
Adroddiad

Gwrandawriad a gynhaliwyd ar 25/01/17 & 15/02/17

Ymweliad â safle a wnaed ar 15/02/17

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Dyddiad: 12.04.2017

Report

Hearing held on 25/01/17 & 15/02/17

Site visit made on 15/02/17

**by Clive Sproule BSc MSc MSc MRTPI
MIEnvSci CEnv**

Date: 12.04.2017

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Appeal by Edenstone Homes Ltd And S I Green UK Ltd

Proposed cessation of landfill and other operations
enabled by residential development, public open space,
associated highway and ancillary work

Land at Parc Ceirw, Cwmrhydyceirw, Swansea

Cyf ffeil/File ref: APP/B6855/A/16/3157177

File Ref: APP/B6855/A/16/3157177

Site address: Parc Ceirw, Cwmrhydyceirw, Swansea

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Edenstone Homes Ltd and S I Green UK Ltd against the decision of City and County of Swansea.
- The application Ref 2014/0977, dated 09/07/14, was refused by notice dated 15/06/16.
- The development proposed is the cessation of landfill and other operations enabled by residential development, public open space, associated highway and ancillary work.

Summary of Recommendation: The appeal be allowed and planning permission granted subject to conditions.

Procedural Matters

1. The application was made in outline with all matters, apart from access, reserved for determination at a later date.
2. The hearing session on 25/01/17 sought to hear all of the evidence and sat late to do so. At the end of that session there remained a number of matters that needed to be addressed or that required clarification, and the period between the first sitting day and the site visit provided the opportunity for this to be done. Specifically, written confirmation of: pupil numbers at Cwmrhydyceirw Primary School was received from the Council (Hearing Document 3 ('HD3')); legal advice provided by the appellants' barrister during the first day (HD4); what the unilateral undertaking seeks to do (HD5); the local planning authority's views on compliance with Community Infrastructure Levy ('CIL') Regulations 122 and 123 (HD6); and, the wording of suggested conditions agreed between the appellants and the local planning authority following the discussion that took place at the end of the first sitting day (HD7).
3. The hearing had been adjourned at the end of the first working day and it was closed immediately prior to beginning the site visit. Closure followed receipt of the unilateral undertaking (HD9) and verbal confirmation from the Council and appellant that all the matters set out at the end of the sitting day had been addressed. These matters resulted in HD4 to HD9, which are listed at the end of this report.

The Site and Surroundings

4. The appeal site is 14.08ha of land within and around a former quarry. Remnant structures associated with a concrete plant are present on the eastern edge of the quarry and to the rear of dwellings on Cwmrhydyceirw Road. Recent landfill activity has part filled the quarry void and infrastructure associated with these operations is also present. However, the quarry void remains deep with high quarry walls that have become partly vegetated. The landfilled area has the appearance of being vegetated with pipework and associated extraction wells. This is next to an area of the quarry that has been lined for the receipt of waste, but this new cell remains unused for that purpose.
5. The appeal site includes fields that lie between the quarry void and housing to the north of the site on, and the streets accessed from, Maes Y Gwernen Road. Also within the appeal site is a heavily vegetated area immediately to the west of the quarry void that lies between it and the golf course that extends around most of the western and southern sides of the proposal. A railway cutting runs

along part of the appeal site's southern boundary, and the M4 is nearby to the north.

6. Existing development that lies to the north, east and in part to the south of the appeal site is predominantly residential in character.
7. Cwmrhydyceirw Primary School occupies land next to the roundabout junction of Maes Y Gwernen Road with Heol Maes Eglwys / Cwmrhydyceirw Road and Llanllienwen Road. The school site is bounded on three sides by Maes Y Gwernen Road, Heol Maes Eglwys and the M4 to the southwest, east and north respectively. Heol Maes Eglwys provides the short connection to the roundabout immediately to the north of the M4, and Morryston Comprehensive School is accessed directly from this northern roundabout. Heol Maes Eglwys then runs along the northern side of the M4 providing vehicular access to Morryston hospital and the homes around both it and the Comprehensive School.
8. To the west of Cwmrhydyceirw Primary School and adjacent dwellings, Maes Y Gwernen Road terminates where a footbridge crosses the M4 to the vicinity of the entrance to Morryston Hospital on Heol Maes Eglwys.

Planning Policy

City and County of Swansea Unitary Development Plan (UDP) – Adopted November 2008

9. The following UDP policies were within reasons for refusal or were mentioned in the Council Officer's report to Committee on the proposal. The policies cited within the reasons for refusal are:
 - Policy EV1 – Good design – Requires new development to meet criteria for good design.
 - Policy AS2 – Transport & access – Seeks new developments to be designed to facilitate sustainable transport choices and highway safety.
 - Policy HC2 – Housing development within the urban area – Supports housing development that would be on previously developed land or does not conflict with other UDP policies.
 10. The Council's second reason for refusal referred to Planning Policy Wales - 8th edition and the Well-being of Future Generations (Wales) Act 2015 ('the WCFG Act'), in regard to the provision of affordable housing. Planning Policy Wales - 9th edition (PPW) retains paragraph: 9.1.2 which seeks local planning authorities to make appropriate provision for affordable housing and to promote mixed tenure communities; 9.2.14 which confirms that affordable housing will have secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing for first and subsequent occupiers; 9.2.15 that notes it to be desirable for housing developments to incorporate a mix and balance of house types and sizes to meet a range of housing needs contribute to the development of sustainable communities; and, 9.3.5 which in looking toward development plan policies, indicates that an authority may need to negotiate a revision in the mix of housing or refuse an application where a proposal would not contribute sufficiently towards the objective of creating mixed communities.
 11. Other UDP policies mentioned were:
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- Policy AS1 – Accessibility
- Policy AS4 – Creating or improving public access routes
- Policy AS6 – Parking provision
- Policy AS10 – Traffic management measures
- Policy EV2 – Preference to the use of previously developed land
- Policy EV3 – Access for all with appropriate parking and public realm design
- Policy EV28 – Natural heritage
- Policy EV30 – Protection/improved management of trees, woodlands and hedgerows
- Policy EV33 – Drainage provision
- Policy EV34 – Proposals that may have an impact on the water environment
- Policy EV35 – Adverse impact on the water environment
- Policy EV36 – New development within flood risk areas
- Policy EV38 – Development proposals at risk from land contamination
- Policy EV39 – Development proposals at risk from land instability
- Policy EV40 – Noise, light or air pollution

Planning History

12. The quarry appears to have operated prior to formal planning controls, but the concreting plant was the subject of planning permissions in the 1960s and 1970s. Minerals and concrete operations on the site have ceased. An application for housing was refused in 1989, and 2011 a proposal for 58 dwellings was withdrawn prior to its determination.¹
13. Planning permission was granted in 1981 for the landfilling of non-toxic wastes from the construction industry, and the permitted range of wastes was extended in 1985 to include non-toxic wastes from commercial and industrial sources.² In 2001, planning permission was granted for the erection of a storage building, and then in 2011 construction of site offices, mess facilities, weighbridge, wheel cleaning facility, resurfacing of car park and access roads, creation of surface water attenuation pond, fuel store and acoustic fencing to a maximum height of 4m.³ In March 2016, planning permission was granted to extend the period for commencement of the 2011 development.

The Proposal

14. The description of development included on the application form confirms the outline proposal to be for the cessation of landfill and other operations enabled by residential development, public open space, associated highway and ancillary work. The Environmental Statement (ES) has been compiled, and consequently

¹ Paragraphs 3.1 and 3.6 of the Council's Statement of Evidence

² Paragraph 3.3 of the Council's Statement of Evidence

³ As confirmed in the Council Officer's report on the proposal

consultations carried out on the proposal, on the basis of there being approximately 300 dwellings within the development.

15. Vehicular access points would be on the northern side of the development. Two of the proposed accesses would utilise and extend the existing street layout via spurs from Enfield Close and Brodorion Drive that currently terminate on the northern boundary of the appeal site. The third access would create a new highway junction by using the land at 53 Maes Y Gwernen Road, which would require the demolition of the existing dwelling at No.53.

The Case for the City and County of Swansea

16. The application was reported to Committee on May 2016 with a recommendation of approval, and subsequently refused planning permission in June 2016 following additional advice to Members and revised affordable housing offer of 5%.
17. When planning permission was granted in 1985 for an increased range of wastes to be landfilled, the Inspector noted the safety benefits of filling the quarry void. The current environmental permit, issued in 2008, permits 125,000m³ of wastes to be landfilled per annum over a 6 year period.⁴
18. Attention is drawn to the WBFG Act, which makes sustainable development the central organising principle for the public sector in Wales. Sustainable development is defined as "*...the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle...aimed at achieving the well-being goals...*".⁵ Sections referred to include Part 2, section 5(2) of the WBFG Act, which states that a public body must take account of matters including "*...the importance of balancing short term needs with the need to safeguard the ability to meet long term needs, especially where things done to meet short term needs may have detrimental long term effect...*". The WBFG Act has been introduced since the adoption of the UDP, has been incorporated into PPW since the 8th edition.
19. PPW and associated documents are also referred to in regard to these themes of well-being and sustainable development. Sections of PPW quoted include that the planning system is necessary and central to achieving sustainable development in Wales, and can contribute positively to the achievement of the well-being goals. Also, that the presumption in favour of sustainable development ensures that social, economic and environmental issues are balanced and integrated by the decision-taker.
20. In relation to highway issues, parts of PPW Chapter 8 that deal with transport assessments, planning conditions and obligations are referred to. Sections of PPW Chapter 9 that seek appropriate provision of affordable housing to be made and the promotion of mixed tenure communities are highlighted, along with the policy on decision making within PPW paragraph 9.3.5 referred to above.

⁴ Paragraph 3.4 of the Council's Statement of Evidence

⁵ Part 2, sections 2 and 4, and Table 1 of the WBFG Act, with the seven well-being goals set out in Table 1 of the WBFG Act also at paragraph 4.3 of the Council's Statement of Evidence

21. Technical Advice Notes (TAN), development plan and associated policies relevant to the reasons for refusal are also referred to. These include the Local Housing Strategy 2015-2020 ('LHS'), approved by the Council on 22/10/15,⁶ which confirms the Local Housing Market Assessment ('HMA') update (2015) identified a need for 44% of the emerging Local Development Plan ('LDP') housing requirement to be affordable homes. While it is not reasonable to expect the LDP to deliver homes to meet the entire need, the LHS is a key contributor to the health and well-being of Swansea's communities.
22. The emerging LDP seeks to provide a clear planning framework to provide sustainable development in the Council's area based on decisions that address social, economic, environmental and cultural well-being goals. Although the appeal site was included as a housing allocation early in the LDP process, it is now shown as open countryside within the emerging LDP, which includes a policy in relation to affordable housing.⁷ The LDP process is ongoing and has yet to go through its Examination in Public.⁸

Highway safety

23. In regard to the first reason for refusal, the Highway Authority notes the existing congestion in the locality and that it causes a significant length of Maes Y Gwernen Road to be reduced to a single width at the beginning and end of the school day.⁹ It is clear from the Transport Assessment that the proposal would increase traffic flow significantly in the locality. Current traffic volumes have been surveyed at 87 movements in the morning peak hour and predicted (additional) development traffic movements in the same period would be 175.
24. The proposed layby will not address all of the demand for places to stop and turn. Kerbside parking is likely to continue and turning movements would take place within the context of congestion and the predicted tripling of vehicle movements during the morning peak hour. This would add risk and congestion to the detriment of highway safety, and particularly to more vulnerable users such as parents and children attending the primary school.
25. Realignment of the existing kerb for the proposed new junction at no.53 would be opposite the school entrance and will reduce the road width, whilst traffic would increase. It would likely make traffic movements more difficult and increase congestion, which would further compromise parent and child safety.
26. Additional mitigation works identified in Figure 4.5 of the Transport Assessment are no longer being provided. Nor would there be a previously proposed new area of off-street parking for teachers that would remove some of the parking on Maes Y Gwernen Road, the need for which was identified in the Transport Assessment.
27. In relation to highway safety, the proposal would not conform to the requirements within PPW paragraph 8.7.1 and UDP Policy AS2 by failing to allow for the safe, efficient and non-intrusive movement of vehicles.

