighting. Due consideration should be taken of the Institute of Lighting [[www.ile.org.uk](http://www.ile.org.uk)] recommendations.
- 6 Dwr Cymru Welsh Water have advised that the proposed development site is crossed by a 375mm & 150mm combined sewer overflow pipe with their approximate position being marked on the attached Statutory Public Sewer Record. Their position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewers.
- 7 GGAT have advised that:  
The archaeological work must be undertaken to the Chartered Institute for Archaeologists (ClfA), "Standard and Guidance for Building Recording" ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a ClfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member. The archaeological work must be undertaken to the Chartered Institute for Archaeologists (ClfA), "Standard and Guidance for an Archaeological Watching Brief" ([www.archaeologists.net/codes/ifa](http://www.archaeologists.net/codes/ifa)) and it is recommended that it is carried out either by a ClfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited Member.
- 8 The applicant is advised to considered Police Designing Out Crime Officer's comments in full which are available on the planning application page of the Council's website.



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**ITEM 3 (CONT'D)**

**APPLICATION NO:**

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- 9 The Welsh language mitigation measures proposed in the form of promoting the proximity of Welsh speaking schools in advertising literature, strong advertising within the local area and bilingual sales to be made available on request should be undertaken when advertising this development.
-



**PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017**

**ITEM 4 (CONT'D)**

**APPLICATION NO:**

2017/0482/S73

UDP - EV23 - Green Wedges

Within green wedges development will only be permitted if it maintains the openness and character of the green wedge and does not contribute to the coalescence of settlements or adversely affect the setting of the urban area. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC9 - Gypsy and Traveler Caravan Sites

Gypsy and traveler sites will be permitted where an unmet need is proven subject to the requirements of a defined set of criteria being met. (City & County of Swansea Unitary Development Plan 2008)

**SITE HISTORY**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/0482/S73	The stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use. Variation of conditions 3 and 4 of planning permission granted on appeal (Appeal Ref: APP/B6855/A/12/2184665. LPA Ref: 2012/0079) to allow for the permanent use of the site by gypsies and travelers	PDE	
99/0161	ERECTION OF A DETACHED DWELLING HOUSE	APP	23.06.1999
2014/0027/DOC	Discharge of conditions 5, 9, 10, 12 of planning permission 2012/0079 granted on appeal 3rd May 2013	NOBJ	30.09.2014
2012/0079	The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standings and utility/ dayrooms	REF	29.03.2012

## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

ITEM 4 (CONT'D)		APPLICATION NO:	2017/0482/S73
2009/1075	Change of use of garage to office and single storey rear extension to provide storage	APP	18.12.2009
2006/1980	Demolition of existing derelict building and reconstruction to create 4 residential units with associated landscaping and garden restoration, highway alterations and provision of 12 car parking spaces	PDE	
2005/2317	One dwelling and detached garage (variation of condition 03 and 06 of planning permission 99/0161 granted on 23rd June 1999 to allow the consideration of access details, boundary treatment and details and/or samples of all finishes following the commencement of development)	APP	04.05.2006

This application is reported to Committee as it constitutes a departure from the development plan and is recommended for approval.

### RESPONSE TO CONSULTATIONS

The application was publicised by a press notice as a departure to the development plan, by site notice and 17 neighbouring properties were consulted. ONE LETTER OF OBJECTION AND ONE LETTER OF COMMENT have been received, which may be summarised as follows:

1. It would not be appropriate for the site to go ahead. It would be better for them to look elsewhere.
2. It does not follow that the existence of the unmet need as it stands today contributes any more weight to the application than it did in 2013, when the Inspector dealt with it as part of his overall considerations. Rather, it should instead be recognised that whilst the unmet need persists, there may be grounds for a temporary extension of the previously granted permission.
3. The previous permission granted is intrinsically linked to the concept of the site being temporary, and effectively an interim permission subject to the conclusion of Swansea's council's work to address the acknowledged short fall in pitch provision across the city.

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### ITEM 4 (CONT'D)

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4. A further temporary extension to the existing permission, pending the conclusion of Council action to address the current unmet need, is entirely sufficient to prevent homelessness of the four families.
5. The Inspector's judgement gave specific reference to the circumstances of named individuals in his report. He attributed specific weight, in the process of reaching his conclusion, to the specific circumstances of these individuals. To that end, it is an overreach to vary this condition in such a manner and is again at odds with the Inspector's findings.
6. The present landscaping of the site, as well as the layout on site, does not appear to fully comply with the relevant site plans.
7. Condition 8 within the Inspector's report states "no vehicle over 3.5 tonnes shall be stationed, parked or stored on the land". It is reasonable to interpret this as no vehicle exceeding 3.5 tonnes gross vehicle weight rating, or gross vehicle mass.

### APPRAISAL

This is a Section 73 application to vary conditions 3 and 4 of planning permission 2012/0079 (Appeal Ref: APP/B6855/A/12/2184665) granted at appeal for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use on land at Drummau House, Birchgrove Road, Swansea.

Condition 3 restricts the occupation of the site to those named within the condition and reads as follows:

'The occupation of the land hereby permitted shall be carried on by Mervyn Thomas, Lucy Thomas, Stanley Thomas, Lisa Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants, and shall be for a limited period being the period of four years from the date of this decision or the period during which the land is occupied by them, whichever is the shorter'.

Condition 4 restricts the time period for the development to four years and requires the mobile homes and caravans etc. to be removed within once month of the cessations date. The condition reads as follows:

'When the land ceases to be occupied by Mervyn Thomas, Lucy Thomas, Stanley Thomas, Lisa Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants or at the end of four years from the date of this decision, whichever shall first occur, the use hereby permitted shall cease and all mobile homes, static and touring caravans, portable structures, materials and equipment brought on to the land, shall be removed from the land within one month of the cessation date'.

