



**Planning Committee – 5<sup>th</sup> October 2021**

**Item 1 (Cont'd)**

**Application Number:**

2021/1782/S73

**Background Information**

**Site History**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/0482/S73	The stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use. Variation of conditions 3 and 4 of planning permission granted on appeal (Appeal Ref: APP/B6855/A/12/2184665. LPA Ref: 2012/0079) to allow for the permanent use of the site by gypsies and travellers	APP	06.07.2017
99/0161	ERECTION OF A DETACHED DWELLING HOUSE	APP	23.06.1999
2014/0027/DOC	Discharge of conditions 5, 9, 10, 12 of planning permission 2012/0079 granted on appeal 3rd May 2013	NOBJ	30.09.2014
2012/0079	The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standings and utility/ dayrooms	REF	29.03.2012
2009/1075	Change of use of garage to office and single storey rear extension to provide storage	APP	18.12.2009
2006/1980	Demolition of existing derelict building and reconstruction to create 4 residential units with associated landscaping and garden restoration, highway alterations and provision of 12 car parking spaces	REF	19.12.2006

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2005/2317	One dwelling and detached garage (variation of condition 03 and 06 of planning permission 99/0161 granted on 23rd June 1999 to allow the consideration of access details, boundary treatment and details and/or samples of all finishes following the commencement of development)	APP 05.05.2006

### Procedural Matters

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

### Site History

Planning permission was refused by the Council under application 2012/0079 in 2012 for the development of the site for four gypsy and traveller pitches with associated works for the following reasons:

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

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

At appeal, the Inspector acknowledged the harm caused to the Green Wedge (under the then UDP) which he considered was significant but gave greater weight to the urgent pressing need for accommodation and stated

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*“Nevertheless, after taking all matters into account in this case, I consider that it would be appropriate to grant a personal and temporary permission for four years. The unmet need and likely change in planning circumstances over the next four years have been taken into account by me. However, it is the combination of these points and the personal circumstances of the family, particularly those relating to site conditions at the appellant’s mother’s house and the varied needs of the children (after recognizing their best interests), which has persuaded me to grant permission, albeit that there would be harm to the GW in the short term.”*

Planning permission was subsequently renewed on a temporary basis for a further 4 years under application 2017/0482/S73 in July 2017 for 'the stationing of caravans for residential purposes for 4no. gypsy pitches together with the formation of additional hardstanding an utility/dayrooms ancillary to that use.

### **Site Location**

The site is located to the rear of, and accessed from the south of, a pumping station located on the eastern side of the B4291 / Birchgrove Road running between Birchgrove and Glais. The site is located behind trees and vegetation with residential properties fronting the road to the south and Drummau House located to the north, set significantly back from the road with fields beyond to the north, east and west on the opposite side of the road.

### **Description of Development**

This is an application submitted under S73 of the 1990 Act to vary condition 2 and remove condition 3 of the previous permission.

Effectively, this would result in a permanent position for the use of Gypsy and Travellers (not a personal permission) and remove the requirement to remove the caravans / structures/ materials and equipment from the land as the applicant considers that it would no longer be necessary if permission was granted permanently.

The applicant has indicated however that Condition 2 could also be varied to retain the use for the identified persons without the temporary permission if the Authority considered there was sufficient reason to do so.

### **Planning Policy**

#### **The National Development Framework: Future Wales - the National Plan 2040**

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 2 - Shaping urban growth and regeneration - Strategic placemaking

Policy 9 - Resilient ecological networks and Green infrastructure

## Planning Policy Wales (11th Edition) 2021

### Good Design Making Better Places

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area.

3.4 Design is an inclusive process, which can raise public aspirations, reinforce civic pride and create a sense of place and help shape its future. For those proposing new development, early engagement can help to secure public acceptance of new development. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

### Environmental Sustainability

3.7 Good design promotes environmental sustainability and contributes to the achievement of the well-being goals. Developments should seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution. An integrated and flexible approach to design, including early decisions regarding location, layout, built form, the choice of materials, the adaptability of buildings and site treatment will be an appropriate way of contributing to resilient development.

3.8 Good design can help to ensure high environmental quality. Landscape and green infrastructure considerations are an integral part of the design process. Integrating green infrastructure is not limited to focusing on landscape and ecology, rather, consideration should be given to all features of the natural environment and how these function together to contribute toward the quality of places. This embraces the principles of 'ecosystems services' and sustainable management of natural resources where multiple benefits solution become an integral part of good design. In a similar manner, addressing environmental risks can make a positive contribution to environmental protection and improvement, addressing land contamination, instability and flood risk and providing for biodiversity, climate protection, improved air quality, soundscape and water resources benefits.

### Character

3.9 The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations. A clear rationale behind the design decisions made, based on site and context analysis, a strong vision, performance requirements and design principles, should be sought throughout the development process and expressed, when appropriate, in a design and access statement.

## Community Safety

3.11 Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Crime prevention and fear of crime are social considerations to which regard should be given in the preparation of development plans and taking planning decisions. The aim should be to produce safe environments that do not compromise on design quality in accordance with the cohesive communities well-being goal.

## Green Wedge

3.71 To maintain openness, development within a Green Belt and green wedge must be strictly controlled. When including Green Belt and green wedge policies in their plans, planning authorities must demonstrate why normal planning and development management policies would not provide the necessary protection.

3.73 When considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. Substantial weight should be attached to any harmful impact which a development would have on the purposes of Green Belt or green wedge designation. Policies should be devised to outline the circumstances when development would be permitted in these areas where the openness of the Green Belt or green wedge will still be maintained.