⁶ Paragraph 4.12 of the Council's Statement of Evidence

⁷ Paragraphs 4.13 and 6.4, and Appendix D to the Council's Statement of Evidence

⁸ Paragraph 2.4 of the Council's Final Comments

⁹ Paragraph 3.3 of Appendix 1 to the Council's Statement of Evidence

Affordable housing

28. The Council accepts there to be no conflict with UDP Policy HC3 as *exceptional development costs* have been demonstrated in this case through the application's viability assessment.¹⁰
29. The Council currently has a 3 year housing land supply, which is below the 5 year supply required by TAN1. Paragraph 6.2 of TAN1 states that in such circumstances considerable weight should be given to increasing the supply provided the development would otherwise comply with development plan and national planning policies.
30. Reference is made to PPW Figure 4.2, which defines sustainable development in Wales as: the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving well-being goals; and, acting in accordance with the sustainable development principle means that a body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
31. The relevant well-being goal to this issue is *a Wales of cohesive communities*, which the WCFG Act describes as *attractive, viable, safe and well-connected communities*. For this goal PPW paragraph 4.4.3 indicates that planning proposals and decisions should "...Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs, including affordable housing for local needs and for special needs where appropriate, in safe neighbourhoods..." and "...Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides...". The objective is long term and seeks to prevent current issues increasing in the future, and a recent Government statement has confirmed that an additional 20,000 affordable homes, in a variety of tenures, are being sought during this term.¹¹
32. The HMA has identified there to be sufficient market housing, and a requirement for 2,900 new affordable homes, in the Strategic Housing Policy Zone of North Swansea that includes the appeal site. The provision of affordable housing is essential to create a sustainable community, and current policy would expect 90 affordable units within this 300 unit proposal. Not meeting this objective would fail to provide a cohesive and socially inclusive community that would be detrimental and prejudicial to future occupiers of the site and it would fail to be sustainable development within the terms of the WCFG Act and PPW.
33. The LHS notes the need to ensure sufficient supply of good quality affordable homes to meet housing priorities for sustainable communities. Although the applicant agreed to a number of planning obligations, no provision was to be made for affordable housing,¹² and Members determined the application with reference to PPW paragraph 9.3.5. In this regard, the Council refers to the

¹⁰ Paragraphs 3.7, 3.8 and 3.13 of the Council's Final Comments

¹¹ Paragraph 3.3 of the Council's Final Comments

¹² Paragraphs 5.15 and 5.16 of the Council's Statement of Evidence

WCFG Act well-being goals, PPW paragraph 9.1.1 (Housing Objectives) and Welsh Government's approach in the National Housing Strategy.

34. The Council understood that an affordable housing offer was not being made in relation to the appeal as it was not viable to do so, and there was no mention of a planning obligation in the initial appeal documentation. Even so, the Council's position remains the unchanged by the offer of 5%. The appeal scheme only would be viable with very limited affordable housing of a single tenure and would not provide a cohesive community.¹³ *Help to Buy* properties are assisted purchase market housing that are not affordable in perpetuity and therefore, do meet the TAN2 definition of an affordable home.¹⁴
35. Notwithstanding the viability situation, the Council was correct to refuse planning permission as the development clearly fails to accord with the aforementioned considerations and there is an identified need for affordable housing.¹⁵ In reaching its decision the Council struck a different balance to that of its officers and was justified in doing so.¹⁶
36. The Council takes support for this approach from two appeal decisions in England where the Inspectors considered the need for affordable homes on sites with viability constraints.¹⁷ In relation to the current appeal, the Council notes the application's viability appraisal to have been based on the landfill site's high existing use value. As the landfill site has an operational life of 10-15 years, the existing use value will decrease causing a lower land value that would make any potential development more viable and more sustainable through mixed tenure.
37. Although Morriston has lower house prices than elsewhere in Swansea, that does not equate to affordability as wages in the Ward are also lower than average and lower (market) house prices cannot be guaranteed in perpetuity.¹⁸

Other matters

38. There have been no letters of support in favour of the scheme to support the appellant's view that the scheme has compelling planning and public interests grounds in favour of it. In contrast, 80 objections were received at the application stage.¹⁹
39. HD4 provides the local planning authority's clarification of the existing pupil numbers at Cwmrhydyceirw Primary School. Currently there are 431 full-time pupils attending a school with a capacity of 420. The appeal scheme proposes an additional three class rooms that would increase school capacity to 510. Pupil numbers are projected to increase to 441 in September 2017 and the additional pupils from the proposal would take this to 531. In relation to external space standards for schools, the Council notes this would result in a deficiency of 0.54

¹³ Paragraphs 3.1, 3.2 and 3.12 of the Council's Final Comments

¹⁴ Paragraphs 3.14 and 3.17 of the Council's Final Comments

¹⁵ As set out in paragraph 5.10 of the Council's Statement of Evidence

¹⁶ Paragraphs including 1.1 and 2.1 of the Council's Final Comments

¹⁷ Appeal decision refs: APP/B0230/A/12/2183021 and APP/Y1110/A/14/2217494

¹⁸ Paragraph 6.6 of the Council's Statement of Evidence and paragraph 3.16 of the Council's Final Comments

¹⁹ Paragraph 6.5 of the Council's Statement of Evidence

acres for the site with 4.73 acres, but highlights the possible use of Multi Use Game Areas to address this.

The Case for the Appellant

40. The application was recommended for approval by the Council Planning Officers. No objections have been received from statutory consultees, including Natural Resources Wales ('NRW') and the Highway Authority who are fully supportive of the scheme.²⁰
41. There are four elements of the proposal: cessation of existing lawful uses/activities; residential development; highway and pedestrian access; and, open space. If planning permission is granted, it is intended to close the landfill and develop the housing in four main parcels/phases. Principal access points on the northern side of the development would be complemented by the three pedestrian and cycle access points on the eastern side of the site which would provide considerable permeability and legibility to the development. Capping the landfill would provide a larger central area of open space that would have paths around it to link the parcels of development within the site.²¹ It is agreed that the proposal represents a sustainable well-planned and accessible development site that is capable of integrating successfully and sensitively with its surroundings.²²
42. Policies relied on include: PPW chapters 4, 9, 10 and 8 in relation to the presumption in favour of sustainable development, housing, planning obligations and highway/parking considerations respectively; TAN1 in regard to the relevance of the 5 year housing land supply and decision making as described to above; and, TAN18 on transport.²³
43. The Council does not have the 5 year housing land supply required by TAN1, and the need to increase supply is to be given considerable weight, provided the development would otherwise comply with development plan and national policies.²⁴ The UDP context for the site is that of an area within settlement boundaries and principally next to Green Wedge. A small area in the south of the site is within the Green Wedge, but it is not part of the site where development is proposed. Relevant UDP policies to the consideration in this case are listed.²⁵
44. The appeal site was proposed for inclusion as a residential allocation within the LDP for 300 units. It was the subject of public consultation in December 2014 and January 2015 and subsequently endorsed by Members for inclusion in the LDP. However, the site was not included in the Deposit LDP (July 2016) and was set outside the development boundary. This followed the refusal of planning permission on two grounds that did not concern the principle of developing the

²⁰ Paragraph 1.4 of the Appellant's Written Statement

²¹ The four elements of the scheme are detailed in section 2.0 of the Appellant's Written Statement

²² Paragraph 2.12 of the Appellant's Written Statement

²³ The full list of documents and parts referred to are under paragraph 3.1 of the Appellant's Written Statement

²⁴ Appellant's Final Comments

²⁵ Paragraph 3.6 of the Appellant's Written Statement

site. Objections have been placed for the re-allocation/inclusion of the site within the LDP.²⁶

45. Key planning policy messages include: a presumption in favour of development; the need to balance and integrate social, economic and environmental issues; promoting resource efficient patterns of development; providing sufficient land for housing; good design and place making; proposals must be viable and deliverable; and, locations need to be accessible.²⁷
46. Matters that are thought to be agreed, or in dispute, are set out in section 4.0 of the Appellant's Written Statement. Agreed matters are considered to include: the principle of development; viability and planning obligations; education at Cymrhydyceirw Primary School; long term water pumping; landfill impacts and remediation; landfill gas; land contamination; odour; visual impact and design; residential amenity; ecology and trees; and, drainage and water supply. Disputed matters are: lack of affordable housing provision; and, highway matters.

Traffic and Highways

47. The Council's perceived adverse effects on local congestion have not been defined precisely. It is assumed that they relate to the area outside Cwmrhydyceirw Primary School on Maes Y Gwernen Road. However, no technical or other evidence has been put forward in support of this reason for refusal. There was no Highways Authority objection at Planning Committee. The Committee Report confirms there to be no capacity concerns and the proposed mitigation measures would address any highway safety impacts from the appeal scheme.²⁸
48. The proposed development is well conceived, appropriate, sustainable and policy compliant in transport terms.
49. The Transport Assessment has been prepared and agreed with both the local planning authority and Welsh Government. Both statutory consultees agree that the development is appropriate, sustainable and will not have an adverse effect on local congestion.²⁹
50. Highway planning obligations aim to: minimise the effect of the development on the highway network; enhance highway safety outside the school by providing a crossing; remove double parking outside the school; and, provide the school with a sustainable travel ethos with associated health and highway benefits.
51. Congestion is experienced outside most schools, and localised congestion occurs on Maes Y Gwernen Road during the morning peak and 15:00-15:45hrs. It is caused by illegal double parking that reduces carriageway width to a single lane. The proposed layby would widen the effective carriageway to at least 6.0m outside the school.³⁰ Further west at 53 Maes Y Gwernen Road, the existing

²⁶ Page 14 of the Appellant's Written Statement

²⁷ Paragraph 3.14 of the Appellant's Written Statement

²⁸ Paragraphs 5.9 and 5.18 of the Appellant's Written Statement

²⁹ Paragraph 5.11 of the Appellant's Written Statement

³⁰ Paragraph 5.18 of the Appellant's Written Statement

12m carriageway width would be reduced towards what would normally be expected in a street of this type by the building out of the existing footway to create suitable sightlines from the proposed junction. In any event, the Appellant sets these matters within the context of conclusions in an appeal decision letter for a site in Cheshire that noted development should not be thwarted for the convenience of the car commuter.³¹

52. Both the primary and comprehensive schools are within walking distance of the appeal site, and this would reduce the potential for peak hour congestion. The development's proposed Travel Plan would facilitate this and link to the existing school Travel Plan.³²
53. By not having a significant detrimental impact on the highway network and bettering it, the proposal complies with UDP Policies EV1, AS2 and HC2. It is also consistent with the objectives of the Active Travel (Wales) Act 2013 by enabling people to travel sustainably. Therefore, the proposal should be supported and will improve highway safety and congestion around the existing school.³³

Affordable housing

54. The June 2016 report to the Planning Committee noted the 30% affordable housing provision requested by Housing Department/Division, but once viability and other planning obligations were taken into consideration, no affordable housing had been sought. The report concluded that the evidence indicated that the site could not support the level of affordable housing requested when assessed against other necessary planning obligations.³⁴
55. Notwithstanding this, an offer of 5% on-site affordable housing provision was put to the (second) Planning Committee in June 2016, and remains part of the appeal scheme. It would contribute to at least three of the WCFG Act well-being goals.³⁵
56. The proposal would assist with meeting the WCFG Act well-being goals, and would assist the aim of creating a more prosperous, equal and healthier Wales with cohesive communities. It would contribute to sustainable development by enabling the efficient use of land and bringing forward attractive, viable and well integrated development.
57. A Ministerial Statement, dated 01/11/16, confirms the wider community benefits of housebuilding. It is the Appellant's view that the proposal complies with the relevant criteria within PPW. Viability has been examined in detail throughout and allows for reduced affordable homes provision.³⁶
58. The decision taken by Members simply ignores the reality of the case and the considerable evidence presented, and in seeking to slavishly apply targeted

³¹ Paragraph 5.19 and Appendix 5 of the Appellant's Written Statement

³² Paragraph 5.26 of the Appellant's Written Statement

³³ Page 1 of the Appellant's Final Comments

³⁴ Pages 28 and 29 of the Appellant's Written Statement

³⁵ Paragraph 12 of HD5

³⁶ Paragraphs 6.17, 6.18 and 6.19 of the Appellant's Written Statement

levels of provision, fails to balance viability and fails to take account of all considerations.