This application seeks to vary condition 3 to either allow the permanent occupation of the site for gypsies and travellers as defined in Welsh Government Circular 30/2007 'Planning for Gypsy and Traveller Caravan Sites' or the permanent occupation of the site by those named within the original condition save for the replacement of 'Louise Thomas' and 'Lisa Thomas' with 'Lucy Thomas' and 'Emma Jones'.

Should the Council allow the permanent occupation of the site condition 4 would no longer be necessary.

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The applicant contends that the Council have identified unmet need for gypsy and traveller accommodation within the city but, to date, no additional sites have been made available to meet the need. Therefore, if this planning permission is refused for the permanent use of the site, the four families on the Drummau House site would be without a home and the Council's gypsy and traveller accommodation needs would increase.

### BACKGROUND

Planning permission was refused by the Council in 2012 for the development of the site for four gypsy and traveller pitches with associated works for the following reasons:

- 1 The proposal represents unjustified development in the countryside which would fail to maintain and would detract from the openness and character of the countryside and Birchgrove Green Wedge and would be harmful to the visual amenities of the locality contrary to Policies EV1, EV2, EV22, EV23 and HC9 of the City and County of Swansea Unitary Development Plan 2008.
- 2 The applicant has not demonstrated that adequate access can be derived from the site to the Highway Network and the access as indicated is not of a satisfactory standard to meet the shared drive criteria to serve the proposed development which would result in obstruction on Birchgrove Road to the detriment of highway safety contrary to Policies AS2 and HC9 of the City and County of Swansea Unitary Development Plan 2008.
- 3 The site is crossed by a 48inch diameter public watermain, and it has not been demonstrated that the proposed development would not adversely affect this strategic watermain, contrary to the provisions of UDP Policy EV2 (x) of the City and County of Swansea Unitary Development Plan 2008.

The applicant appealed the decision and a public inquiry was held over three days in February and March 2013. The appeal was allowed and costs were awarded against the Council in relation to the second and third reasons for refusal.

The conclusions of the planning inspector on the original 2012 planning application are material to the consideration of this application. When weighing up whether to grant a permanent planning permission on the site he noted:

'I must attach substantial weight to the harm to the GW (Green Wedge) by reason of the proposal's inappropriateness. I have also found that the proposal would result in moderate harm to the GW in terms of both openness and encroachment, the latter being a reason for including land in the GW.

However, to be weighed against these factors are a number of considerations in favour of the proposal. General considerations are: the need for additional gypsy sites and that the shortage is unlikely to be addressed until at least three and a half to four years' time; the lack of alternative sites; failure of policy; and broad compliance with the Development Plan. The gypsy status of the intended occupiers and their personal circumstances also weigh in favour of the proposal. Here, particular consideration has been given to what would be in the best interests of the children. I have attributed weight to all these factors as per previous paragraphs.

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In my judgement, however, the general material considerations in favour of the proposal, even when added together, would not clearly outweigh the harm caused by the proposal, as mentioned in paragraph 36 above. Even if gypsy status and personal circumstances (after having regard to the best interests of the children) are also taken into account, the harm which would be caused by the proposal would not be clearly outweighed. Very exceptional circumstances to justify the proposal do not therefore exist and the proposal is therefore contrary to guidance contained in PPW'.

When weighting up whether to grant a temporary planning permission on the site he concluded as follows:

'WOC 35/95 states that a temporary permission may be justified when it is expected that the planning circumstances will change in a particular way at the end of the temporary period. WAGC 30/2007 indicates that, where there is an unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, decision makers should give consideration to granting temporary permission where there are no overriding objections on other grounds. Paragraph 14 of WAGC 30/2007 states that such circumstances may arise in a case where a local planning authority is preparing its sites allocation as a part of the LDP, and that in such circumstances, decision makers are expected to take into account the consequences of the unmet need in considering whether a temporary planning permission is justified.

On the basis of the information available to me, I am satisfied that there is unmet need and that the planning circumstances are likely to change in the Council's area within the next four years as work on the LDP progresses and sites are also brought forward following the work undertaken by Task and Finish Group.

The planning merits of the proposal also need to be taken into account. I consider that harm to the GW would be perpetuated and note that WAGC 30/2007 confirms the general presumption against new gypsy and traveller sites as inappropriate development. Nevertheless, after taking all matters into account in this case, I consider that it would be appropriate to grant a personal and temporary permission for four years. The unmet need and likely change in planning circumstances over the next four years have been taken into account by me. However, it is the combination of these points and the personal circumstances of the family, particularly those relating to site conditions at the appellant's mother's house and the varied needs of the children (after recognizing their best interests), which has persuaded me to grant permission, albeit that there would be harm to the GW in the short term.

I choose a period of four years since it would appear that by the end of this time, work on the Council's LDP will be well underway and the sites identified by the Task and Finish Group should start to become available. I emphasize that a temporary planning permission for the site should not be seen as an indication of the acceptability of the site on a permanent basis'.

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### MAIN ISSUES

Following on from the planning inspector's conclusions on the original application, the main issues to consider are whether there have been any material changes in circumstances since the appeal was allowed that would justify allowing a permanent planning permission at the site having regard to the impacts of the development on the green wedge, the need for gypsy and traveller sites and the personal circumstances of the occupiers including the need to consider the best interests of the children on the site.