3.74 Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

3.75 The construction of new buildings in a Green Belt or green wedge is inappropriate development unless it is for the following purposes:

- o justified rural enterprise needs;
- o essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- o limited extension, alteration or replacement of existing dwellings; or
- o small scale diversification within farm complexes where this is run as part of the farm business.

3.77 Certain other forms of development may be appropriate in the Green Belt or green wedge provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- o mineral extraction;
- o renewable and low carbon energy generation;
- o engineering operations; and
- o local transport infrastructure.

3.78 Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of the designation.

## Gypsies and Travellers

4.2.35 Local authorities are required to assess the accommodation needs of Gypsy and Traveller families and to allocate sites to meet the identified need. Where a Gypsy and Traveller Accommodation Assessment (GTAA) identifies an unmet need, a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met. Planning authorities will need to demonstrate that sites are suitable for development and deliverable in the identified timescales. In drawing up policies planning authorities should consult providers of social housing, representatives of Gypsies and Travellers communities and landowners in areas likely to be appropriate for site provision. The consultation should be undertaken in a manner that is consistent with the planning authority's Community Involvement Scheme.

## Integrating Green Infrastructure and Development

6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and are intrinsic to the quality of the spaces we live, work and play in. The planning system should protect and enhance green infrastructure assets and networks because of these multi-functional roles. The protection and enhancement of biodiversity must be carefully considered as part of green infrastructure provision alongside the need to meet society's wider social and economic objectives and the needs of local communities. The multiple benefits that resilient ecosystems and green infrastructure offer to society, including the economic and social contribution they make to local areas, should be taken into account when balancing and improving these needs.

6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, helping to overcome the potential for conflicting objectives, and contributing towards health and well-being outcomes. There are multiple ways of incorporating green infrastructure, dependent on the needs and opportunities a site presents. Landscaping, green roofs, grass verges, sustainable urban drainage and gardens are examples of individual measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places.

## Adopted Swansea Local Development Plan (2010-2025)

PS 2 Placemaking and Place Management - development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

ER 9 Ecological Networks and Features of Importance for Biodiversity - Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

RP 4 Water Pollution and the Protection of Water Resources - development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted.

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Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality. Sustainable drainage systems (SuDS) must be implemented wherever they would be effective and practicable. Water courses will be safeguarded through green corridors/riparian buffers. Development proposals that would have a significant adverse impact on biodiversity, fisheries, public access or water related recreation use of water resources, will not be permitted.

RP 5 Avoidance of Flood Risk - In order to avoid the risk of flooding, development will only be permitted in line with Policy principles.

H 7 Gypsy and Traveller Accommodation - Proposals for new Gypsy and Traveller sites, and extensions to existing authorised sites, will be permitted within settlement boundaries where proposals comply with relevant policy principles.

ER 3 Green Wedges - Green wedges are allocated at 8 locations. Within the designated Green Wedge areas development will only be permitted if it maintains the openness and character of the land, unless the development is for acceptable purposes, as outlined in national policy relating to Green Wedge designations. (NB: PPW10 no longer considers affordable housing an appropriate use in a green wedge).

CV 2 Development in the Countryside - Development outside defined settlement boundaries will be required to ensure the integrity of the countryside is conserved and enhanced. There is a presumption against development in the countryside except where it meets a specific set of criteria. Countryside development must be of a sustainable form with prudent management of natural resources and respect for the cultural heritage of the area. Where possible, existing buildings should be reused and where this is not feasible new buildings should be positioned close to existing buildings.

Proposals to increase residential chalets on 4 existing chalet sites will not be permitted.

### **Circular 005/2018 – Planning for Gypsy, Traveller and Showpeople Sites**

This circular provides updated guidance on the planning aspects of identifying sustainable sites for Gypsies and Travellers. It also outlines how planning authorities and Gypsies and Travellers can work together to achieve this aim. It supersedes advice contained in Circular 30/2007 “Planning for gypsy and traveller caravan sites”. Paragraphs 58 onwards deal with the determination of planning applications and state:

59. PPW makes it clear personal permissions are exceptions and would rarely outweigh more general planning considerations. The availability (or lack of) alternative accommodation for the applicants and their specific personal circumstances can be material considerations, provided a condition is attached to the permission making it personal to the occupiers. Personal permissions are only relevant to situations where uses or operational development must cease and be removed once the occupiers move or their material circumstances otherwise change.

60. Guidance on temporary permission is set out in Circular 016/2014 and should only be issued in specific circumstances. Detailed evidence of need for Gypsy and Traveller sites is identified by each local authority as part of their Gypsy and Traveller Accommodation Assessment, which should inform site provision within development plans.



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Providing for this need would therefore warrant permanent permissions to be granted for Gypsy and Traveller sites and it should be rare to grant temporary permissions.

### **WGC Circular 016/2014: The Use of Planning Conditions for Development Management**

5.26 Where a proposal related to a building or use which the applicant is expected to retain or continue only for a limited period, whether because they have specifically volunteered that intention, or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for the erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an application to erect a permanent building on the land would normally be refused.

### **Responses to Consultations**

#### **Strategic Policy and Placemaking:**

##### Overview

The application is to vary conditions 3 and 4 of planning permission granted on appeal (Appeal Ref: APP/B6855/A/12/2184665. LPA Ref: 2012/0079) and Removal/Variation of conditions 2 and 3 of planning permission 2017/0482/S73 (granted 6th July 2017), relating to the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use, in order to allow for permanent use of the site by Gypsies/Travellers. The relevant conditions are included in Annex A of this response.