59. UDP Policy HC3 is clear that the provision of affordable housing is to be achieved on the basis of a guideline and so as not to prejudice viability of schemes, and that consideration is to be given to the inclusion of affordable housing. The policy text itself makes it clear that the Council will seek to negotiate an appropriate level of affordable housing and only where it is not ruled out by exceptional development costs. It is notable that the reason for refusal does not refer to any conflict with UDP Policy HC3.³⁷
60. The Council's Supplementary Planning Guidance (SPG): Planning Obligations – March 2010 makes it clear that contributions and provisions are not prescriptive and form the basis for negotiation and to ensure that the viability of schemes is not prejudiced. The Officers' approach reflected the SPG and led to the initial recommendation of accepting nil affordable housing provision.³⁸
61. In addition, the appeal scheme accords with the Council's Affordable Housing Topic Paper Update June 2016 prepared in support of the LDP and within the context of the WCFG Act. Also, the Council's Affordable Housing Viability Study has looked at the range of housing markets across the Council area and the varying levels of affordable housing provision that may be appropriate.³⁹
62. TAN2 addresses affordability and defines affordable housing as including social rented housing and intermediate housing. The distinction between market and affordable housing has become less clear since the introduction of *Help to Buy* in Wales. The Ministerial Statement, dated 01/11/16, confirms that Welsh Government includes homes bought through the *Help to Buy – Wales* scheme towards meeting the target for affordable homes.⁴⁰
63. Based on the agreed viability assessment, all of the proposed dwellings would fall under the £300,000 *Help to Buy* threshold. While they do not meet the policy definition of 'affordable homes', the position is now less clear. The dwellings will meet specific housing needs in an area of under provision where affordability is less constrained, and that has a higher than average 31% social rented properties compared to the County average of 19%. The scheme would be sustainable development within the terms of the WCFG Act. It would deliver a sustainable mix of affordable house types for which there is a demand in the area with a significant level of social rented housing. It is supportive of the housing issues identified in UDP Policy HC3.⁴¹
64. Paragraph 5.4 of the Council's Statement and the Committee Reports of May and June 2016 accept that the proposal complies with UDP Policies HC2 and HC3, and the proposal complies with national policy on affordable homes. There are no material considerations that outweigh the compliance with the development plan.

³⁷ Paragraphs 6.25, 6.28 and 6.29 of the Appellant's Written Statement

³⁸ Page 33 of the Appellant's Written Statement

³⁹ Pages 34, 35 and 36 of the Appellant's Written Statement

⁴⁰ TAN2 paragraph 5.1 and Annex B, and pages 36 and 37 of the Appellant's Written Statement

⁴¹ Page 38 of the Appellant's Written Statement

Cases for interested parties

65. **Cllr Robert Francis-Davis** – Cabinet member Enterprise, Development and Regeneration

Cllr Andrea Lewis – Cabinet member Next Generation Services

Cllr Ceri Evans – Councillor for Morryston Ward

Cllr Yvonne Jardine – Councillor for Morryston Ward

Cllr Robert Stewart – Leader of The City and County of Swansea

66. Local Members who spoke at the hearing had submitted a written representation, which is reported below.

67. Members' representations to the hearing highlighted the following matters. There is traffic congestion in the locality, including that close to the hospital. It was emphasised that the Council is supportive of development, but Maes Y Gwernen Road is a pinch point and an additional 600 cars per day would not improve it. The area is known for its congestion and nearby is one of the busiest junctions in Wales, with backing-up to other junctions.

68. Many development sites argue a lack of viability. In this case, there was no offer of affordable homes at the application stage. The homes that would be provided now would not be affordable housing. It would not give the full social mix.

69. Planning should be about people. The Committee of 12 decided to disregard the Highway Authority view. Good planning is about making places acceptable. Maes Y Gwernen Road is a leafy suburb where considerations are different, especially with the hospital and DVLA in close proximity to the site. The LDP will provide many homes and many of the benefits of the 'City Deal' will not be in the LDP. At present, Cwmrhydyceirw Primary School is oversubscribed.⁴²

70. The appeal site is not a desirable place. The landfill operator/site owner could not meet the requirements for lining the site. Some of the waste deposits were not regulated and no-one knows what is under the ground. It is difficult to see why anyone would want to build on it, and it cannot meet the goals of the WBFG Act. People were promised that the site would be sports pitches. Japanese Knotweed has spread into the appeal site from the railway line on the southern boundary.

Ms J Jones – Local resident

71. Highlighted the existing pedestrian crossing points in the locality, that the proposals would displace parking activity further along Maes Y Gwernen Road, and that it can take 20 minutes to get to the roundabout when hospital staff finish work at 16:00hrs. Breakfast club at the school has around 85 children attending and there are after school clubs. Classes are full and too small for the numbers of pupils.⁴³ The school caretaker helps to keep people moving outside the school to reduce congestion. Local housing sales show no signs of a strong

⁴² See HD4

⁴³ See HD4

market for new homes, even though many houses are being built. Open space on the appeal site would not be a safe environment due to the vertical drops. Japanese Knotweed is a local concern and it has spread into a number of domestic gardens.

Mr Ball – Local resident

72. Supported views that the scheme has not taken account of the additional traffic that would result from the development.

Mr Davies – Local resident

73. The grassed verge area outside the school gates that would become the proposed layby acts as buffer to separate the footway, and any children on it, from the highway. Congestion can be severe, with Mr Davies recently experiencing a 50 minute queue on Cwmrhydyceirw Road / Chemical Road.

Mr Rees – Local resident

74. The verge to be removed to create the layby is raised above the level of carriageway.

Mrs Rees – Local resident

75. Noted that although some people can time journeys to avoid the congestion, those who are travelling to appointments cannot.

Ms B Griffith – Local resident

76. Emphasised that traffic occurred throughout the day.

Written Representations

(Third/Interested Party Correspondence Folder)

77. The Planning Inspectorate received 34 responses to the Council's notification regarding the appeal. These written representations are from one or more individuals/organisations. They include a representation from Network Rail expressing concern regarding the behaviour of landfill gas from the infilled part of the quarry following the proposed development and associated landfill capping works.
78. Also, the five Council Members' written representation states that planning should be about people and the community in which they dwell. Community meetings with over 100 people in attendance confirmed that local people did not want this development on good planning grounds. Local residents have experienced impacts from the quarry operations, concrete plant and the landfill, and have concerns regarding the estimated 85,000 tonnes of waste deposited in the quarry.⁴⁴ Although planning approval was given in 2015 to extend the time for commencement of works to facilitate landfilling, this would require vertical lining of the quarry which is believed to be an untried and untested technique.

⁴⁴ This approximate figure is confirmed in paragraph 3.3 of the Council's Statement of Evidence

79. The Councillors acknowledge that all schools can be expected to have peak periods of activity with associated pressures on the local highway network, but draw attention to the presence of Morriston Hospital and the services it provides. These include being the trauma centre for West Wales and a burns and plastic surgery unit for the whole of Wales, and any road congestion is set in that context and the need for emergency vehicles to access the hospital. The Transport Assessment indicates the proposal would triple the quantity of traffic passing Cwmrhydyceirw Primary School. Also, construction traffic would use the quarry entrance on Vicarage Road/Heol Dyfan and its subsequent pedestrian only use would encourage parking on these streets.
80. Swansea has signed up to the United Nations rights of the child. The existing pupil levels at Cwmrhydyceirw Primary School have resulted in demountable classrooms being located within the school grounds. Any additional children would have to be located in additional demountable units on the playground and that would be against the United Nations rights of the child as children have a right to play.
81. Only 5% affordable housing has been offered on the basis of viability. The reduced affordable housing provision has not been justified. If the site cannot deliver 30% affordable housing, the appeal should be dismissed as it would not provide a reasonable mix and balance of house needs to contribute to the development of sustainable communities.
82. In relation to the Well-being of Future Generations (Wales) Act 2015 ('the WCFG Act'), local Members refer to Part 2 Section of the Act and that it defines sustainable development in the same terms as PPW. Members consider the appeal site to include one of the remaining green areas of land needed for the enjoyment of residents.
83. The area has seen over 1,700 new homes developed that were all welcomed. However, this development would be detrimental to the quality of life of the residents of the Maesygwernen estate. This is against the WCFG Act in relation to cohesive communities, which should be safe and healthy. The development would be detrimental to the health and well-being of the community, including the children at the Primary School, and residents of west Wales if the hospital access is restricted. Bad planning decisions and the effects of the landfill have affected the lives of local people for many years. Good planning should be about what is important to communities and listening to their views to make the community sustainable.
84. Other written representations reflect the areas of concern within the Councillors' letter, raising matters such as: safety due to developing in close proximity to the landfill; possible effects on drainage and groundwater management; effects on property prices; increased risk of crime; the possible spread of Japanese Knotweed; noise, disturbance, loss of privacy and loss of light; the effect of the proposed crossing point at the roundabout junction of Maes Y Gwernen Road on the shop's business;⁴⁵ possible effects on protected species; and, the level of opposition to the proposal.

⁴⁵ The crossing is indicated on drawing no. W131130/A/13 which is included within the unilateral undertaking

Planning Obligations and Conditions

Planning obligations

85. The executed unilateral undertaking (HD9), provided immediately prior to closure of the hearing and the site visit, is between S I Green (UK) Limited, David Michael Vernon Thomas and Susan Daphne Thomas, The Trustees of Morriston Golf Club, John Sims Miller and Pamela Miller, Edenstone Homes Limited, and National Westminster Bank plc. The planning obligations include: contributions toward education provision and a Travel Plan; highway works; a scheme for the maintenance of groundwater and surface water pumping systems; a scheme for the laying out of public open space, provision of a local equipped area for play ('LEAP') and maintenance; affordable homes provision with further viability appraisal at reserved matters stage; to submit a scheme of commitment under the Council's Bricks and Mortar Scheme; and, no further landfilling operations.
86. There are numbering errors for the clauses within Part 1 of Schedule 1 of the unilateral undertaking.⁴⁶ However, if these clauses are read within their context and in regard to what they seek to do, the document and its obligations remain intelligible.
87. Justification for matters within the unilateral undertaking is contained within the table provided in HD6 and the local planning authority's comments in HD7, along with matters set out in this report.⁴⁷
88. The evidence in this case demonstrates that the planning obligations meet the tests in CIL Regulation 122 and PPW objectives for planning obligations.⁴⁸ There is no reason to consider that CIL Regulation 123 is breached.

Conditions

89. Two lists of conditions have been included within Annex A. The first list is the conditions provided as HD8 following the hearing discussion on possible planning conditions. It is without the 'track changes' and comments, which can be viewed in HD8. The second list results from my editing of the conditions in HD8, with consideration of the tests of a condition set out in PPW and Welsh Government Circular WGC 016/2014.
90. Suggested conditions would not limit the number of dwellings within the proposal. If this appeal were to be allowed, consideration of any application for reserved matters would need to ensure the decision is based on an assessment of possible environmental effects that reflects the development.
91. It is not clear that suggested condition 5 meets the test of a condition in relation to precision and necessity as the local planning authority would be determining the appropriateness of any proposals for the reserved matters. Consequently,

⁴⁶ Specifically in relation to the sub-clauses under clause 10, and a second clause 9 that follows clause 10

⁴⁷ HD6 and HD7 are within the correspondence file

⁴⁸ Statutory Instrument 2010 No.948 *The Community Infrastructure Levy ('CIL') Regulations 2010*

- suggested condition 5 has been omitted from the edited list of conditions in Annex A.
92. Suggested condition 10 concerns matters that would be addressed by the Highway Authority. As such, it is considered to not meet the test of necessity and has been omitted from the edited list of conditions in Annex A.
93. During the session on possible planning conditions I questioned the appropriateness of a suggested condition that would require a survey to be carried out for bats. The advice given was that it would be appropriate as a survey had been carried out to support the application. However, as the suggested condition seeks to address mitigation it duplicates matters within the preceding suggested condition.⁴⁹ As such, a specific condition in relation to bats would not be necessary as these matters could be addressed through the Environmental Management Plan that would be the subject of the other condition. Accordingly, the bat specific condition suggested in HD8 has been omitted from the edited list of possible conditions in Annex A to this report.
94. Given the scope of suggested condition 16 and the detailed design within reserved matters, suggested condition 15 is considered unnecessary. In addition, the phasing of development is the subject of edited condition 5 and therefore, suggested condition 17 is unnecessary. Japanese Knotweed is the subject of other legislative controls and therefore suggested condition 18 is unnecessary. Suggested condition 22 addresses matters that are the subject of highways legislation and is not necessary. Contaminated land and waste regulation are the subject of other legislation and therefore, suggested conditions 25 and 26 are not necessary. Suggested condition 33 addresses health and safety matters that is the subject of other legislation. These conditions have been omitted from the list of edited conditions.
95. During the hearing, a view was expressed that possible planning condition 23 was *otiose*, that is, it would serve no practical purpose. It remains, but is struck through, within HD8, with the associated track change comment indicating that the condition may be statutorily required to be imposed. In this regard I understand the note in HD8 to be referring to article 24B of Statutory Instrument 2012 No.801 - *The Town and Country Planning (Development Management Procedure) (Wales) Order 2012*.⁵⁰ I have included within the edited list of conditions wording for a possible condition to address this matter, and the condition would be imposed to ensure that development occurs in an appropriate manner [Condition 20].
96. A representation during the conditions session requested a condition to prevent the proposed homes overlooking existing dwellings around the appeal site. However, this is as an outline scheme where the detailed design and layout of the proposed dwellings, and the likelihood of overlooking occurring, would only be confirmed at the reserved matters stage. The potential for harm to occur due to reductions in privacy would be considered when the detailed proposals within any relevant reserved matters application were to be known.