#### Planning Policy

The original planning application and appeal were considered under the policies of the City and County of Swansea Unitary Development Plan (2008) (UDP) and national planning policy set out in Planning Policy Wales (PPW) and Welsh Assembly Government Circular 30/2007 'Planning For Gypsy and Traveller Caravan sites' (WAGC 30/2007).

The UDP is still the extant development plan for the area and whilst Welsh Government are currently working on a new circular in respect the planning of Gypsy, Traveller and show people sites, the existing 2007 circular remains in place.

PPW (Ed. 9) has been updated since the appeal was allowed to take into account the Wellbeing of Future Generations Act among other changes. The thrust of the Housing chapter remains that there is a need to ensure a wide choice of accommodation is available to meet the needs of all members of the community and requires the provision of suitable Gypsy sites in development plans to meet identified unmet need in the GTAA.

In the Deposit Local Development Plan (LDP), like the UDP, the application site is located within the Green Wedge, however, as the LDP is yet to go through its Examination in Public, this can be afforded little weight in the consideration of this planning application.

#### Impact on the Green Wedge

UDP Policy EV23 is consistent with the thrust of national planning policy set out in PPW (Ed. 9) which establishes that certain types of development within green wedges are 'inappropriate' and should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm to the green wedge.

In reaching his decision to grant a temporary rather than permanent planning permission at the site the planning inspector attached substantial weight to the harm to the green wedge arising from the development and found that it would result in moderate harm in terms of openness and encroachment.

Since the appeal was allowed the site has been constructed. It lies to the south of the ruins of former Drummau House and to the east of the Dwr Cymru Welsh Water pumping station. The site remains relatively well screened from Birchgrove Road by the pumping station, mature trees and landscaping, however, during the winter months when there is less screening, the elevated position of the site above the road means that it remains partially visible, albeit it is set back from the road by some 60m.



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There have been no material changes in circumstances since the appeal was allowed that would lead to an alternative view of the impact of the development on the green wedge from that reached by the planning inspector in 2013. The development is still considered to be inappropriate within the green wedge and substantial weight must be attached to the harm resulting from the development in this respect.

### Need

Since May 2013 the Housing (Wales) Act 2014 has come into effect. It places a legal duty on Local Authorities to ensure the accommodation needs of Gypsies and Travellers are properly assessed through a Gypsy and Traveller Accommodation Assessment (GTAA) and the identified need for pitches is met.

The Council's GTAA (2015) sets out the latest information on accommodation requirements in the County. Overall the GTAA identifies an unmet need for 23 pitches over the next 5 years (2015-20) and 29 over the remaining 10 year LDP period (2015-25) in order to meet the accommodation needs of Gypsies and Travellers as defined under Section 108 of the Housing (Wales) Act 2014.

When the GTAA was undertaken Council officers sent several letters to the occupiers of the Drummau House site to assess their accommodation needs, however, no response was forthcoming from the occupiers and the GTAA has not included the demand generated for pitches by this site. The GTAA has been produced in consultation with, and approved by Welsh Government. Notwithstanding this, the submission of this planning application clearly demonstrates that there is a demonstrable need for at least four pitches to accommodate the families that live at the Drummau House site.

As part of the LDP process a number of sites have been considered to accommodate a new gypsy and traveller site. The site identified within the LDP Deposit Policy H6 is located off Pant Y Blawdd Road, Morryston to allow for future expansion of the existing adjacent Ty Gwyn authorised gypsy and traveller site. The LDP allocation is based on the need and supply identified in the 2015 GTAA. The forthcoming LDP Examination in Public will consider any duly made objections, submitted evidence and/or relevant changes in material circumstances that are considered by the appointed inspector to be appropriate for detailed examination in relation to Policy H6. Matters relating to need are likely to be considered at the LDP examination, having regard to the latest evidence submitted by all relevant parties.

There remains an unmet need for gypsy and traveller pitches within the City and County of Swansea. In this respect the situation remains similar to that when the appeal was determined on the original planning application. The planning inspector reported at the time that there was a material unmet need which would not start to be met for a number of years. This situation remains the same today. Therefore, in accordance with the inspector's decision, significant weight must be given in favour of the proposal on this issue.

### Personal Circumstances

At the public inquiry the personal circumstances of the occupiers was examined at length with both the Council and the planning inspector satisfied that the occupiers would meet the definition of gypsy and travellers in Circular WAGC 30/2007.

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Since the appeal was allowed two of the named occupiers at the site namely Lucy Thomas and Lisa Thomas have left the site. Two previously unnamed individuals now occupy the site namely Emma Jones and Louise Thomas who are in relationships with the applicant and his brother respectively. The applicant's agent has confirmed both new occupiers are gypsy travellers conforming to the Circular definition. It is not considered there are any reasons to question this assertion in view of the examination that took place and the conclusions that were reached on gypsy status at the public enquiry.

As reported in the planning inspector's decision, prior to the formation of the site at Drummau House the applicant and his brothers were based on land at their mother's house in Birchgrove. The inspector found conditions at this unauthorised site to be extremely cramped and concluded that the applicant, his brothers and their families were, in effect, homeless.

The inspector also noted that at the time none of the family were suffering from ill health. No details of any specific health requirements have been provided in support of this planning application, however, the planning inspector's decision acknowledged that the stability brought about by the occupation of the site, even on a temporary basis, would mean regular access to health care which would be advantageous to them. This conclusion is accepted.