The applicant's planning statement sets out that they seek to vary condition no. 2 of 2017/0482/S73 to read as:

"The site shall not be occupied by any persons other than gypsies and travellers as defined in Welsh Government Circular 005/2018 'Planning for Gypsy and Traveller Caravan Sites'".

or, to:

"The occupation of the land hereby permitted shall be carried on by Mervyn Thomas, Emma Jones, Mark Thomas, Rebecca Thomas, Stanley Thomas, Louise Thomas, Nicole Lock, Palio Price and their resident dependants."

Either change would remove the time limited nature of the 2017 planning consent (effectively making it permanent) which was restricted to being no longer than the period of four years from the date of the decision (which was 6/7/2017).

On the basis of making the above change, the applicant argues that condition 3, which required the occupants to remove all mobile homes, static and touring caravans, portable structures, materials and equipment brought on to the land within one month of the cessation date, would no longer be necessary.

#### Principle of Development

The applicant is seeking to amend the conditions of a planning consent approved against the Authority's previous development plan, the Swansea Unitary Development Plan (UDP). The Swansea LDP has been adopted since the previous decision.

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The site's status under the extant LDP remains as it did under the UDP, in terms of it being located outside of the settlement and within a designated green wedge. LDP Policies CV2 Development in the Countryside and ER3 Green Wedges are therefore relevant for determination of the new application.

Policy CV2 makes clear that there is a presumption against development in the countryside, outside settlement boundaries, unless it is an exceptional form of development as defined by a set of criteria i-viii. Gypsy Traveller pitches are not defined in the policy as an exceptional form of development permissible in such locations. As such the form of development is at variance with the policy.

Policy ER 3 states that within designated Green Wedge areas development will only be permitted if it maintains the openness and character of the land, unless the development is for acceptable purposes. The LDP defines openness as an absence of built form, regardless of how inconspicuous or well screened a development is in the countryside (LDP para 2.9.17).

The LDP approach to development in green wedges concurs with national policy. PPW states that when considering applications for planning permission in green wedges, a presumption against inappropriate development will apply and substantial weight should be attached to any harmful impact which a development would have on the purposes of a green wedge designation (para 3.73). Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge (para 3.74).

PPW sets out that the construction of new buildings in a green wedge is inappropriate development unless it is for the following purposes (para 3.75):

- justified rural enterprise needs;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings; or
- small scale diversification within farm complexes where this is run as part of the farm business PPW states that the re-use of buildings in a green wedge is not inappropriate development provided that (para 3.76):
  - the original building is substantial, permanent and capable of conversion without major reconstruction;
  - the new use will not have a greater impact on the openness of the green wedge and the purposes of including land within it. Strict control will need to be exercised over the extension, alteration or any associated use of land for re-used buildings; and
  - the building is in keeping with its surroundings. Certain other forms of development may be appropriate in the green wedge provided they preserve its openness and do not conflict with the purposes of including land within it. These are (para 3.77):
    - mineral extraction;
    - renewable and low carbon energy generation;
    - engineering operations; and
    - local transport infrastructure.

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PPW states that other forms of development would be inappropriate development unless they maintain the openness of the green wedge and do not conflict with the purposes of the designation (para 3.78).

The initial temporary consent for the gypsy traveller pitches at the site was gained via an appeal (APP/B6855/A/12/2184665). In reaching their decision at that time in 2013 the inspector concluded that they must attach substantial weight to the harm to the Green Wedge by reason of the proposal's inappropriateness, and the proposal would result in moderate harm to the Green Wedge in terms of both openness and encroachment. In reaching the decision to grant temporary rather than permanent consent, the Inspector emphasised that the temporary planning permission for the site should not be seen as an indication of the acceptability of the site on a permanent basis.

Having regard to the above policy context and the findings of the inspector in relation to the original appeal, the form of development would not maintain the openness and character of the land and therefore is contrary to LDP policy ER3 and PPW.

LDP Policy H 7 'Gypsy and Traveller Accommodation' is also key to determination of the application. The Policy states that proposals for new Gypsy and Traveller sites within settlement boundaries will only be permitted where:

- i. Necessary physical, transport and social infrastructure is accessible or will be readily provided;
- ii. If the site is developed by a public body, it is designed in accordance with appropriate Welsh Government Design Guidance;
- iii. The scale of the proposal is appropriate with regard to the site's surroundings and setting;
- iv. The development will have no significant adverse impacts on people's amenity; and
- v. In the case of a transit or touring site, it has good access to the primary highway network.

Criteria ii and v would not apply to this case. The proposals therefore must be assessed against criteria i, iii and iv.

The policy also states that proposals for new Gypsy and Traveller sites on land outside or immediately adjacent to the settlement boundary will only be permitted where all of the above criteria are satisfactorily met and:

- a. The applicant has demonstrated that there are no suitable pitches available within existing authorised sites or land available within existing settlement limits; and
- b. The site represents a logical extension to the settlement boundary and there would be no loss of important recreational, amenity or natural heritage value.

In terms of criteria b, the site's location within a green wedge is the key consideration (see above).

In terms of criteria a, the issue of need and whether there are suitable pitches available within existing authorised sites or land available within existing settlement limits is a key consideration for determining the application. PPW states (para 4.2.35) - Local Authorities are required to assess the accommodation needs of Gypsy and Traveller families and to allocate sites to meet the identified need. Where a Gypsy and Traveller Accommodation Assessment (GTAA) identifies an unmet need, a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met.

Planning authorities will need to demonstrate that sites are suitable for development and deliverable in the identified timescales.