⁴⁹ Suggested conditions 13 and 12 of Document 8

⁵⁰ As inserted by Statutory Instrument 2016 No.59 (W.29) - *The Town and Country Planning (Development Management Procedure)(Wales)(Amendment) Order 2016*

97. In the interests of the character and appearance of the locality conditions are recommended in relation to reserved matters [Conditions 1 & 2], followed by conditions to address commencement [Condition 3] and the phasing of development [Conditions 5]. Also for this reason conditions should be imposed to address existing and proposed site levels [Condition 6], and the provision of an arboricultural impact assessment and tree protection scheme, to address retained trees and landscaping [Conditions 12, 13, 15 and 16].
98. A condition should be imposed which requires the development to be carried out in accordance with the submitted plan. This is important as the submitted plan defines the scope and extent of the development [Condition 4].
99. To protect future users of the land and local living conditions, conditions should be imposed to address landfill and other gases [Condition 7] and matters relevant to the closure of the landfill [Condition 10]. To protect the natural environment, and future users of the appeal site and land elsewhere, a condition should be imposed to address foul, surface and land drainage [Condition 8]. In the interests of protecting the natural environment, a condition should be imposed in relation to the provision and implementation of an Environmental Management Plan [Condition 9].
100. To protect local living conditions, highway safety and ensure a sustainable form of development, a condition should be imposed requiring a Construction Method Statement [Condition 11].
101. In the interests of the character and appearance of the locality, local living conditions and the safety of land users, a condition should be imposed to address access restrictions to essential plant and equipment [Condition 14].
102. In the interests of highway safety a condition should be imposed to address car parking [Condition 17]. To protect the safety of the railway network, conditions should be imposed to address possible emissions from the landfill and development in close proximity to railway infrastructure [Conditions 18 and 19].

Conclusions

103. *In the following paragraphs the figures in square brackets refer to earlier paragraphs of my report that contain material on which I have based my conclusions.*

The Main Considerations

104. From the foregoing submissions and representations, I am of the view that the main considerations in this case are:

- The effect of the development proposed on highway safety
- Whether the proposal should make adequate provision for affordable housing

105. Prior to concluding on these, I shall address a number of other considerations including in regard to: the effect of the development proposed on the character and appearance of the locality; previous uses of the appeal site and flooding; wildlife; local living conditions (including in regard to open space,

overlooking, loss of light, noise and disturbance); property prices; the adequacy of the ES; housing land supply; and, education provision.

Other Matters

Character and appearance

106. On Maes Y Gwernen Road, the appeal scheme would remove the existing dwelling at no.53, provide a zebra crossing and remove part of the vegetated verge that currently separates the footway outside the school from the carriageway and adds to the greenery in the street scene. Developing the appeal scheme would cause change to occur. However, the residential development to the north of the appeal site would remain predominantly suburban in character and, given the context of the suggested conditions, detailed design provided at reserved matters stage would be expected to complement it.
107. The shape of the plot at no.53, along with its position in the street frontage and the proposed highway layout, would enable the new junction and access road to be successfully incorporated into the townscape on Maes Y Gwernen Road. Building the proposed layby would remove an area of vegetated verge that contributes to local character, but the proposed works at no.53 would be expected to create greenspace around the new junction. This would reinforce the suburban residential character of the street and compensate for the reduction in grassed verge on the opposite side of the road.
108. Within the appeal site, developing in accordance with the Illustrative Masterplan would result in the loss of a number of trees in the north eastern part of the appeal site that are the subject of Tree Preservation Order (TPO) No. P17.74.364.⁵¹ These were highlighted to be a line of Cypress and Pine trees that are known as TPO area A1. The trees in area A1 were planted to screen activities within the appeal site in views taken from residential development on Maes Y Gwernen Road to the north. As a vegetative screen, TPO area A1 is not complete and if the development were to be allowed, the screening function would no longer be necessary. By their scale and type, the trees within TPO area A1 do not reflect the other trees within the TPO and the context of the vegetation around this part of the site. Consequently, the amenity value of TPO area A1 is limited and the loss of these trees would not have an unacceptable effect on the character and appearance of the locality.
109. The Illustrative Masterplan indicates that the appeal scheme could be built in a manner that would be sympathetic to the established character and appearance of the locality to comply with the relevant objectives for good design within UDP Policy EV1.
110. The appeal proposal includes previously developed land that is locally significant due to the scale of its area and the nature of the previous uses and structures on it. This outline design, as expressed within the Illustrative Masterplan, responds to the physical characteristics and levels within the site. If developed in that manner, the proposal would also comply with UDP Policy EV2, which seeks the siting of new development to give priority to the use of

⁵¹ Provided and tabbed within the Questionnaire folder

previously developed land and to have regard to the physical characteristics of the site.

Previous uses on the appeal site, and flooding

111. Interested parties in this case have raised concerns regarding the past operation of the landfill within the quarry void and the potential implications of this for the locality and its residents. While the landfill's permitted wastes were noted to be non-toxic, other wastes could have been received by the site. However, the landfill has been the subject of extensive monitoring and as such its behaviour and the possible emissions from it are understood. No evidence was placed before the hearing to demonstrate that anything within the appeal scheme would be expected to cause harm through the unexpected release from the within the appeal site of pollutants and/or contaminants (be they in gaseous, solid or liquid form).
112. A consultant's statement on groundwater management at the appeal site is provided within the Questionnaire folder. It confirms that: groundwater levels and collected surface run-off are controlled by pumping from a sump in the eastern part of the former quarry void; the sump currently discharges directly to Cwmrhydyceirw Stream where the discharge has to meet specified standards;⁵² and, the sump also would be used for water management within the proposed development.
113. The statement on groundwater management also confirms that in the 1980s there were operational problems relating to groundwater management.⁵³ However, the Appellant's consultant confirmed the current monitoring and management of the site. He also confirmed that vertical lining of the quarry would be possible and there is no evidence of NRW, as the regulator of the landfill, having suggested otherwise. Consequently, there appears to be no technical matter that would prevent the implementation of the existing landfill planning permission and it remains a fallback position in this case.[13]
114. In the absence of further very extensive landfilling, the revegetating high quarry walls will remain. Having such features in close proximity to housing would be a risk that would have to be managed, but there is no evidence to suggest that it could not be done here.
115. The sump and associated plant were viewed during the accompanied site visit. Water levels within the sump are controlled automatically. The unilateral undertaking would ensure that this would continue to protect the development from rising water levels within the quarry void.⁵⁴ No other likely sources of flooding have been identified.
116. Accordingly, the appeal scheme complies with: UDP Policy EV34 which is only permissive of proposals that would not pose a significant risk to the quantity and or quality of controlled waters; and, UDP Policy EV35 which is only permissive of development that would have appropriate mitigation for additional surface water run-off and flood risk.

⁵² Paragraph 1.1 of the MJCA statement on groundwater management, May 2016

⁵³ Paragraph 5.1 of the MJCA statement on groundwater management, May 2016

⁵⁴ Clause 5 of Part 1 of Schedule 1 to the unilateral undertaking

Wildlife

117. Chapter 7 of the ES addresses the ecology of the appeal site and the possible impacts resulting from the development proposed. An Extended Phase I Habitat Survey was carried out for the ES and it surveyed for protected species. The Council Officer's report to Planning Committee notes: the appeal site to lie within the Cwmrhydyceirw to Birchgrove Railway SINC, but no significant adverse effect was likely with mitigation for loss of habitat; four bat species were recorded foraging and commuting on and over the site; and, a nesting pair of Peregrine Falcons were recorded on the quarry face, which would be retained.
118. A suggested condition would require an Environmental Management Plan for the ecological mitigation, compensation and enhancement summarised in Chapters 7 and 9 of the ES. It would include specific Mitigation and Management Plans for Bats, Peregrine Falcon, Amphibians and Reptiles. Although a number of habitats on the appeal site would be significantly affected by the proposed development, the survey work, associated recommendations and the scope of suggested conditions, indicate the development could proceed without harming protected species or significantly adversely affecting the SINC. As such, the appeal scheme would comply with UDP Policy EV28 which requires, amongst other things, for damage to the nature conservation value of a development site to be kept to a minimum and mitigated.

Local living conditions

119. Open space – the appeal proposal would cap and restore the surface of the landfill to provide an area of public open space that would lie at the centre of the development. Clauses 6, 7 and 8 of Part 1, Schedule 1 to the unilateral undertaking deal with the provision and management of the public open space. [14, 41]
120. Overlooking and loss of light – The proposal would introduce residential development onto agricultural, quarry and golf club land. Some of the areas indicated to be for residential use are in close proximity to existing dwellings. The Illustrative Masterplan indicates only two storey housing (and focal buildings with heights to be confirmed relative to existing and proposed neighbouring properties) next to existing residential development. Nevertheless, this is an outline proposal where layout and design are reserved matters that, if this appeal were to be allowed, would be determined at a later date. Consequently, concerns regarding the potential for the appeal scheme to cause a loss of privacy due to overlooking of existing windows, or loss of light, would be fully addressed only at the reserved matters stage.
121. Noise and disturbance – A residential use on the appeal site would result in noise and disturbance associated with the habitation of the proposed dwellings, the activity around the homes and the movements of people to and from them. However, Cwmrhydyceirw is a residential area where a certain level of the noise and disturbance associated with construction works, the occupation of dwellings, and movements to and from them, can be expected to occur. As such, it is not apparent that the levels of noise and disturbance from the appeal scheme would be likely to be harmful to local living conditions.
122. In these respects the appeal scheme complies with UDP Policy EV1.

Property prices

123. While some representors foresee the proposal reducing the values of their properties, the extent of any reduction is not known. The proposed development would be expected to address a number of uncertainties, including the possible resumption of landfilling in the absence of the proposed development. The effect on property prices of removing this existing uncertainty is also unknown. In addition, paragraph 1.2.1 of PPW is clear that the planning system manages the development of land in the public interest and it has been long held that property values are not material to planning decisions. Therefore, I attribute neutral weight to any economic impact resulting from the effect of the development on land values, and this is considered within the context of the weight to be attributed to the other arguments for and against the proposal.

Environmental Statement (ES)

124. An assessment of the ES was carried out by Inspector P J Davies.⁵⁵ The ES was found to contain the level of information necessary to meet regulations and to be complete in that regard. I have considered the ES within the context of Statutory Instrument 2016 No.58 - *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016* ('the EIA Regulations') and agree with the conclusions reached in the assessment. The ES is complete and provides information that enables the environmental effects of the development proposed to be assessed for the ES to meet the EIA Regulations.