In relation to the children at the site, at the time of the appeal there were three children proposed to be living at the site one of whom would have been of school age. The applicant, through his agent, has confirmed there are currently ten children living on site and two additional children who visit regularly; three children currently attend local schools and the others will attend when they are old enough. In the appeal decision the planning inspector acknowledges the occupation of the site, if only on a temporary basis, would provide essential continuity and stability. That there are now more children on the site attending local schools than there would have been at the time of the appeal is considered to reinforce the findings of the planning inspector that the occupation of the site albeit on a temporary basis would have a positive impact on the children at the site.

At appeal the planning inspector found that significant weight should be given to the personal circumstances in this case, including the conditions at the applicant's mother's house and taking into account the best interests of the children including educational, health, social and welfare needs. In this instance it is considered the personal circumstances of the applicant and his family as set out above still carry significant weight in the determination of this application.

### Permanent Permission

As noted above the applicant has applied for a permanent unrestricted planning permission on the site or a name restricted permanent planning permission, the justification for this being that the Council has not provided an alternative site to meet current unmet need.

It is fully accepted that since the temporary planning permission was allowed on appeal, the Council has not provided gypsy and traveller accommodation to address the unmet need within the City and County. Notwithstanding this the work to provide a site to meet this unmet need is ongoing and will be fully considered at the LDP Examination in Public. Whilst the exact timescales to provide the accommodation to address the unmet need are not yet known it is likely to be brought forward within a time period of four years.

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This will allow for the LDP to be adopted, taking account of any slippage, and the site provision to be constructed and available for use.

The harm to the green wedge arising from the development of this site and the substantial weight that should be attached to that harm was considered by the planning inspector to outweigh the general considerations in favour of the proposal including, but not limited to, the need for gypsy and traveller sites and personal circumstances described above and specifically taking into account the best interests of the children. It is recognised that a permanent planning permission would provide a long term stable base for family life at the site for the occupiers, however, even when taking this into account it is not considered that these matter would outweigh the harm clearly caused by the permanent development of the site within the green wedge. Therefore the considerations arising from this proposal have not materially changed in favour of the application to the extent that they would tip the planning balance in favour of granting a permanent permission on the site. In accordance with the planning inspector's previous decision, therefore, very exceptional circumstances to justify a permanent permission on the site, even a name restricted permission, do not exist and the proposal is accordingly considered to be contrary to UDP Policy EV23 and national planning guidance contained in PPW.

### Temporary Permission

The previous planning permission on the site was granted for a temporary period. Since then Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development management' has been issued and states that where planning circumstances will change in a particular way at the end of that period then a temporary permission may be justified. In addition WAGC 30/2007 indicates that consideration should be given to the granting of a temporary permission where there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need and where there are no overriding objections on other grounds.

In reaching his decision to grant a personal temporary permission, the planning inspector was clear that the unmet need and the likely change in circumstances over the four year period in combination with the personal circumstances of the family, specifically the site conditions at the appellant's mother's house and the needs of the children (recognising their best interests) persuaded him to grant permission, whilst still acknowledging the harm to the green wedge in the short term.

Clearly the approval of a further temporary permission would perpetuate the identified harm to the green wedge, however, this must be balanced with the consequences of not allowing a temporary planning permission which would mean the loss of a settled base for the families including the children and would potentially mean the re-occupation of the cramped unauthorised site at the applicant's mothers or another unauthorised site in the area. The question is whether refusing planning permission and the associated consequences of doing this, in terms of enforcement action, would be a proportionate response.

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When considering all the factors in favour of granting a further temporary permission relating, in particular, to the unmet need within the City and County and the personal circumstances of the family, taking into account and having full regard to what would be in the best interests of the children at the site, it is considered that not allowing a further temporary permission would not be a proportionate response. Overall, therefore, it is recommended that a further temporary planning permission for a further 4 years should be granted and this should provide sufficient time for the Council to bring forward satisfactory gypsy and traveller accommodation for the families living at the Drummau House site.

It is recognised that a recommendation not to grant a permanent planning permission results in an interference with the rights of the occupiers and their families in respect of private and family life and their home, and that Article 8 of the European Convention on Human Rights is engaged. Where those rights relate to children they must be seen in context of article 3 of the United Nations Convention on the Rights of the Child which requires a child's best interests to be a primary consideration. Moreover the Children's Act 2004 requires the Local Authority to safeguard and promote the welfare and well-being of the children. For the above reasons the recommendation of a temporary planning permission is considered to be a proportionate response after taking into account the conflicting matters of public and private interests so that there is no violation of human rights.

### Other Matters

Concerns have been raised that the development as constructed on site may not accord with the approved plans. This matter will be investigated through planning enforcement, however, this matter is afforded little weight in the determination of this planning application, which relates to a variation of an existing planning permission.

In relation to the comment received relating to the vehicle weight referenced in condition 8, whilst the inspector has not referenced the exact terminology relating to how the 3.5 tonne vehicle restriction should be interpreted, it would seem reasonable to interpret this as the maximum authorised mass of the vehicle.

### Conclusions

Incorporated into the obligations under Article 8 of the Human Rights Act, where those rights relate to children, they must be seen in context of article 3 of the United Nations Convention on the Rights of the Child which requires a child's best interests to be a primary consideration. Moreover the Children's Act 2004 requires the Local Authority to safeguard and promote the welfare and well-being of the children.

On the basis of the foregoing it is not considered that there is sufficient justification to allow a permanent planning permission on this site. However, circumstances will likely change in the next four years whereby it is anticipated that the LDP will be adopted and the current unmet need for new gypsy and traveller pitches within the City and County of Swansea will be met. It is therefore recommended that a further temporary planning permission is granted including a change in the names of two of the occupiers named on the original planning permission.