The LDP does not identify an allocated site for gypsy travellers, which was founded on the evidence available at the time of plan formation regarding the number of pitches needed and the available/proposed provision. It is significant that the pitches anticipated to be delivered at Pant Y Blawd Road to meet the identified immediate need at the time of LDP formation have not been delivered. The Council's Housing Department should be consulted to confirm the up to date position on whether there are suitable pitches available to meet identified accommodation needs for Gypsies and Travellers having regard to the latest evidence. If the internal consultation highlights that there is an unmet need, this issue will be a significant material consideration for determination and will need to be weighed in the balance having regard to the harm caused as a result of the development being in the countryside and designated green wedge.

#### Placemaking Principles

The Development Plan places significant emphasis on the importance of placemaking, and defines key principles in this regard for all proposals to seek to incorporate:

FW Policy 2 (see Annex B for details) sets out that:

- development should adhere to key placemaking principles in order that it positively contributes towards building sustainable places that support well-being objectives,
- opportunities should be taken to ensure that multifunctional GI is fully integrated into development schemes wherever possible.
- Swansea LDP Policies PS 2 and ER 2 highlight that:
- all proposals should adhere to key placemaking principles and development criteria, to ensure that proposals make a positive contribution to the experience and enjoyment of places.
- development should enhance the quality of places and spaces, and respond positively to aspects of local context and character.
- the design, layout and orientation of proposed buildings, and the spaces between them, should provide for an attractive, legible, healthy, accessible and safe environment, and must not cause unacceptable impacts on people's amenity.
- development must take opportunities to maintain and enhance the County's GI network, having regard to the extent, quality and connectivity of the GI resource.

Notwithstanding the acceptability or otherwise in principle of the development, the scheme must be assessed having regard to these fundamental placemaking principles.

#### Biodiversity Enhancement

Complementary to the need to align with placemaking requirements, the Development Plan also places significant emphasis on the importance of development integrating nature-based solutions to the design of the built environment wherever possible, which reflects the Council's duty under Section 6 of the Environment (Wales) Act 2016 ('the S6 duty').

FW Policy 9 and PPW (see Annex B for details) require that:

- all applications demonstrate the actions that have been taken where possible to maintain and enhance and biodiversity and ecosystem resilience, as well as relevant GI assets.

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- a clear and proportionate approach is taken to considering biodiversity and securing overall enhancement.

Adopted SPG - Biodiversity and Development (see Annex C for details) provides:

- guidance on how the requirement for biodiversity can be addressed and assessed.
- details of specific measures that could be provided to enhance biodiversity and ecosystem resilience depending on the nature of the proposals.

**Final Comments**

The applicant is seeking to make the temporary consent granted for the gypsy traveller pitches permanent, through amendment of the relevant planning conditions attached to that consent.

Ultimately the proposal's location outside of the settlement in a designated green wedge, and the harm that is judged to be caused by this, will need to be carefully considered in the balance against whether there are any very exceptional circumstances and material planning considerations in this case that outweigh this matter. The key consideration in this respect is whether there are suitable alternative arrangements for the occupants to fulfil their housing needs. If the evidence indicates there is no alternative provision to meet the needs of the gypsy travellers then this matter is a very significant material consideration in the determination of the application having regard to the above identified policies of the development plan and national guidance.

**Housing:**

“We did not pick up any need from Drummau House in the last GTAA in 2016 as we did not get a response from them despite our best efforts to get hold of them. The 7 pitch need identified by the assessment was purely to cater for the needs of travellers on the tolerated site at Millstream Way.

The 7 pitches haven't been delivered yet. Quite a few reasons why including Covid/ WG refusing to fund the site as it's on a flood plain/ realisation that since the last assessment was undertaken in 2015 its highly likely that the 7 pitches won't be enough to meet the need and the site identified has physical constraints and cant practically take more than 7 pitches.

We should get a much better idea of pitch need after the latest survey. We will then submit the assessment to WG to meet their submission date of Feb 2022.”

**Public Consultation**

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

- Reduction in value of neighbouring properties
- There is a gypsy site in Llansamlet already
- Extra vehicles and visitors to the site would increase traffic
- Crime increase
- Rubbish discarded around the site
- No reason why the previous condition should not be re-instated
- If the application is granted without conditions it would lead to a further intensification of the use

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- Permission has already been extended once
- Objection to the site been made larger
- Road safety issues
- Not environmentally friendly
- The land is in the green wedge
- The entry and exit to the site is on a busy main road
- The residents need to find an alternative location
- Other applications have been declined in the area

### **Cllr Matthews:**

Objects to the planning application for the following reasons:

- Located on green wedge when many applications have been refused previously due to harm on green wedge and countryside
- Permanent site would risk encroachment between the villages of Glais and Birchgrove
- If permission is granted, further applications could be made in the future
- Unsuitable site for safety reasons due to dangerous road
- Temporary site is clearly visible and does not conserve the rural character of the area
- A permanent location on top of 2 current gypsy/ traveller sites in the ward (one authorised and one unauthorised) would place greater pressure on services.

### **Appraisal**

This is a Section 73 application to vary conditions 2 and 3 of planning permission 2017/0482/S73 granted on 6th July 2017 for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hardstanding and utility/dayrooms ancillary to that use on land at Drummaw House, Birchgrove Road, Swansea.