Housing land supply

125. Although representations have questioned the strength of the local housing market, convincing evidence has not been produced to indicate that new houses in this location would be unlikely to sell. At 3 years housing land supply, the Council is significantly below the 5 year supply sought by national policy.⁵⁶ The Council's Statement of Evidence suggests that the emerging LDP position indicates that significant weight should not be given to the extent of the shortfall from the 5 year supply.⁵⁷ However, at the start of the hearing the main parties agreed that, given its stage of production, very little weight could be attributed to the LDP. Consequently if the appeal proposal was to comply with development plan and national policies, the proposed contribution to addressing the identified deficiency in housing land supply would attract considerable weight in favour of the appeal scheme.[29][42][43]

Education provision

126. HD3 confirms that the additional classrooms that would be provided by the appeal scheme could be accommodated within the primary school site. The appeal scheme would only address the provision of school places for those created by the development, rather than the current level of attendance in excess of the school capacity and which is set to increase further in September 2017.[46][71][85]

⁵⁵ Provided within the Questionnaire

⁵⁶ PPW paragraph 9.2.3

⁵⁷ Paragraph 6.4 of the Council's Statement of Evidence

127. The likely level of Cwmrhydyceirw Primary School attendance resulting from the proposed development would cause a deficiency of open space provision around the school. However, the scale of the shortfall would not be so great as to suggest the pupils would be significantly disadvantaged by it. The Council raises no objection to the proposal on this ground, and the likely deficiency only attracts moderate weight against the appeal scheme.

Highway Safety

128. UDP Policy EV1 seeks development proposals to not result in significant detrimental impact on traffic movements. UDP Policy AS2 states that new developments should be designed to allow for the safe, efficient and non-intrusive movement of vehicles. UDP Policy HC2 is permissive of housing proposals on previously developed land in the urban area where, amongst other things, the development would not cause significant harm to highway safety.
129. Llanllienwen Road arm of the Maes Y Gwernen Road roundabout junction provides access to junction 45 of the M4. Highway traffic in the locality includes that associated with existing residential developments, to which is added that for Morryston Hospital, and in the wider area, DVLA.[67][71]
130. Pressures on the local highway network were evident during the site visit, which coincided with pupils leaving Cwmrhydyceirw Primary School and Morryston Comprehensive School. Parking and traffic levels in the vicinity of the school noticeably intensified as pupils left at the end of the school day at approximately 15:00hrs, with a peak at around 15:15hrs due to the activity from both schools. This peak activity was seen to clear significantly at approximately 15:30hrs. It was highlighted that hospital related parking can also occur on Maes Y Gwernen Road.
131. Proposed works on Maes Y Gwernen Road described within clause 4 of Part 1 of Schedule 1 to the unilateral undertaking,⁵⁸ include: a zebra crossing, guard rail, road markings, and signage and a pick up / drop off layby outside the school on Maes Y Gwernen Road; and, a Toucan crossing between the footbridge and the entrance to Morryston Hospital on Heol Maes Eglwys.
132. Inspection chambers indicate the presence of services under the raised verge that currently separates the footway outside the school from Maes Y Gwernen Road. Constructing the layby would remove and reshape areas of the existing verge. The depth of the services within the verge and the cost of accommodating both the services and the layby are not known. However, the appellant considers it not to be a barrier to development and within the scale of the proposed scheme, there is no evidence to indicate that the cost of providing the layby would be prohibitive.[73][74]
133. Drawing W131130/A/10 Revision A annexed to the unilateral undertaking shows the area of Heol Maes Eglwys where it is proposed to locate the Toucan crossing. An annotation on the drawing indicates the exact location would be determined by a planning condition. However, the location of the Toucan crossing is matter for the Highway Authority's consideration, which is recognised in the wording of clause 4 of Part 1, Schedule 1 of the unilateral undertaking.

⁵⁸ HD9

Therefore, it has not been shown that a planning condition would be necessary to address the location of the Toucan crossing and none of the suggested conditions seeks to do so.⁵⁹

134. Maes Y Gwernen Road rises to the west of the Primary School and curves on the approach to no.53, which is on the inside of the curve. Creating the access at No.53 would reduce the parking available in that location and the verge/footway would be built-out to create an appropriate sightline to the east of the new junction.
135. Existing peak hour conditions are caused by double parking outside the school, which the scheme of works within the unilateral undertaking seeks to address. The provision of the zebra crossing would displace parking next to the roundabout junction at the end of Maes Y Gwernen Road. The proposed layby would then provide extra road width to the west of the 'zig-zag' parking restrictions at the zebra crossing, and the layby would extend almost to the 'School Keep Clear' markings around the school's vehicle entrance.[71]
136. While clear views were expressed on the likely use and resulting restricted operational capacity of the layby, even if there were to be double parking/drop-off activity at the layby, it would widen the road in comparison to the current situation where 'School Keep Clear' markings are the principal parking restriction. The reduced carriageway width at 53 Maes Y Gwernen Road would be accommodated within a highway layout that would reduce the potential for there to be only a single lane traffic movement past the school. Given the highway features, parking restrictions, junctions and access points that would be present on Maes Y Gwernen Road following the development, it is not apparent that these would simply move the focus of traffic congestion on Maes Y Gwernen Road or elsewhere within the locality.
137. Concerns expressed by local people who attended the hearing and made written representations were based on their personal experiences of living and working in the area. However, the proposed works on Maes Y Gwernen Road are significant and the Toucan crossing on the northern side of the M4 footbridge would be of benefit for anyone using that pedestrian route, be their journey school related or otherwise.
138. Providing pedestrian and cycle access points on the eastern side of the development could result in some additional parking in these locations. However given the level of parking that would be expected to be provided within the development, it is not apparent that pedestrian access points on the eastern side of the site would be likely to cause off-site parking that would be significantly detrimental to highway safety. They would make existing access points available for use and in doing so would integrate the proposal into the built environment and provide permeability within it.
139. Given the nature of the highways and the traffic movements at the existing spur junctions onto Brodorion Drive and Enfield Close, and those that would occur at the proposed junction onto Maes Y Gwernen Road, the proposed

⁵⁹ HD8

entrances into the development would provide safe and suitable access to the appeal scheme.

140. A number of highway mitigation measures, which included additional crossing points and traffic calming within the residential development to the west of the primary school, are no longer proposed. It is not evident that the omitted mitigation works would be necessary given the expected vehicle flows in those locations. In contrast, the proposed mitigation measures would address existing congestion and the likely highway impacts of the appeal scheme, while supporting the use of alternative modes of transport to the private car.
141. The appellant's Transport Assessment drew on traffic surveys and extensive traffic modelling to demonstrate that the proposal would not have a significant adverse effect on the operation of the highway or its safety. Whilst the basis of local concerns are now reflected in the Highway Authority's Statement to the hearing, neither the transport assessment, nor the Highway Authority's consideration of the proposal at the application stage, indicated there to be capacity issues on the local highway network.
142. During the hearing, the main parties' highways experts agreed that the ten junctions in the locality had been assessed and no significant congestion had been found to occur at peak times. During the hearing the Highway Authority also confirmed that: while it recognises the local concern regarding the scale of predicted vehicle flows past the primary school, they would be within acceptable parameters; and while Members have their concerns, the Highway Authority continues to raise no objection to the scheme.
143. No other evidence has caused me to reach a view on the proposal that differs from that of the Highway Authority as reported to the Planning Committee.⁶⁰ The proposed significant modifications to Maes Y Gwernen Road, along with the provision of the Toucan crossing on Heol Maes Eglwys and the proposed access points, would be expected to alter parking behaviours in the locality. By allowing for the safe, efficient and non-intrusive movement of vehicles, and facilitating the use of sustainable travel choices, the appeal scheme complies with UDP Policies AS2, EV1 and HC2. [23-27][47-53][67][71-76]

Affordable housing

144. Within the context of sustainable development and associated legislation, Welsh Government's objectives for affordable housing are clear. [20][55]
145. The Ministerial Statement, dated 01/11/16, confirms that affordable homes are taken to include dwellings bought under the *Help to Buy – Wales* scheme. The current definition of affordable housing within TAN2 refers to social rented and intermediate housing. Annex B of TAN2 confirms that intermediate housing can include equity sharing schemes, but it differs from low cost market housing which is not considered to be affordable housing for the purpose of the land use planning system.[62]
146. There is an identified need for affordable dwellings in the locality that includes the appeal site. The Council accepts there to be no conflict with UDP Policy HC3

⁶⁰ Report dated 07/06/16 and its Appendix 1 within the Questionnaire folder

due to exceptional development costs having been demonstrated.[28][59][63][64]

147. The unilateral undertaking provides for at least 5% of the total number of dwellings proposed to be affordable units and includes a mechanism for further viability appraisal. The approach to, and proposed 5% level of, affordable homes provision was carefully considered within the Planning Officer's report to Committee in June 2016. [16][34][55][81]
148. While the Council considers *Help to Buy* properties to be assisted purchase market housing, the affordable homes in this case would not be *Help to Buy* properties. The affordable dwellings would be in the form of Low Cost Home Ownership Units that would be offered to a Registered Social Landlord at 70% of their Open Market Value. The *Interpretation* within the unilateral undertaking notes the Low Cost Home Ownership Units would not be low cost market housing. The unilateral undertaking provides a mechanism for the proposed Low Cost Home Ownership Units to be provided as housing priced below the market and made available through a Registered Social Landlord or the Council, with the Council approving a scheme for the provision of the Affordable Housing Units before construction of the Market Dwellings commences.⁶¹ As such and within the context of section 5 and Annex B of TAN2, the 5% provision would be expected to be a form of affordable housing. [34][62][63][68]
149. The Council has referred to appeal decisions that considered the provision of affordable homes within the context of viability constraints. The full details of the cases before the Inspectors in those appeals are not available in this case. In any event, each application and appeal falls to be considered on the basis of the specific arguments for and against it, and within the context of the planning policies that apply to it. Consequently, the appeals referred to do not set a precedent in relation to this case. [36]
150. In relation to the appeal proposal, there are exceptional development costs and the proposal complies with UDP Policy HC3.

Conclusion

151. My attention has been drawn to the definition of sustainable development in Wales contained within PPW Figure 4.2, the housing objectives within PPW paragraph 4.4.3, the well-being goals within the WBFG Act, and the identified need for affordable housing in the locality. There is clearly a need for affordable housing in the locality that includes the appeal site. The WBFG Act and PPW define and seek to deliver sustainable development, they post-date the UDP and affordable housing contributes to the achievement of well-being goals. [30][31][32][33]
152. However, the UDP seeks to provide affordable homes. In doing so, UDP Policy HC3 enables a balance to be struck when *exceptional development costs* are demonstrated. In this case the main parties agree that they have been and there is no conflict with UDP Policy HC3. [28]

⁶¹ Clause 8.1, Part 1, Schedule 1 of HD9

153. This is a site that is currently within the settlement and there is an unresolved objection to its omission from the emerging LDP settlement boundary. [44]
154. The appeal scheme have been found to comply with UDP Policies AS2, HC2, HC3, EV1, EV2, EV28, EV34, EV35 and relevant parts of PPW.
155. No conflict with has been found with any development plan or national policy. In the absence of a 5 year supply of housing land, and in accordance with paragraph 6.2 of TAN1, the need to increase supply provides considerable weight in favour of the appeal scheme.
156. In addition the planning obligations entered into attract significant weight in favour of the appeal scheme as they address matters regarding: compliance with planning policy; ensuring the acceptability and appropriateness of the proposal; and, ensuring that it would be a sustainable form of development.
157. Benefits of the proposal include highway works to ease congestion in the locality and promote sustainable forms of travel, and the cessation of landfilling operations in a location close to residential development, and the provision of public open space.
158. Having taken the policies within the development plan and PPW, and any other material considerations into account (including the scope of the suggested planning conditions in Annex A of this report), for the reasons above the appeal scheme would be a form of sustainable development that would contribute to meeting the well-being goals of the WCFG Act.