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Conditions relating to the reinstatement of the land, landscaping, drainage and the watermain crossing the site have also been amended to reflect the details previously provided by the applicant. Condition 1 of the original planning permission requiring the development to be commenced within 5 years is also not necessary and has been deleted.

### RECOMMENDATION

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

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 3 of Welsh Assembly Government Circular 30/2007.  
Reason: In order to ensure that the accommodation is occupied solely by Gypsy/Travellers and for no other residential purpose.
- 2 The occupation of the land hereby permitted shall be carried on by Mervyn Thomas, Emma Jones, Stanley Thomas, Louise Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants, and shall be for a limited period being the period of four years from the date of this decision or the period during which the land is occupied by them, whichever is the shorter.  
Reason: In order to ensure that the accommodation is occupied solely by the names gypsy/travellers as their personal circumstances are material to the decision.
- 3 When the land ceases to be occupied by Mervyn Thomas, Emma Jones, Stanley Thomas, Louise Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants or at the end of four years from the date of this decision, whichever shall first occur, the use hereby permitted shall cease and all mobile homes, static and touring caravans, portable structures, materials and equipment brought on to the land, shall be removed from the land within one month of the cessation date.  
Reason: To ensure the openness of the green wedge is maintained upon the cessation of the development.
- 4 The scheme to restore the land to its condition before the development took place as approved under discharge of condition reference no. 2014/0027/DOC shall be carried out after cessation of the use hereby permitted pursuant to condition 3. The restoration works shall be carried out in accordance with the approved details including the approved timescales.  
Reason: To ensure the openness of the green wedge is maintained upon the cessation of the development.
- 5 There shall be no more than the four pitches hereby approved on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on each one of the four pitches at any time.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 6 No commercial activities shall take place on the land, including the storage of materials.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.

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- 7 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 8 For the duration of the development, the site shall be landscaped in accordance with the details approved under discharge of condition reference no. 2014/0027/DOC. Any trees or shrubs planted in accordance with this condition which are removed, die, or become seriously diseased during the lifetime of this permission shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 9 At all times during the occupation of the development the drainage works approved under discharge of condition reference no. 2014/0027/DOC shall be retained and maintained.  
Reason: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.
- 10 The development shall be carried out in accordance with the following approved plan: 09\_335A\_001, received 1st March 2017 and the plans approved at appeal under reference APP/B6855/A/12/2184665 (LPA reference 2012/0079).  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 11 The method of protection of the structural condition of the strategic water main crossing the site as approved under discharge of condition reference no. 2014/0027/DOC shall be retained as approved at all times during the lifetime of this permission.  
Reason: To ensure the development does not compromise the structural condition of the strategic water main.
- 12 The northern access to the site (adjacent to New Drummau House) shall not be used as a vehicular access to the gypsy/traveller pitches hereby permitted other than as an emergency access.  
Reason: 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: EV1, EV2, EV23 and HC9.
-



## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

### ITEM 5 (CONT'D)

APPLICATION NO:

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#### 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 - 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 - 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 - 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 - EV36 - Development and Flood Risk

New development, where considered appropriate, within flood risk areas will only be permitted where developers can demonstrate to the satisfaction of the Council that its location is justified and the consequences associated with flooding are acceptable. (City & County of Swansea Unitary Development Plan 2008)

#### UDP - HC1 - Housing Sites

Allocation of housing sites for 10 or more dwellings. (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)



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**ITEM 5 (CONT'D)**

**APPLICATION NO:**

2017/0768/S73

**SITE HISTORY**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2016/3319/DOC	Construction of 35 dwellings - Partial Discharge of conditions in respect of Plots 1 - 10 - Conditions 1(commencement), 2 (plans) , 9 (road construction), 15 (contamination precaution) , 16 (Validation Report) of planning permission 2011/0758 granted 8th February 2016	APP	24.03.2017
2016/3542/FUL	To culvert a watercourse and associated works	APP	28.04.2017
2017/0343/NMA	Residential development - Non Material Amendment to planning permission 2011/0758 granted 8th February 2016 to amend the house types for plots 11-23 and 27-30 and re-alignment of road	REF	13.03.2017
2017/0768/S73	Variation of plans condition 2 of planning permission 2011/0758 granted 8th February 2016 to amend the site layout and house types in respect of plots 11 - 23 and 27 - 30	PDE	
2016/0290	Residential Development granted planning permission 8th February 2016 2011/0758 - Discharge of conditions 3 (means of enclosure), 4 (external finishes), 5 (landscaping), 6 (finished floor level), 7 (Japanese knotweed), 8 (road engineering details), 10 (travel plan), 11 (foul drainage), 12 (surface water drainage), 13 (foul water and surface water discharges), 14 (contamination of the site), 17 (construction method statement), 18 (development free buffer strip), 19 (pedestrian link), 20 (SUDS);	APP	23.03.2017

## PLANNING COMMITTEE – 4<sup>TH</sup> JULY 2017

ITEM 5 (CONT'D)	APPLICATION NO:	2017/0768/S73
2011/0758	Construction of 35 No. two storey dwellings with associated vehicular access, car parking and infrastructure works	S106 08.02.2016

### APPRAISAL:

This application is reported to Committee as the proposal exceeds the development threshold.

The residential development was granted planning permission 8th February, 2016 under ref: 2011/0758 for the construction of 35 No. two storey dwellings with associated vehicular access, car parking and infrastructure works and the first phase of the development consisting of Plots 1 - 10 & 31 - 35 have been constructed and several of the plots are occupied. The planning conditions have been substantially discharged under Ref:2016/0290.