Condition 2 restricts the occupation of the site to those named within the condition and limits the permission to a time period of four years and reads as follows:

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

*Reason: In order to ensure that the accommodation is occupied solely by the names gypsy/travellers as their personal circumstances are material to the decision.”*

Condition 3 restricts the time period for the development to four years and requires the mobile homes and caravans etc. to be removed within once month of the cessations date. The condition reads as follows:

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

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*Reason: To ensure the openness of the green wedge is maintained upon the cessation of the development.”*

This application seeks to vary condition 2 to read as "the site shall not be occupied by any persons other than gypsies and travellers as defined in Welsh Government Circular 005/2018 'Planning for Gypsy and Traveller Sites".

The applicant states that if a personal condition is deemed necessary then this should read as:

"The occupation of the land hereby permitted shall be carried on by Mervyn Thomas, Emma Jones, Mark Thomas, Rebecca Thomas, Stanley Thomas, Louise Thomas, Nicole Lock, Palio Price and their resident dependents".

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

### **Main Issues**

Following on from the Inspector's conclusions on the original application and the subsequent S73 application (2017/0482/S73), the main issues to consider are whether there have been any material changes in circumstances since these applications were granted that would justify allowing a permanent planning permission at the site having regard to the impacts of the development on the green wedge, the need for gypsy and traveller sites and the personal circumstances of the occupiers including the need to consider the best interests of any children on the site.

It should be noted that the previous planning applications were considered under the policies of the City and County of Swansea Unitary Development Plan (2008) (UDP) and national planning policy set out in Planning Policy Wales (PPW) and Welsh Assembly Government Circular 30/2007 'Planning For Gypsy and Traveller Caravan sites' (WAGC 30/2007). These have all been updated.

### **Impact on the Green Wedge**

Local Development Plan Policy ER3 is relevant in the determination of this application given that the site is located within the green wedge. Policy ER3 states that within designated Green Wedge areas development will only be permitted if it maintains the openness and character of the land, unless the development is for acceptable purposes. This is also re-iterated within PPW - Edition 11.

In reaching his decision to grant a temporary rather than permanent planning permission at the site the Inspector for application 2012/0079 attached substantial weight to the harm to the green wedge arising from the development and found that it would result in moderate harm in terms of openness and encroachment. Having regard to the above policy context and the findings of the Inspector in relation to the original appeal, the form of development would not maintain the openness and character of the land and therefore is contrary to LDP policy ER3 and advice contained in PPW.

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Whilst the Local Development Plan has superseded the UDP, the site is still within an identified Green Wedge and the harm of the proposal is considered to be the same as it was in the previous appeal decision, albeit that the site has now been in existence for approximately 9 years.

The site remains relatively well screened from Birchgrove Road by the pumping station, mature trees and landscaping, however, during the winter months when there is less screening, the elevated position of the site above the road means that it remains partially visible, albeit it is set back from the road by some 60m. Glimpsed views are visible when travelling along the road.

### **Need for the site/ Compliance with Policy H7**

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

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

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

As part of the Local Development Plan process a number of sites were considered to accommodate a new gypsy and traveller site. The site identified within the LDP Policy H7 is located at Pant Y Blawd Road.

LDP Policy H 7 'Gypsy and Traveller Accommodation' is key to determination of the application. The Policy states that proposals for new Gypsy and Traveller sites within settlement boundaries will only be permitted where:

- i. Necessary physical, transport and social infrastructure is accessible or will be readily provided;
- ii. If the site is developed by a public body, it is designed in accordance with appropriate Welsh Government Design Guidance;
- iii. The scale of the proposal is appropriate with regard to the site's surroundings and setting;
- iv. The development will have no significant adverse impacts on people's amenity; and
- v. In the case of a transit or touring site, it has good access to the primary highway network.

Criteria ii and v would not apply to this case. The proposals therefore must be assessed against criteria i, iii and iv.



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Briefly, it is considered that the site layout is acceptable in terms of the provision of infrastructure and the residents have been living on site for several years so criteria a) is met. It is not considered that the scale is appropriate for this location nor that the proposals would have an impact on residential amenity although it would have an impact on the visual amenity of the area as noted in the previous appeal decision which weighs against the proposal.

The policy also states that proposals for new Gypsy and Traveller sites on land outside or immediately adjacent to the settlement boundary will only be permitted where all of the above criteria are satisfactorily met and:

- a. The applicant has demonstrated that there are no suitable pitches available within existing authorised sites or land available within existing settlement limits; and
- b. The site represents a logical extension to the settlement boundary and there would be no loss of important recreational, amenity or natural heritage value.

In relation to criteria a. it should be highlighted that the LDP allocation is based on the need and supply identified in the 2015 GTAA. The 7 pitch need identified in the 2015 GTAA was purely to cater for the needs of those on the tolerated site at Millstream Way. The occupiers of the site at Drummau House were not included within the GTAA their needs will not be met by these pitches. This criterion has therefore been satisfied.

In relation to criteria b., the site is located within the green wedge and this is a key consideration and the proposal would continue to have a significant impact upon the green wedge.

Notwithstanding this, it should also be noted that the 7 pitches to the Pant y Blawd site have not been delivered as yet and this permission has lapsed in any event without being implemented. It is also likely that 7 pitches will not be sufficient to meet need within the City and County as stated by the Strategic Planning and Housing departments and due the physical constraints at Pant y Blawd Road it will not be able to take more than these 7 identified pitches (and is located in a floodplain in any event). However the exact pitch need will be more apparent once the latest GTAA has been undertaken. The housing team has confirmed that work has recently commenced on the 2021 GTAA, the fieldwork will last until the end of 2021 and the assessment will be submitted to Welsh Government by 2022. However, even once the need is confirmed, sites would need to be identified and progressed further including through the planning process.