Recommendation

159. I therefore recommend that the appeal be allowed.

Clive Sproule

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Lucy Kelly BA(Hons) MRTPI	Principal Planning Officer, City and County of Swansea Council
Chris Healey MRTPI	City and County of Swansea Council
Aeron Kirczey	Highways, City and County of Swansea Council
David Rees MRTPI	City and County of Swansea Council
Tanya Nash	Sustainable Development, City and County of Swansea Council
Cllr Andrea Lewis	City and County of Swansea Council
Cllr Yvonne Jardine	City and County of Swansea Council
Cllr Ceri Evans	City and County of Swansea Council
Cllr Robert Francis-Davies	City and County of Swansea Council
Cllr Robert Stewart	City and County of Swansea Council

FOR THE APPELLANT:

Geraint John BSc DipTP MRTPI	Geraint John Planning Ltd
Morag Ellis QC	Francis Taylor Building
Matt Thomas BSc MSc FCILT MIHT	Director, Vectos
Guy Titman BSc DIS MCIWM	Director, MJCA
Stuart Rodden BSc ACA	Director, Edenstone Homes
Richard Kelso MRICS	Land Director, Edenstone Homes
Helen Thomas Solicitor	Legal Director, Edenstone Homes

INTERESTED PERSONS INCLUDED:

Joanna Jones	Local resident
Alan Davies	Local resident
J A & G A Ball	Local residents
Neville Rees	Local resident
Gareth Rees	Local resident
Beverley Griffith NNEB	Local resident

DOCUMENTS SUBMITTED AT HEARING

1. A draft unilateral undertaking under section 106 of the Town and Country Planning Act 1990 relating to the land that is the subject of this appeal
2. An e-mail from Network Rail, dated 09:06hrs 23/01/17, withdrawing its objection to the appeal scheme (accompanied by the response from the Planning Inspectorate dated 15:19hrs 23/01/17)
3. Drawing No: 100 MP Rev B – *Illustrative Masterplan*
4. An e-mail from the local planning authority, dated 10:27hrs 31/01/017, confirming pupil numbers and capacity at Cwmrhydyceiriw Primary School
5. *A Note on legal provisions* from Morag Ellis QC, dated 30/01/17
6. Appellant comments on what the unilateral undertaking seeks to do
7. Local planning authority comments in relation to CIL Regulations 122 and 123
8. Suggested conditions resulting from the discussion on conditions during the hearing
9. Planning obligations by unilateral undertaking

ANNEX A

LISTS OF PLANNING CONDITIONS

Conditions within HD8 (shown without 'track changes' and 'comments')

1 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2 Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3 The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4 The development (in relation to access) shall be carried out in accordance with the following approved plans and documents: PA01 - Site Boundary, W131130/A/10 Rev A.

5 The reserved matters submitted in conjunction with condition 1 above shall be submitted substantially in accordance with the masterplan document entitled "Illustrative Masterplan" (Drawing No: 100MP Rev B) and the Design and Access Statement, received on 1st April 2016.

6 A programme of phasing of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works on the site. The development shall be completed and brought into beneficial use in accordance with the details approved under Condition 1, or required by the conditions of the permission and the approved phasing programme.

7 Notwithstanding the details indicated in the application, all reserved matters applications shall be accompanied by details of existing and proposed levels for the development. The development shall be carried out in accordance with the approved details.

8 Prior to the commencement of any development hereby approved a scheme to investigate and monitor the site for the presence of gases (including landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide) being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to and approved in writing by the local planning authority.

The scheme shall be implemented in accordance with the approved scheme and in the event that gases are being generated the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to

prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing by the local planning authority.

All required gas protection measures shall be implemented as approved and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained until such time as the local planning authority agrees in writing that the measures are no longer required. A copy of the verification certificate should be submitted to the local planning authority prior to the first beneficial use of the development hereby permitted.

9 Prior to the commencement of any development hereby approved, a strategic site wide foul, surface and land drainage strategy based on sustainable drainage principles shall be submitted to and approved in writing by the Local Planning Authority. The strategy should be based upon the SuDs hierarchy, as espoused by the CIRA publication 'The SuDs Manual, C697'. The strategy shall maximise the use of measures to control water at source as far as practicable, to limit the rate and quantity of run-off and improve the quality of any run-off before it leaves the site or joins any water body.

The approved drainage works shall be carried out in their entirety, fully in accordance with the approved details, prior to the occupation of any building or alternatively in accordance with phased drainage operations agreed in writing by the Local Planning Authority.

10 Prior to the commencement of development full engineering details shall be submitted to and approved in writing by the Local Planning Authority of the highways and footpaths located within the development. The approved highways and footpaths shall be laid out to an adoptable standard, including the provision of street lighting.. The submitted details shall include details of the phasing of the highways and footpath construction.

12 Prior to the commencement of development an Environmental Management Plan (EMP) detailing site wide strategies for ecological mitigation, compensation and enhancement as summarised in Chapters 7 and 9 of the Environmental Statement shall be submitted to and approved in writing by the local planning authority. These measures shall cover both pre and post construction phases of the development. In addition to site wide mitigation measures the EMP shall include specific Mitigation and Management Plans for Bats, Peregrine Falcon, Amphibians and Reptiles. The development shall be implemented in accordance with the approved details and timescales set out within the approved EMP.

13 Prior to the demolition of the quarry building identified within Target Note 41 of Chapter 7 of the Environmental Statement, the building shall be surveyed for bats. The details of the survey and its findings together with any bat mitigation measures that may be necessary shall be submitted to and approved in writing by the local planning authority prior to its demolition. Any mitigation measures shall be carried out in accordance with the approved details and timescales.

14 Prior to the commencement of development an application shall be submitted to Natural Resources Wales for the definite closure of the landfill site. Written confirmation of the same from Natural Resources Wales shall be provided to the local planning

authority by way of correspondence prior to the commencement of development. The application for definite closure must not be withdrawn without first notifying the local planning authority.

15 Prior to first occupation of any dwelling a Site Waste Management Plan 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.

16 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.

17 No development for the construction of any dwelling hereby approved shall take place within the Environmental Permit boundary as indicated on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement) until such time that written confirmation has been provided to the local planning authority, by way of correspondence from Natural Resources Wales, that the landfill site has been definitely

18 No development hereby approved shall commence until a detailed scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the details and timescales specified within the approved scheme.

20 Details of the reserved matters set out in condition 1 shall be accompanied by an arboricultural impact assessment.

19 No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the Local Planning Authority. The tree protection scheme and method statement, which shall include trees to be retained (“Retained Trees”) will address all the impacts raised in the arboricultural impact assessment. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.

21 No Retained Trees as shown on any landscaping scheme approved as part of the reserved matters application, shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved detailed plans and particulars, without the prior written approval of the Local Planning

Authority. If any Retained Trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at a similar location and that tree shall be of a size and species as specified in writing by the Local Planning Authority.

22 Prior to the commencement of development, full details of the proposed arrangements for future management and maintenance of the proposed streets within the development, shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or successor legislation.

25 Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the local planning authority in advance of its importation. Only material approved by the local planning authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the Welsh Local Government Association guidance 'Requirements for the Chemical Testing of Imported Materials for Various End Uses'. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with the approved scheme.

26 Any topsoil (natural or manufactured), or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the local planning authority in advance of its importation. Only material approved by the local planning authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the Welsh Local Government Association guidance 'Requirements for the Chemical Testing of Imported Materials for Various End Uses'.

27 Prior to first occupation of any dwelling within the Environmental Permit boundary (as defined on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement) a scheme to restrict public access to essential infrastructure comprising gas monitoring equipment, gas venting equipment and lagoon pumping equipment, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out and thereafter maintained in accordance with the approved details and timescales.

29 All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development 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.

31 Each dwelling shall be provided with on-site parking. which shall be laid out prior to the first beneficial use of the dwelling which it serves. The approved car parking shall be retained as such thereafter.

33 Prior to the occupation of any dwelling hereby approved, a health and safety risk assessment which assesses the risks posed by the quarry face to residents and visitors to the application site, together with mitigation measures, shall be submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved details and timescales for their provision and shall thereafter be retained and maintained as approved.

34 Prior to the commencement of construction of any unit sited within 30 metres of the Llangyfelach Railway Tunnel to the south details of the construction method for the dwellings shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved construction method.

Prior to the commencement of any development hereby approved measures for the control, management and monitoring of landfill gas and leachate generated in the existing landfill site shall be submitted to and approved in writing by the local planning authority. The measures for the control, management and monitoring of landfill gas and leachate shall have regard to the presence of the adjacent Llangyfelach Railway Tunnel and shall include measures necessary to protect the Llangyfelach Railway Tunnel from adverse impacts associated with the migration of landfill gas and leachate and to monitor for the presence of both landfill gas and leachate in proximity to the Llangyfelach Railway Tunnel to confirm the effectiveness of the protection measures.

Conditions as edited by the Inspector

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development (in relation to access) shall be carried out in accordance with the following approved plans and documents: PA01 - Site Boundary, W131130/A/10 Rev A.
5. A programme of phasing of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to the commencement of works on the site. Development shall be carried out in accordance with the approved phasing programme.
6. Notwithstanding the details indicated in the application, all reserved matters applications shall be accompanied by details of existing and proposed levels for

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

7. Prior to the commencement of any development hereby permitted a scheme to investigate and monitor the site for the presence of gases (including landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide) being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to and approved in writing by the local planning authority.

The scheme shall be implemented in accordance with the approved scheme and in the event that gases are being generated the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing by the local planning authority.

All required gas protection measures shall be implemented as approved and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained until such time as the local planning authority agrees in writing that the measures are no longer required. A copy of the verification certificate should be submitted to the local planning authority prior to the first beneficial use of the development hereby permitted.

8. Prior to the commencement of any development hereby permitted, a strategic site wide foul, surface and land drainage strategy based on sustainable drainage principles shall be submitted to and approved in writing by the local planning authority. The strategy should be based upon the SuDs hierarchy, as espoused by the CIRA publication 'The SuDs Manual, C697'. The strategy shall maximise the use of measures to control water at source as far as practicable, to limit the rate and quantity of run-off and improve the quality of any run-off before it leaves the site or joins any water body.

The approved drainage works shall be carried out in their entirety, fully in accordance with the approved details, prior to the occupation of any building or alternatively in accordance with phased drainage operations agreed in writing by the Local Planning Authority.

9. Prior to the commencement of development an Environmental Management Plan (EMP) detailing site wide strategies for ecological mitigation, compensation and enhancement as summarised in Chapters 7 and 9 of the Environmental Statement shall be submitted to and approved in writing by the local planning authority. These measures shall cover both pre and post construction phases of the development. In addition to site wide mitigation measures the EMP shall include specific Mitigation and Management Plans for Bats, Peregrine Falcon, Amphibians and Reptiles. The development shall be implemented in accordance with the approved details and timescales set out within the approved EMP.
10. Prior to the commencement of development an application shall be submitted to Natural Resources Wales for the definite closure of the landfill site. Written confirmation of the same from Natural Resources Wales shall be provided to the local planning authority by way of correspondence prior to the commencement of development. The application for definite closure must not be withdrawn without first notifying the local planning authority.

11. 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.
 12. Details of the reserved matters set out in condition 1 shall be accompanied by an arboricultural impact assessment.
 13. No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the local planning authority. The tree protection scheme and method statement, which shall include trees to be retained ("Retained Trees") shall address the impacts raised in the arboricultural impact assessment. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.
 14. Prior to first occupation of any dwelling within the Environmental Permit boundary (as defined on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement)) a scheme to restrict public access to essential infrastructure comprising gas monitoring equipment, gas venting equipment and lagoon pumping equipment, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out and thereafter retained in accordance with the approved details and timescales.
 15. No Retained Trees as shown on any landscaping scheme approved as part of the reserved matters application, shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved detailed plans and particulars, without the prior written approval of the Local Planning Authority. If any Retained Trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at a similar location and that tree shall be of a size and species as specified in writing by the Local Planning Authority.
 16. All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development 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.
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17. Each dwelling shall be provided with on-site parking, which shall be laid out prior to the first beneficial use of the dwelling which it serves. The approved car parking shall be retained as such thereafter.
18. Prior to the commencement of construction of any unit sited within 30 metres of the Llangyfelach Railway Tunnel to the south details of the construction method for the dwellings shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved construction method.
19. Prior to the commencement of any development hereby approved measures for the control, management and monitoring of landfill gas and leachate generated in the existing landfill site shall be submitted to and approved in writing by the local planning authority. The measures for the control, management and monitoring of landfill gas and leachate shall have regard to the presence of the adjacent Llangyfelach Railway Tunnel and shall include measures necessary to protect the Llangyfelach Railway Tunnel from adverse impacts associated with the migration of landfill gas and leachate and to monitor for the presence of both landfill gas and leachate in proximity to the Llangyfelach Railway Tunnel to confirm the effectiveness of the protection measures.
20. Prior to development taking place and throughout the course of development you must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/ Our ref: qA1286639

Mr Geraint John
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11 January 2018

Dear Mr John

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78.
PROPOSED CESSATION OF LANDFILL AND OTHER OPERATIONS ENABLED
BY RESIDENTIAL DEVELOPMENT CIRCA 300 DWELLINGS, PUBLIC OPEN
SPACE, ASSOCIATED HIGHWAY AND ANCILLARY WORKS (OUTLINE) AT
PARC CEIRW, CWMRHYDCEIRW QUARRY, SWANSEA.
APPLICATION NO: 2014/0977.**

1. Consideration has been given to the report of the Inspector, Clive Sproule BSc MSc MRTPI MIEEnvSci CEnv, who held a Hearing into your client's appeal against the City and Council of Swansea's ("the Council") refusal of outline planning application ref: 2014/0977 for "Residential development circa 300 dwellings, public open space, associated highway and ancillary works (outline)" on land at Parc Ceirw, Cwmrhydceirw Quarry, Swansea.
2. On 22 September 2016, in accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers as the proposal relates to residential development of more than 150 houses or on more than 6 hectares of land. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions are within the portfolio of the Cabinet Secretary for Energy, Planning and Rural Affairs and have been exercised by me as Minister.