An NMA application (Ref: 2017/0343/NMA) relating to amending the house types for plots 11-23 and 27-30 and a re-alignment of the road, was refused 13 March, 2017 and involved:

- o Plot 11 - change the Scott to a Vale
- o Plots 12 - 15 retain Scott house types
- o Plot 17 - change Scott to a Vale
- o Plots 29 / 30 - change Charles to a George
- o Plots 27 /28 - change Charles to a Scott
- o Plots 22 / 23 - change Charles to a George
- o Plots 21 / 20 change Charles to a Vale

Whilst the house types are similar to those already approved, the Vale house type has a wider width (approx. 1 metre) than the Scott which means that plots 11-13, 14 - 16 & 17 - 19 are approx. 1 metre closer to the residential properties in Golwg Y Llanw. Additionally, plots 20 / 21 are proposed to be re-sited approx. 6 - 7 metres in the plot.

By re-siting plots 11 - 13, 14 - 16 & 17 - 19, the dwellings would be approx. 1 metre closer to the residential properties in Golwg y Llanw, resulting in a separation distance of only 10.50 - 11 metres, which is contrary to the guidance with the adopted Places to Live Residential Design Guide SPG - January, 2014 with regard to the separation distance of 'back to side' elevation relationship from habitable room elevation to a pine end in order to avoid an overbearing impact. The proposed alterations would have a greater impact upon the residential amenity of any neighbouring occupants over and above that of the original application and would therefore be disadvantaged in planning terms. It was determined therefore that the proposed amendments were more than just non-material amendments to the originally approved scheme and as such did not satisfy Section 96A of the Town and Country Planning Act 1990. The NMA application was therefore refused.

This current Section 73 application seeks consent to vary the plans condition 2 under planning permission 2011/0758 to amend the site layout and house types in respect of plots 11 - 23 and 27 - 30 as detailed above.

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### RESPONSE TO CONSULTATION:

Highway Authority: No objections subject to conditions relating to 2011/0758 being retained

Neighbours: No responses received following consultation.

#### Main Issues

The main issues for consideration in this instance relates to the whether the revised layout is an acceptable form of residential development in terms of its visual impact within the street scene and the impact of the proposed development on the residential amenity of the neighbouring occupiers.

There are in this instance no additional overriding issues for consideration under the provisions of the Human Rights Act.

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 decision 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.

#### Development Plan Policy and Land Uses

Within the adopted Unitary Development Plan, Policy HC1 (112) - (Land south of A48, Pontarddulais) allocates the site for residential development as part of a mixed used scheme which has an indicative capacity of 200 units. The proposal therefore accords with UDP Policy HC1 in principle.

#### Design and Layout

UDP General Development Principle Policies EV1, EV2 and EV3 provide the policy context to ensure new development shall accord with the objectives of good design, be appropriate to the local character and context of the site, not result in a significant detrimental impact on local amenity and have general regard for the development to provide reasonable access.

The residential layout is largely consistent with the approved layout under Ref: 2011/0758 and has been dictated by the road layout and the site constraints. The original submitted scheme related poorly to the internal street and the submitted standard house types made little effort to provide an active street frontage, with the houses presenting blank elevations to the road frontage. This was amended in the approved layout to an extent so that the gable end units on plots 11, 16, and 17 have incorporated a ground floor bay window which was considered would help improve the visual aspect within the street scene and provide an element of natural surveillance. Within this current application, it is now proposed to introduce the Vale end of terrace house type which provides a significantly improved elevation to the street scene and includes a ground floor side entrance directly off the street. This would enhance the visual impact of these terrace units within the street scene.

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In terms of architecture, the Vale, Scott and George house types have previously been approved / similar to the approved house types and the external finishes / palette of materials have already been approved within the development. The car parking arrangements for the proposed development consist predominantly of forecourt car parking. The level of car parking has been reduced on several 2 bedroom plots to provide only 1 car parking space in an attempt to reduce the visual impact.

The eastern boundary of the residential layout abuts the residential properties recently constructed within Phases 1 and 2. In order to reduce the tidal flood risks to the development it is proposed to raise levels in the lower parts of the site and adopt a minimum slab level of 7.6m AOD for the development. The adjacent dwellings within the Phase 2 development to the east of the site in Golwg Y Llanw have been constructed with slab levels adhering to this requirement. The approved levels for Plots 11 - 16 are 8.30m AOD & 17 - 19 8.60m AOD. Consequently, the levels of the proposed dwellings would have an acceptable relationship to the existing dwellings in this respect.

The approved layout highlights that a minimum 12m separation was proposed between the existing residential properties in Golwg Y Llanw and plots 13, 14 & 19. The adopted Places to Live Residential Design Guide SPG - January, 2014 advises in respect of the 'Back to side' relationships to avoid an overbearing impact on habitable rooms and gardens, a 15m minimum distance should be achieved between existing windowed elevations and opposing proposed (windowless walls). Where this relationship exists between two proposed dwellings then the separation can be reduced to 12m. The approved scheme had a separation of distance of 12m

The revised layout would reduce this separation distance to between 11.490 and 11.530 metres. The proposed layout would have more of an effect on the existing properties in Golwg Y Llanw than the approved layout. In mitigation the rear elevation of the dwellings in Golwg Y Llanw are south-west facing which helps to ensure there would be no significant overshadowing. The density of the residential layout is relatively high, which reflects the density and local character of Pontarddulais and also that of the completed Phase 1 and 2 development. On balance, and taking into account the above, it is considered that solely on the facts of this case, the reduced separation distance would not adversely affect the standards of privacy and amenity of the occupiers of the neighbouring properties to an extent that would warrant refusal of the application.