Therefore having regard to the above there remains a clear unmet need for Gypsy and Traveller pitches within the City and County of Swansea which is a significant material consideration weighing in favour of the application, as it was at appeal. The Inspector reported at the time that there was a material unmet need which would not start to be met for a number of years. This situation remains the same today albeit that a considerable length of time has now passed since the original submission and two temporary permissions have already been granted. Therefore, in accordance with the Inspector's previous decision and the subsequent S73 application, significant weight must be given in favour of the proposal on this issue.

### **Personal Circumstances**

At the public inquiry the personal circumstances of the occupiers was examined at length. As reported in the Inspector's decision, prior to the formation of the site at Drummau House the applicant and his brothers were based on land at their mother's house in Birchgrove.

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The Inspector found conditions at this unauthorised site to be extremely cramped and concluded that the applicant, his brothers and their families were, in effect, homeless. In the appeal decision the Inspector acknowledged the occupation of the site would provide essential continuity and stability.

It should be noted that at appeal the Inspector found that significant weight should be given to the personal circumstances in this case, including the conditions at the applicant's mother's house and taking into account the best interests of the children including educational, health, social and welfare needs. In this instance it is considered the personal circumstances of the applicant and his family still carry significant weight in the determination of this application. It is therefore still considered appropriate to restrict the occupation of the site to those listed within the submitted planning statement as their personal circumstances are a key factor in the determination of this application. It should also be noted that there are several resident children on site of school age, attending school which is also a material consideration weighing in favour of the application. This also ties in with the fact that any permission is based on the exceptional circumstances of this family not being included within the previous GTAA and having no alternative accommodation.

### **Permanent Permission**

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

It is fully accepted that since the temporary planning permissions have been allowed at this site, the Council has not provided Gypsy and Traveller accommodation to address the unmet need within the City and County. The site has also been located here for approximately 9 years, there is therefore a clear need for the site. A permanent planning permission would provide a long term stable base for family life at the site for the occupiers.

### **Other Matters**

It is noted that there are objections raised as to whether the site has extended beyond the original red line of the site. This matter is being investigated by the Council's enforcement department and should not preclude a decision on the application as submitted. Any permission granted would only relate to the application site as identified within the application and enforcement action could be sought to rectify any unlawful breaches of the relevant planning permission.

Whilst the Local Councillor has raised several issues, the highway safety impacts have been considered acceptable previously at appeal, any future application would be determined on its planning merits and no evidence has been provided of pressure on services as a result of the existing use.

The objections raised to the location of the site within the green wedge have been addressed in the main body of this report.

There are objections raised with regards to housing values, this is not a material planning consideration. The alternate site provision has been discussed above and other applications on other sites are not material or directly comparable to this application.

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Objections have been raised with regards to traffic, this application is not proposing to alter the arrangement at the site and so the impacts would not be exacerbated by the approval of this permission. Objections have been raised with regards to crime / litter in the area, these issues should be reported to the police and no evidence has been provided as part of this application.

Finally, it is not considered necessary or reasonable as part of this section 73 application to require ecological enhancements as part of an existing use.

### Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on the above, it is clear that the proposal represents a departure to the development plan, predominantly with regards to the impact of the development on the designated Green Wedge. Other considerations for Gypsy and Traveller site applications will usually include the impact on the surrounding area, the existing level of provision and need for sites which is evidenced as part of the Gypsy and Traveller Accommodation Assessment for the area.

LDP Policy ER 3 states that development will only be permitted if it maintains the openness and character of the land unless the development is for acceptable purposes as outlined in Planning PPW. As stated above, it is not considered that the proposal maintains the openness and character of the area. PPW states that substantial weight should be attached to any harmful impact which a development would have on the purposes of Green Belt or green wedge designation. The proposal is considered to be inappropriate development and substantial weight is attached to this. In addition, the proposal is not considered to comply with Policy H 7 as noted above due to the harm to the green belt and resultant amenity of the area.

PPW goes on to state that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm. In this case, it is of note that the Inspector gave more weight to the personal circumstances and need for the development than the identified harm in 2013. Since this time, the Council have undertaken a GTAA and the residents of this site were not included. A second temporary permission was granted to allow the Council more time to provide alternative provision for the residents of this site. However, the alternate provision for the Pant Y Blawd site did not include provision for these residents, there is no option to provide more pitches on that site and this permission has now lapsed in any event so it is not a material fallback option.

The original planning permission on the site was granted for a temporary period as it was believed that the occupiers of this site would be included in a future GTAA. When reaching his decision to grant a personal temporary permission, the Inspector was clear that the unmet need and the likely change in circumstances over the four year period in combination with the personal circumstances of the family, specifically the site conditions at the appellant's mother's house and the needs of the children (recognising their best interests) persuaded him to grant permission, whilst still acknowledging the harm to the green wedge in the short term.

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This application is finely balanced in terms of whether to vary condition 2 to provide a permanent permission. With regards to condition 3, if the permission was granted on a permanent basis for general Gypsy or Traveller use then there would be no requirement to restore the land at the end of that period and it would follow that this condition could also be removed. However, if permanent permission was granted due to the personal circumstances of the family, and therefore a personal permission was considered necessary, it would still be required in the event that the listed residents (and their dependents) no longer wished to reside at the site.

PPW makes it clear personal permissions are exceptions and would rarely outweigh more general planning considerations. The availability (or lack of) alternative accommodation for the applicants and their specific personal circumstances can be material considerations, provided a condition is attached to the permission making it personal to the occupiers. Personal permissions are only relevant to situations where uses must cease and be removed once the occupiers move or their material circumstances otherwise change.