Bae Caerdydd • Cardiff Bay
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CF99 1NA

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

3. In exercising their functions as part of carrying out Sustainable Development in accordance with the Well-Being of Future Generations (Wales) Act 2015 ("the WFG Act"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of 'SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance' on the FG Act through examination of the appeal by way of a Hearing in accordance with the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003.
4. The Inspector held a Hearing on 25 January and 15 February 2017 and a site visit was also carried out on 15 February 2017. The Inspector recommends the appeal is allowed and planning permission granted subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to the report.
5. I wrote to you on 9 August 2017 to advise I am minded to accept the Inspector's recommendation. However, before a grant of planning permission could be considered, a number of issues arising from the Unilateral Undertaking submitted, entered into under Section 106 of the Town and Country Planning Act 1990, needed to be addressed.
6. You responded with additional information and an amended Unilateral Undertaking (UU) to address the matters I previously raised with regard to the UU. I am satisfied your comments address the issues set out in my letter of 9 August.
7. I am also satisfied the UU meets the appropriate tests in Circular 13/97 and Regulation 122(2) of the Community Infrastructure Regulations 2010 and should be given weight in determining this appeal.
8. I have given due regard to representations submitted after the Hearing was closed and after the "minded to allow" letter was issued. However, I do not consider any new evidence or new matter of fact has been raised which would affect my decision to allow the appeal.

Main Issues

9. In the Inspector's view, the main considerations in this appeal are (IR104):
 - The effect of the development on highway safety;
 - Whether the proposal should make adequate provision for affordable housing.
10. Subject to the comments at paragraphs 11 – 56 below, I agree with the Inspector's conclusions for the reasons given by him and accept his recommendation.

Highway Safety

11. The Inspector states the following policies are relevant to the consideration of the appeal in terms of highway safety. Policy EV1 of the City and County of Swansea Unitary Development Plan ("UDP") requires development proposals not to result in significant detrimental impact on traffic movements. Policy AS2 of the UDP states new developments should be designed to allow for the safe, efficient and non-intrusive movement of vehicles. Policy HC2 of the UDP is permissive of housing proposals on previously developed land in the urban area where, amongst other things, the development would not cause significant harm to highway safety. I agree these policies are relevant to the determination of the appeal.
12. The Inspector confirms pressures on the local highway network were evident during the site visit, which coincided with pupils leaving Cwmrhydyceirw Primary School and Morryston Comprehensive School. He observed parking and traffic levels in the vicinity of the school noticeably intensified as pupils left at the end of the school day at approximately 15:00hrs, with a peak at around 15:15hrs due to the activity from both schools. This peak activity was seen to clear significantly at approximately 15:30hrs (IR130).
13. The Inspector is satisfied the location of the Toucan crossing is a matter for the Highway Authority's consideration and it is not necessary to attach a planning condition to any consent to secure the location of the crossing (IR133).
14. The Inspector states reconstructing the layby outside the school would remove and reshape areas of the existing verge. Although the cost of this work is not known, the Inspector is satisfied there is no evidence to indicate the cost of providing the layby would be prohibitive (IR132). I have no reason to disagree with the Inspector on this matter.
15. The Inspector states, while clear views were expressed on the likely use and resulting restricted operational capacity of the layby, he states even if there were to be double parking/drop-off activity at the layby, the road would be wider in comparison to the current situation where 'School Keep Clear' markings are the principal parking restriction. The Inspector also considers the highway alterations proposed would reduce the potential for there to be only a single lane traffic movement past the school. He considers given the highway features, parking restrictions, junctions and access points which would be present on Maes y Gwernen Road following the development, it is not apparent these would simply move the focus of traffic congestion on Maes y Gwernen Road or to elsewhere within the locality (IR136). I agree with the Inspector's conclusion on this matter.

16. With regard to concerns expressed by local people regarding highway safety, the Inspector concludes the proposed works on Maes y Gwernen Road are significant and the Toucan crossing on the northern side of the M4 footbridge would be of benefit for anyone using the pedestrian route, whether their journey was school related or otherwise (IR137). I have no reason to disagree with the Inspector's conclusions on this matter.
17. The Inspector considers, although providing pedestrian and cycle access points on the eastern side of the development could result in some additional parking in these locations, given the level of parking which would be expected to be provided within the development, he is satisfied it is not likely to cause off-site parking to the significant detriment to highway safety. He considers making existing access points available for pedestrian use would integrate the proposal into the built environment and provide permeability within it (IR138). I have no reason to disagree with the Inspector on this matter.
18. The Inspector considers, given the nature of the highways and the traffic movements at the existing spur junctions onto Brodorion Drive and Enfield Close and those which would occur at the proposed junction onto Maes y Gwernen Road, the proposed entrances into the development would provide safe and suitable access to the appeal scheme (IR139). I agree with the Inspector's conclusion on this matter.
19. The Inspector states the proposed mitigation measures, which include a formal parking layby on the northern side of the carriageway and a formal zebra crossing and guard railing, would address existing congestion and the likely highway impacts of the appeal scheme, while supporting the use of alternative modes of transport to the private car (IR140). The appellant's Transport Assessment drew on traffic surveys and extensive traffic modelling to demonstrate the proposal would not have a significant adverse effect on the operation of the highway or its safety. Neither the transport assessment, nor the Highway Authority's consideration of the proposal at the application stage indicate there to be capacity issues on the local highway network (IR141).
20. During the Hearing, the main parties' highways experts agreed the ten junctions in the locality had been assessed and no significant congestion had been found to occur at peak times. During the Hearing the Highway Authority also confirmed, while it recognises the local concern regarding the scale of predicted vehicle flows past the primary school, they would be within acceptable parameters. Although Members have their concerns, the Highway Authority continues to raise no objection to the scheme (IR142).

21. The Inspector confirms no other evidence has caused him to reach a view on the proposal which differs from the Highway Authority comments as reported to the Council's Planning Committee. The proposed significant modifications to Maes y Gwernen Road, along with the provision of the Toucan crossing on Heol Maes Eglwys and the proposed access points, would be expected to alter parking behaviours in the locality. By allowing for the safe, efficient and non-intrusive movement of vehicles and facilitating the use of sustainable travel choices, the Inspector considers the appeal scheme complies with policies AS2, EV1 and HC2 of the UDP (IR143). I have no reason to disagree with the Inspector's conclusions on these matters.

Affordable Housing

22. Within the context of sustainable development and associated legislation, the Welsh Government's objectives for affordable housing are clear. The Inspector notes the Ministerial Statement by the Cabinet Secretary for Communities and Children on 1 November 2016 confirms affordable homes, for the purposes of the Welsh Government's affordable homes target, are taken to include dwellings bought under the *Help to Buy – Wales* scheme. However I note the Ministerial Statement emphasises the definition of affordable housing within Technical Advice Note ("TAN") 2: Planning and Affordable Housing (2006) remains unchanged. Therefore, whilst the agent states all the proposed dwellings would fall under the *Help to Buy* threshold, only those meeting the definition in TAN 2 can be considered affordable for the purposes of this appeal. TAN 2 refers to social rented and intermediate housing. Annex B of TAN2 confirms intermediate housing can include equity sharing schemes, however, it differs from low cost market housing which is not considered to be affordable housing for the purpose of the land use planning system (IR144 – 145).
23. The Inspector confirms there is an identified need for affordable dwellings in the locality which includes the appeal site. The Council accepts there is no conflict with Policy HC3 of the UDP which normally seeks 25-30% affordable housing on developments containing 25 or more dwellings or sites of more than 1 hectare, due to exceptional development costs having been demonstrated. The UU provides for at least 5% of the total number of dwellings proposed to be affordable units and includes a mechanism for further viability appraisal. He is of the view the approach to and proposed level of affordable homes provision was carefully considered within the Planning Officer's report to Committee in June 2016 (IR146 – 147).
24. The Inspector notes the UU provides a mechanism for the proposed Low Cost Home Ownership Units to be provided as housing priced below the market and made available through a Registered Social Landlord or the Council, with the Council approving a scheme for the provision of the Affordable Housing Units before construction of the Market Dwellings commences. The Inspector confirms the 5% provision would be a form of affordable housing within the context of section 5 and Annex B of TAN 2 (IR148).

25. The Council has referred to appeal decisions which considered the provision of affordable homes within the context of viability constraints. The Inspector states each application and appeal falls to be considered on the basis of the specific arguments for and against it and within the context of the planning policies which apply to it. Consequently, the appeals referred to do not set a precedent in relation to this case (IR149). I agree with the Inspector's conclusion on this matter.
26. With regard to affordable housing, the Inspector considers there are exceptional development costs and the proposal therefore complies with Policy HC3 of the UDP (IR150). I have no reason to disagree with the Inspector's conclusions on this matter.

Other material considerations

27. The Inspector's report (106 - 127) considers a range of other matters which were raised at the Hearing including, the effect of the proposed development on the character and appearance of the locality, previous uses of the appeal site, flooding, wildlife, local living conditions, property prices, the adequacy of the Environmental Statement, housing land supply and education provision.

Character and Appearance (IR106 – 110)

28. The Inspector confirms the proposal would result in a change in the character and appearance of the area, however, he considers the residential development to the north of the appeal site would remain predominantly suburban in character and, given the context of the suggested conditions, detailed design provided at reserved matters stage would be expected to complement it.
29. Although the proposal will result in the loss of trees within the site (from Tree Preservation Order ("TPO") area A1, the Inspector considers the amenity value of TPO area A1 is limited and the loss of these trees would not have an unacceptable effect on the character and appearance of the locality.
30. The Inspector is satisfied the illustrative masterplan indicates the appeal scheme could be built in a manner which would be sympathetic to the established character and appearance of the locality to comply with the relevant objectives for good design within Policy EV1 of the UDP. He considers the design, as expressed within the illustrative masterplan, responds to the physical characteristics and levels within the site. If developed in the manner indicated, the proposal would also comply with Policy EV2 of the UDP, which seeks the siting of new development to give priority to the use of previously developed land and to have regard to the physical characteristics of the site.

Previous uses on the appeal site and flooding (IR111 – 116)

31. Interested parties in this case have raised concerns regarding the past operation of the landfill within the quarry void and the potential implications of this for the locality and its residents. The Inspector states no evidence was placed before the Hearing to demonstrate anything within the appeal scheme would be expected to cause harm through the unexpected release from within the appeal site of pollutants and/or contaminants (be they in gaseous, solid or liquid form).
32. The Inspector is also satisfied there appears to be no technical matter which would prevent the implementation of the existing landfill planning permission and it remains a fall-back position in this case.
33. The Inspector confirms in the absence of further very extensive landfilling, the revegetating high quarry walls will remain. He acknowledges having such features in close proximity to housing would be a risk which would have to be managed, however, there is no evidence to suggest it could not be done in this case through a landscaping condition.
34. The Inspector states water levels within the sump are controlled automatically. The UU would ensure this would continue to protect the development from rising water levels within the quarry void. He confirms no other likely sources of flooding have been identified.
35. The Inspector is satisfied the proposal is in accordance with the relevant policies of the UDP which relate to controlled waters, surface water run-off and flood risk.

Wildlife (IR117 – 118)

36. The Inspector confirms, although a number of habitats on the appeal site would be significantly affected by the proposed development, the survey work, associated recommendations and the scope of suggested conditions, indicate the development could proceed without harming protected species or significantly adversely affecting the Site of Importance for Nature Conservation (SINC). As such, the appeal scheme would comply with the relevant policies of the UDP.