### **Water Quality Issues within the Burry Inlet and Loughor Estuary Site of Special Scientific Interest (SSSI) and Carmarthen Bay and Estuaries Special Area of Conservation (SAC)**

#### **Introduction**

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

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

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

### **Water Quality**

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

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

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

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

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

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

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### Other possible effects on CBEEMs features

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

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

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

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

### Conclusion

In conclusion, DCWW have not objected to this scheme, and the Council's HRA which has been adopted for all development in the Gowerton WwTW drainage network area runs up until the end of 2017. The HRA has been agreed with NRW and concludes that 'It is the opinion of the Authority that this development can be accommodated within the post Review of Consents (RoC) discharge consent limits, and would not be likely to have a significant effect either alone or in-combination on the Carmarthen Bay and Estuaries SAC, the Carmarthen Bay SPA, or the Burry Inlet Spa and Ramsar. Such effects can be excluded on the basis of the objective information available through the 2010 Environment Agency review.

### Drainage & Flood Risk

Policy EV33 requires all development to be served by the public mains sewer, whilst Policy EV34 requires that development proposals should only be permitted that do not pose a significant risk to the quality and or quantity of controlled waters. Policy EV35 indicates that additional surface water run-off should not result in flooding or result in a reduction of the quality of surface water run-off. Within flood risk areas, Policy EV36 development will only be allowed where it is justified and the consequences of flooding are acceptable.

#### Tidal Flood Risk

The FCA submitted under Ref:2011/0758 indicates that the site is relatively flat with a gentle slope to the south west with ground levels varying from 7.5m AOD to the north to approx. 5.70m AOD at the southern boundary of the site. The majority of the site lies within zone C2 on the development advice map under TAN15, which is defined as an area of flood plain without significant flood defences considered to be at risk from a 0.1% (1 in 1000) annual chance event. The C2 zone is based on the EA's extreme flood outline (0.1%) which is estimated to have a level of 6.08m AOD and the FCA indicates that only the southern part of the site is situated below a level of 6.08m AOD and therefore it is only this part of the site which lies within the C2 zone. In order to reduce the tidal flood risks to the development it is proposed to raise levels in the lower parts of the site and adopt a minimum slab level of 7.6m AOD for the development. The approved slab levels indicate range between 7.8m AOD and 8.6m AOD.

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### Fluvial Flood Risk

The FCA has also considered the fluvial flood risk from the watercourse to the south of the site which is culverted below the former railway line and is indicated to have sufficient capacity to convey run-off from the stream into the flood plain of the River Loughor. However, in the event of the capacity being exceeded there is the possibility of overland flows entering the site. Raising the site levels will however, provide a natural protection from a flood stage within the watercourse. In order to compensate for any loss of local storage, it is proposed to create a low-lying environmental amenity area adjacent to the south east corner of the site. The proposed earthworks will compensate for the flood storage lost by raising parts of the site. The EA recommends that the compensatory flood storage area forms an integral part of the proposed development and should be maintained over the lifetime of the development.

With regard to the compensatory flood storage area, the EA have indicated a 95%tile figure should be imposed but would not object to a 50% figure on the basis that having regard to the overall volume of the estuary, any rise in level resulting from the loss of storage would be in the region of 0.4mm. Having regard to this negligible difference it has been agreed that the 50%tile figure for flood storage would be acceptable.

### Site Drainage

Under the planning permission the Council's Drainage Engineer has accepted the free discharge into the watercourse for the proposed Phase 3 development (Ref:2011/0758) subject to a planning condition requiring the maintenance / management of the surface water drainage scheme. This condition remains to be discharged and will therefore need to be re-imposed.

### Site Contamination

The site of the former Cambrian Tin Plate Works and Dulais Tin Plate Works were located within the vicinity of the site and therefore contamination is strongly suspected on the site and there is also the potential for ground contamination to have migrated from outside the site. Conditions were imposed under Ref:2011/0758 requiring site investigation work is carried under a phased scheme, comprising three progressively more detailed reports, detailing measures to be undertaken in order to investigate the presence of land contamination at the site.

### Highways

The site is to be accessed from the newly constructed access road serving Tesco store and will be in the form of a priority junction just beyond the Tesco roundabout access. The Head of Transportation raises no highway objections subject to the conditions related to 2011/0758 being retained.

### Planning Obligations

As indicated above, UDP Policy HC17 indicates that in considering proposals for development the Council will, where appropriate, enter into negotiations with developers to deliver planning obligations under Section 106 of the Planning Act. The Council will expect developers to make contributions towards social, economic or environmental investment to address reasonable identified needs. The Council has adopted a Planning Obligations SPG to implement this policy.

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### Education Contribution

The Planning Permission under ref:2011/0758 is subject to a Sec 106 Planning Obligation requiring an education contribution (£50,000) to be paid in 2 equal instalments of £25,000 (plus indexation) to be paid on completion of 50% of the dwellings (i.e. 17 units) with the second payment to be paid on completion of the whole development. Under the terms of the Obligation, the Deed will continue to be enforceable under a Planning Permission granted pursuant to a Section 73 application.

### Conclusions

The proposed development is in accordance with UDP Policy HC1 and therefore having regard to all the relevant Development Plan Policies and all other material considerations the proposal would represent an acceptable form of development. Approval is therefore recommended.