As noted above, in any event, it is considered that the proposals would only be acceptable for the needs of the family members noted and not for uncontrolled use as a Gypsy or Traveller site that could potentially be accommodated elsewhere if and when the need arose (and calculated within a future GTAA. The site provides a settled base for the families including the children and refusal could potentially mean the occupation of another unauthorised site in the area as the residents would effectively be homeless. It has clearly been identified that the occupiers of this site were not included within the GTAA and there are no available pitches elsewhere within the City and County. The personal circumstances were given significant weight in the appeal decision, and it remains the case in this application despite a further temporary consent being granted. Therefore, condition 3 would still be required in the event that permission is granted, albeit modified to potentially remove reference to the 4 year temporary period.

Whilst it is clear that there is still a demand that has not been met, and the circumstances are similar to the original permission albeit that the children have aged in the intervening years (but some are still of school age), 9 years have now passed without alternate provision being made for the residents of the site. Allied to this, the previously approved site at Pant Y Blawd Road could not accommodate the need for the residents of this site and this permission has expired without being implemented in any event. Consideration needs to be given therefore to how long it would take to provide an alternate site. The Inspector previously noted that a more realistic time frame to bring sites forward would be 3.5 – 4 years in any event and this was prior to the adoption of the LDP when it was expected that provision could be made for Gypsies and Travellers. The LDP didn't include any future sites on the basis that the site at Pant Y Blawd had planning permission as explained in the amplification of policy H 7.

The present situation is clear. There is no extant permission for an alternative Gypsy and Traveller site whether intended for the residents of this site or not and there remains an unmet need for such provision. The temporary permission was first granted to allow alternate provision to be explored and none has been forthcoming. A second permission was also approved for a temporary period on this basis and the Authority has insufficient alternate provision to accommodate these residents still. Uncertainty over their future living conditions has therefore been going on for a significant period of time.

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When considering all the factors in favour of granting permission relating, in particular, to the unmet need within the City and County and the personal circumstances of the family, taking into account and having full regard to what would be in the best interests of the children at the site, it is considered that not allowing permission would not be a proportionate response. Overall, therefore, it is considered that whilst the harm to the green wedge is significant, the harm to the residents of the site would be greater still.

Moving on from this, the question is then one of whether it would be reasonable to grant a further temporary permission for the development or a permanent permission. Given that temporary permission should only be granted until there is a change in circumstances and since the previous permission was granted, the Council undertook a GTAA that failed to take into account the needs of the residents of this site and then subsequently adopted the Local Development Plan on the basis of this GTAA and the provision of a new site which has not only not come forward in the interim period but could not accommodate the residents of this site and has now expired. The situation is one where there is no clear indication of when an alternate site could or would be provided and the impact of this indefinite wait on the occupants of the site.

In light of the failure to provide alternate accommodation over the period since the first permission was granted on a temporary basis in February 2013, it is not considered necessary or reasonable to attach another temporary permission for another period on the 3<sup>rd</sup> application to be considered by the Local Planning Authority. These circumstances are very exceptional.

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

In light of the above, it is recommended that condition 2 is amended to remove the reference to the temporary nature of the permission but retain the personal nature of the condition given that it is the exceptional circumstances of the applicants and the failing to provide alternative accommodation for these residents that has tipped the balance in favour of approving the application within a green wedge.

However, on the basis of the above, it is still considered reasonable and necessary to attach a condition requiring the site to be restored should it no longer be required by the named residents in condition 2, albeit reference to a temporary permission would also be removed.

On this basis, it is considered that very exceptional circumstances exist to warrant the removal of the time limiting nature of the permission, thereby granting a permanent consent of the use of the site for up to 4 gypsy pitches for the identified residents resulting in the modification of condition 2 and the amendment of condition 3 of the previous permission to remove reference to a temporary permission.

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## Conclusion

Whilst it is recognised that the site is located within the Green Wedge, having regard to the previous permissions and the current lack of available and suitable Gypsy and Traveller sites within the City and County, it is considered that in this particular instance there are very exceptional circumstances demonstrated to outweigh the harm to the green wedge as outlined above and grant a permanent, personal planning permission.

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

Consideration has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation due regard has been given to the ways of working set out at section 5 of the WBFG Act and it is considered that this recommendation is consistent with the sustainable development principle as required by section 8 of the WBFG Act.

## RECOMMENDATION

### APPROVE, subject to the following conditions:

- 1 The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 3 of Welsh Government Circular 005/2018 'Planning for Gypsy and Traveller Caravan Sites'.  
Reason: In order to ensure that the accommodation is occupied solely by Gypsy/Travellers and for no other residential purpose.
- 2 The occupation of the land hereby permitted shall be carried on by Mervyn Thomas, Emma Jones, Stanley Thomas, Louise Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants.  
Reason: In order to ensure that the accommodation is occupied solely by the names gypsy/travellers as their personal circumstances are material to the decision.
- 3 When the land ceases to be occupied by Mervyn Thomas, Emma Jones, Stanley Thomas, Louise Thomas, Mark Thomas, Rebecca Thomas, Nicole Lock, Palio Price and their resident dependants, the use hereby permitted shall cease and all mobile homes, static and touring caravans, portable structures, materials and equipment brought on to the land, shall be removed from the land within one month of the cessation date.  
Reason: To ensure the openness of the green wedge is maintained upon the cessation of the development.