Local living conditions (IR119 – 122)

37. The appeal proposal would cap and restore the surface of the landfill to provide an area of public open space which would lie at the centre of the development.

38. With regard to issues of overlooking and loss of light, the Inspector confirms some of the areas indicated for residential use are in close proximity to existing dwellings. The Illustrative Masterplan indicates only two storey housing (and focal buildings with heights to be confirmed relative to existing and proposed neighbouring properties) next to existing residential development. The Inspector is satisfied as the application is an outline proposal where layout and appearance are reserved matters, concerns regarding the potential for the appeal scheme to cause a loss of privacy due to overlooking of existing windows, or loss of light, would be fully addressed only at the reserved matters stage.
39. The Inspector considers, whilst residential use on the appeal site would result in noise and disturbance associated with the habitation of the proposed dwellings and ancillary activities, Cwmrhydyceirw is a residential area where a certain level of noise and disturbance associated with construction works, the occupation of dwellings and movements to and from them, can be expected to occur. As such, the Inspector states it is not apparent the levels of noise and disturbance from the scheme would be likely to be harmful to local living conditions and the proposal is in accordance with the relevant policy of the UDP.

Property prices (IR123)

40. Paragraph 1.2.1 of Planning Policy Wales is clear the planning system manages the development of land in the public interest and it is established property values are not material to planning decisions. Therefore, the Inspector attributes neutral weight to any economic impact resulting from the effect of the development on land values.

Environmental Statement (ES) (IR124)

41. The Inspector confirms the ES is complete and provides information which enables the environmental effects of the development proposed to be assessed for the ES to meet the EIA Regulations.

Housing land supply (IR125)

42. The Inspector states although representations have questioned the strength of the local housing market, convincing evidence has not been produced to indicate new houses in this location would be unlikely to sell. The Council has 3 years housing land supply which is significantly below the 5 year supply sought by national policy. He confirms the Council's Statement of Evidence suggests the emerging Local Development Plan ("LDP") position indicates significant weight should not be given to the extent of the shortfall from the 5 year supply. However, at the start of the Hearing the main parties agreed, given its stage of production, very little weight could be attributed to the LDP. The Inspector states if the appeal proposal was to comply with development plan and national policies, the proposed contribution to addressing the identified deficiency in housing land supply would attract considerable weight in favour of the appeal scheme.

Education provision (IR126 – 127)

43. The Inspector states the additional classrooms which would be provided by the appeal scheme could be accommodated within the primary school site. He confirms the appeal scheme would only address the provision of school places for those created by the development, rather than the current level of attendance in excess of the school capacity and which is set to increase further in September 2017.
44. The Inspector considers the likely level of Cwmrhydyceirw Primary School attendance resulting from the proposed development would cause a deficiency of open space provision around the school. However, the scale of the shortfall would not be so great as to suggest the pupils would be significantly disadvantaged by it. He confirms the Council raises no objection to the proposal on this ground, and the likely deficiency only attracts moderate weight against the appeal scheme.
45. There is no reason to disagree with the Inspector's conclusions on any of the above matters.

Conditions and Unilateral Undertaking (UU)

46. I have considered the conditions set out at the Annex to the Inspector's report and, subject to minor changes, agree they are necessary and reasonable and meet the tests in Welsh Government Circular 016/2014, "The Use of Planning Conditions for Development Management".
47. I am satisfied the obligations in the UU, dated 7 November 2017, meet the appropriate tests in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97, "Planning Obligations". As such I have given weight to the UU in the determination of this appeal (IR85 - 88).

Inspector's Overall Conclusions

48. The Inspector has considered the definition of sustainable development in Wales contained within Planning Policy Wales ("PPW") Figure 4.2, the housing objectives within PPW paragraph 4.4.3, the well-being goals within the Wellbeing of Future Generations Act ("WFG Act") and the identified need for affordable housing in the locality. He considers there is clearly a need for affordable housing in the locality which includes the appeal site (IR151).
49. The Swansea UDP seeks to provide affordable homes. In doing so, UDP Policy HC3 enables a balance to be struck when *exceptional development costs* are demonstrated. In this case the main parties agree a balance has been struck and there is no conflict with UDP Policy HC3 (IR152).
50. The site is currently within the settlement boundary of the UDP and there is an unresolved objection to its omission from the emerging LDP settlement boundary (IR153).
51. The Inspector states the appeal scheme has been found to comply with the relevant policies of the UDP and no conflict has been found with any national policy. The Inspector considers, in the absence of a 5 year housing land supply and in accordance with paragraph 6.2 of TAN1, the need to increase supply provides considerable weight in favour of the appeal scheme (IR154 – 155). I have no reason to disagree with the Inspector on this matter.
52. The relevant advice in TAN 1: Joint Housing Land Availability Studies was clarified in a letter, issued by the Cabinet Secretary for Environment and Rural Affairs on 23 February 2017. The letter states the Welsh Government remains committed to increasing housing land supply by requiring Local Planning Authorities to give it considerable weight as a material consideration when dealing with planning applications for housing. However, this is subject to the development otherwise complying with development plan and national planning policies, as clearly set out in paragraph 6.2 of TAN 1. This includes ensuring development proposals are well related to the existing settlement form and do not lead to unacceptable impacts on local economic, social and environmental infrastructure. The letter concludes the principles of sustainable development and the creation of cohesive communities, which form the basis of the Welsh Government's planning policy, remain and should not be undermined by the need to increase housing land supply.

53. I am satisfied the Inspector's report gives due consideration to the issues raised in the Cabinet Secretary's letter. The Inspector's report considers the potential impact of the proposed development on flooding, ecology, local living conditions, highway safety and education provision. No unacceptable impacts have been evidenced which would justify withholding planning permission. The Inspector is content the appeal site would constitute sustainable development, being located within the settlement boundary of Cwmrhydyceirw with its promotion of sustainable forms of travel due to the highway works which will also ease congestion, as well as the provision of open space.
54. The Inspector considers the planning obligations entered into attract significant weight in favour of the appeal scheme as they address matters regarding: compliance with planning policy; ensuring the acceptability and appropriateness of the proposal; and, ensuring it would be a sustainable form of development. I have no reason to disagree with the Inspector on this matter (IR156 - 157).
55. Having taken the policies within the development plan and PPW and any other material considerations into account (including the scope of the suggested planning conditions in Annex A of the report), for the reasons above the Inspector considers the appeal scheme would be a form of sustainable development which would contribute to meeting the well-being goals of the WFG Act.
56. The Inspector recommends the appeal be allowed and planning permission be granted subject to conditions. I agree with this recommendation.

FORMAL DECISION

57. Accordingly, I hereby allow this appeal and grant planning permission for "Cessation of landfill and other operations enabled by residential development circa 300 dwellings, public open space, associated highway and ancillary works" on Land at Parc Ceirw, Cwmrhydyceirw Quarry, Swansea subject to the conditions detailed in the Annex to this letter and the signed Section 106 Unilateral Undertaking, dated 7 November 2017.
58. I have taken into account the environmental information as defined by the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (as amended) in reaching my decision on this appeal.
59. In reaching this decision, I have considered the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015. The decision made is in accordance with the sustainable development principle set out in the FG Act 2015. In accordance with section 3(2) of the FG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "build healthier communities and better environments" and "build resilient communities, culture and language" by providing housing in a sustainable location where there is a clear need for new housing.

60. A copy of this letter has been sent to the City and County of Swansea and to those persons and organisations who appeared at the Hearing.

Yours Sincerely

A handwritten signature in black ink, reading 'Lesley Griffiths'. The signature is written in a cursive style with a large, prominent 'L' and 'G'.

Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Enc: Inspector's report, leaflet 'H' and leaflet 'HC'.

Annex

Conditions attached to the Welsh Ministers' decision to allow planning appeal APP/B6855/A/16/3157177 – "Proposed Cessation of Landfill and other Operations Enabled by Residential Development Circa 300 Dwellings, Public Open Space, Associated Highway and Ancillary Works (Outline)" on land at Parc Ceirw, Cwmrhydceirw Quarry, Swansea.

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development (in relation to access) shall be carried out in accordance with the following approved plans and documents: PA01 - Site Boundary, W131130/A/10 Rev A.
5. A programme of phasing of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to the commencement of works on the site. Development shall be carried out in accordance with the approved phasing programme.
6. Notwithstanding the details indicated in the application, all reserved matters applications shall be accompanied by details of existing and proposed levels for the development. Development shall be carried out in accordance with the approved details.
7. Prior to the commencement of any development hereby permitted a scheme to investigate and monitor the site for the presence of gases (including landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide) being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to and approved in writing by the local planning authority.

The scheme shall be implemented in accordance with the approved scheme and in the event that gases are being generated the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing by the local planning authority.

All required gas protection measures shall be implemented as approved and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained until such time as the local planning authority agrees in writing that the measures are no longer required. A copy of the verification certificate should be submitted to the local planning authority prior to the first beneficial use of the development hereby permitted.

8. Prior to the commencement of any development hereby permitted, a strategic site wide foul, surface and land drainage strategy based on sustainable drainage principles shall be submitted to and approved in writing by the local planning authority. The strategy should be based upon the SuDS hierarchy, as espoused by the CIRIA (the construction industry research and information association) publication 'The SuDS Manual, C697' (or any updated version). The strategy shall maximise the use of measures to control water at source as far as practicable, to limit the rate and quantity of run-off and improve the quality of any run-off before it leaves the site or joins any water body.

The approved drainage works shall be carried out in their entirety, fully in accordance with the approved details, prior to the occupation of any building or alternatively in accordance with phased drainage operations agreed in writing by the Local Planning Authority.

9. Prior to the commencement of development an Environmental Management Plan (EMP) detailing site wide strategies for ecological mitigation, compensation and enhancement as summarised in Chapters 7 and 9 of the Environmental Statement shall be submitted to and approved in writing by the local planning authority. These measures shall cover both pre and post construction phases of the development. In addition to site wide mitigation measures the EMP shall include specific Mitigation and Management Plans for Bats, Peregrine Falcon, Amphibians and Reptiles. The development shall be implemented in accordance with the approved details and timescales set out within the approved EMP.
10. Prior to the commencement of development the developer shall provide written confirmation to the Local Planning Authority that an application has been submitted to Natural Resources Wales (NRW) for the definite closure of the landfill site. The written confirmation shall also include evidence of confirmation from NRW that the application has been received. The application for definite closure must not be withdrawn without first notifying the local planning authority.
11. 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.
12. Details of the reserved matters set out in condition 1 shall be accompanied by an arboricultural impact assessment.
13. No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the local planning authority. The tree protection scheme and method statement, which shall include trees to be retained ("Retained Trees") shall address the impacts raised in the arboricultural impact assessment. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.
14. Prior to first occupation of any dwelling within the Environmental Permit boundary (as defined on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement) a scheme to restrict public access to essential infrastructure comprising gas monitoring equipment, gas venting equipment and lagoon pumping equipment, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out and thereafter retained in accordance with the approved details and timescales.
15. No Retained Trees as shown on any landscaping scheme approved as part of the reserved matters application, shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved detailed plans and particulars, without the prior written approval of the Local Planning Authority. If any Retained Trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at a similar location and that tree shall be of a size and species as specified in writing by the Local Planning Authority.
16. All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development 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.
17. Prior to the commencement of construction of any unit sited within 30 metres of the Llangyfelach Railway Tunnel (to the south) details of the construction method for the dwellings shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved construction method.

18. Prior to the commencement of any development hereby approved measures for the control, management and monitoring of landfill gas and leachate generated in the existing landfill site shall be submitted to and approved in writing by the local planning authority. The measures for the control, management and monitoring of landfill gas and leachate shall have regard to the presence of the adjacent Llangyfelach Railway Tunnel and shall include measures necessary to protect the Llangyfelach Railway Tunnel from adverse impacts associated with the migration of landfill gas and leachate and to monitor for the presence of both landfill gas and leachate in proximity to the Llangyfelach Railway Tunnel to confirm the effectiveness of the protection measures.

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties in that section include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details that must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details that the person carrying out development must display to comply with this duty.

The person carrying out development must ensure that the notice is:

- (a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (b) legible and easily visible to the public without having to enter the site; and
- (c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.