### RECOMMENDATION

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

- 1 The development shall be carried out in accordance with the following approved plans and documents: [Drg. Nos. 471-1101 Rev B Location Plan; 471 -1100 Rev F - Site Masterplan; 444 - 9202 - 9209 Rev B; 9210 -9211 Rev C; 9216 - 9219 Rev B - plans received 27 April 2017);  
Reason: To define the extent of the permission granted.
- 2 The means of enclosing the site boundaries and the individual curtilages of all dwellings, including forecourt enclosures, shall be completed in accordance with the approved details under condition discharge application ref: 2016/0290 prior to beneficial occupation of the dwellings.  
Reason: In the interests of visual amenity and general amenity.
- 3 No individual dwelling shall be occupied until the external finishes of that dwelling have been completed in accordance with the approved details under condition discharge application ref: 2016/0290.  
Reason: In the interests of visual amenity.
- 4 The development shall be carried out in accordance with the approved landscaping scheme under condition discharge application ref: 2016/0290 and shall be carried out in the first planting and seeding season following occupation of any of the dwellings or completion of the development, whichever is sooner . Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.  
Reason: To ensure that the site is satisfactorily landscaped having regard to its location and the nature of the proposed development, and to accord with Section 197 of the Town and Country Planning Act 1990.



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- 5 The proposed dwellings shall incorporate a minimum finished floor level of 7.60m AOD.  
Reason: In order to ensure the dwellings are not affected by potential tidal flooding.
- 6 The development shall be implemented in accordance with the detailed scheme for the eradication of Japanese Knotweed approved under condition discharge application ref: 2016/0290.  
Reason: In the interests of the ecology and amenity of the area.
- 7 The internal road layout shall be constructed in accordance with the approved details under condition discharge application ref: 2016/0290.  
Reason: In the interests of highway safety.
- 8 No dwelling unit within the development shall be occupied until the adoptable roads linking that unit to the existing adopted road network have been constructed to base course level and provided with street lighting in accordance with the approved details under condition discharge application ref: 2016/0290.  
Reason: To ensure that the development is provided with satisfactory vehicular access in the interests of public safety.
- 9 The development hereby approved shall be occupied in accordance with the Residential Travel Plan approved under condition discharge application ref: 2016/0290.  
Reason: In the interests of sustainability and to prevent unacceptable highway congestion.
- 10 The foul drainage system shall be constructed in accordance with the approved foul drainage details under condition discharge application ref: 2016/0290.  
Reason: To prevent hydraulic overloading of the public combined system, to protect the health and safety of the existing residents and ensure no detriment to the environment.
- 11 The surface water drainage system shall be constructed in accordance with the surface water drainage details approved under condition discharge application ref: 2016/0290.  
Reason: To prevent the increased risk of flooding and to ensure the protection of water quality by ensuring the provision of a satisfactory means of surface water disposal.
- 12 Foul water and surface water discharges must be drained separately from the site and no surface water shall be allowed to connect (either directly or indirectly) to the public foul sewerage system. No land drainage run-off will be permitted, either directly or indirectly, to discharge into the public foul sewerage system.  
Reason: To prevent hydraulic overloading of the public sewerage system and pollution of the environment.
- 13 The development shall be undertaken in accordance with the approved Site Investigation Report which was approved under condition discharge application ref: 2016/0290.  
Reason: Based on the previous contaminative uses on the site, and given the proximity of the site to the tributaries of the River Loughor, the site is considered to be of high environmental sensitivity.

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- 14 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained approval from the Local Planning Authority for, an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with.  
Reason: Given the complexity of the previous uses on the site and the areas to where the trial pits and boreholes are limited to, it is considered possible that there may be previously unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.
- 15 Prior to the occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.  
Reason: To ensure that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality.
- 16 The development shall be undertaken in accordance with the Construction Method Statement which was approved under condition discharge application ref: 2016/0290.  
Reason: For the prevention of pollution.
- 17 A development free buffer strip of a minimum of 5 metres shall be maintained in perpetuity between the development and the top of the bank of any watercourse / surface water feature identified within, or along the boundary of the application site. This buffer strip must be protected from all development including gardens, decking, footpaths and benches.  
Reason: To protect the integrity of the riparian corridor and its associated wildlife.
- 18 Before the completion of the last dwelling, the proposed pedestrian link at the north eastern corner of the site shall be completed in accordance with the details approved under condition discharge application ref: 2016/0290.  
Reason: In the interests of the amenity of the area.
- 19 The development shall be undertaken in accordance with the approved sustainable drainage measures (SUDS) under condition discharge application ref: 2016/0290.  
Reason: In the interests of sustainability and to reduce the risk of flooding within the area.
- 20 The development shall not be occupied until the compensatory flood storage area adjacent to the south eastern corner of the site has been laid out in accordance with details to be submitted to and approved by the Local Planning Authority. The submitted details shall include details of the maintenance and management of the flood storage area for the lifetime of the development.  
Reason: To prevent the potential risk of flooding and to ensure the area is maintained and managed for this purpose.

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**INFORMATIVES**

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: (UDP Policies EV1, EV2, EV3, EV33, EV34, EV35, EV36, HC1 & HC17)
  - 2 The Developer must contact the Team Leader - Highways Management, City and County of Swansea (Highways), Penllergaer Offices c/o Civic Centre, Swansea, SA1 3SN (Tel 01792 636091) before carrying out any work.
  - 3
    - i. The applicant is requested to contact the Head of Environmental Services prior to the commencement of any works on site in order to identify any statutory controls which may be required in relation to the specific works being carried out and the hours of working on the site.
    - ii. The applicant's attention is drawn to the requirements of the Highways Act not to cause obstruction to the users of the public highway nor to allow soil, and or other materials to be deposited onto the street, and to obtain consent for the storage of building materials on the public highway. The applicant should contact the Head of Transportation to advise on the requirements of the Act and the penalties for non-compliance.
-