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- 4 The scheme to restore the land to its condition before the development took place as approved under discharge of condition reference no. 2014/0027/DOC shall be carried out after cessation of the use hereby permitted pursuant to condition. The restoration works shall be carried out in accordance with the approved details including the approved timescales.  
Reason: To ensure the openness of the green wedge is maintained upon the cessation of the development.
- 5 The development shall be carried out in accordance with the following approved plan: 09\_335A\_001, received 1st March 2017 and the plans approved at appeal under reference APP/B6855/A/12/2184665 (LPA reference 2012/0079).  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 6 No commercial activities shall take place on the land, including the storage of materials.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 7 There shall be no more than the four pitches hereby approved on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on each one of the four pitches at any time.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 8 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 7 For the duration of the development, the site shall be landscaped in accordance with the details approved under discharge of condition reference no. 2014/0027/DOC. Any trees or shrubs planted in accordance with this condition which are removed, die, or become seriously diseased during the lifetime of this permission shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the rural character and appearance of the area.
- 8 At all times during the occupation of the development the drainage works approved under discharge of condition reference no. 2014/0027/DOC shall be retained and maintained.  
Reason: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.
- 9 The northern access to the site (adjacent to New Drummau House) shall not be used as a vehicular access to the gypsy/traveller pitches hereby permitted other than as an emergency access.  
Reason: In the interests of highway safety.

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**Informatives**

- 1 The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application:

Policy 2 - Shaping urban growth and regeneration - Strategic placemaking

Policy 9 - Resilient ecological networks and Green infrastructure

The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: PS2, ER9, H7, ER3, CV2, RP4 and RP5.

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**Planning Committee – 5<sup>th</sup> October 2021**

**Item 2 (Cont'd)**

**Application Number:**

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**Background Information**

**Site History**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2018/1146/PRE	PRE APP for residential development comprising 40 affordable apartments, 1 retail unit, associated parking, landscaping and other works	POSP RE	22.10.2018
2018/2540/FUL	Demolition of the existing building on site and construction of residential development comprising 40 affordable apartments, 3 no. retail units, associated parking, landscaping and ancillary works	REF	11.03.2019
2020/0108/FUL	Demolition of the existing building on site and construction of residential development comprising 29 affordable units (comprising 7 houses and 22 apartments), 3 no. retail units, associated parking, landscaping and ancillary works	S106	20.01.2021
2021/0277/DOC	Discharge of condition 7 (Green Infrastructure) and 12 (Landscape) of planning permission 2020/0108/FUL approved	APP	11.05.2021
2021/0347/DOC	Discharge of condition 4 (Bat Mitigation / Ecological Enhancement Measures), 5 (External Lighting Strategy), 9 (Construction Environment Management Plan), 10 (Tree Protection Plan and Arboricultural Method Statement) 14 (Car Parking Arrangements) and 18 (Site Waste Management Plan) of planning permission 2020/0108/FUL approved 20th January 2021	MIXPR E	17.05.2021

## Planning Committee – 5<sup>th</sup> October 2021

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2021/0422/DOC	Discharge of condition 6 (Inns Survey and Remediation Strategy) of planning permission 2020/0108/FUL approved 20th January 2021	APP	15.04.2021
2021/0689/DOC	Discharge of condition 20 (retaining walls) of planning permission 2020/0108/FUL granted 20th January 2021	PCO	
2021/1171/NMA	Demolition of the existing building on site and construction of residential development comprising 29 affordable units (comprising 7 houses and 22 apartments), 3 no. retail units, associated parking, landscaping and ancillary works (Non Material Amendment to planning permission 2020/0108/FUL granted 20th January 2021) to amend the retaining wall details	WDN	29.07.2021
2021/1348/DOC	Discharge of condition 3 (drainage) of planning permission 2020/0108/ful granted 20th January 2021	INSFE E	06.07.2021
2021/1498/DOC	Discharge of condition 13 (future management and maintenance of the proposed streets) of planning permission 2020/0108/FUL approved 20th January 2021	PDE	

### Background

The application is being reported to Committee for determination as the original scheme exceeded the 20 dwelling threshold and this proposal is an amendment to that approval.

Members may recall the previous application (reference 2020/0108FUL) for the construction of 29 affordable dwellings, 3 retail units and associated parking, landscaping and ancillary works was approved in August 2020. The previous decision was finely balanced but significant weight was given to the scheme providing 100% affordable housing which weighed in favour of approval.

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**Application Number:**

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The development has now commenced and is in the process of being constructed.

**Description of Development**

The current application proposes an amendment to the 3.3m high retaining wall/gabions to the north of the site and consists of shifting the retaining wall to the east to provide distance from the lateral drain and increase in the extent of the retaining wall as it now starts to the rear of Plots 17-18.

This has meant that the retaining wall (3.4m max) has been moved closer to western facing properties/ gardens along the western extent of the site but has allowed the retaining wall along the rear of the north facing gardens/ boundaries to be moved further away. Allied to this, the retaining wall would be a facing block wall rather than gabion baskets.

The change to the siting of the retaining wall has resulted in a change to the depth of the garden for plot 21 from to 11.1m to 10.3m, plot 22 from 10.5 to 9.04m and plot 23 from 8.9m to 6.03m. The retaining wall would be over 7.5m away from the rear of plots 17 – 20.

However, the garden sizes for plots 24 – 29 have increased by between approximately 0.5m and 2.1m.

**Planning Policy**

**The National Development Framework: Future Wales - the National Plan 2040**

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

Policy 28 – National Growth Area – Swansea Bay and Llanelli

**Planning Policy Wales (11th Edition) 2021**

Good Design Making Better Places

3.3 Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surroundings area.

3.4 Design is an inclusive process, which can raise public aspirations, reinforce civic pride and create a sense of place and help shape its future. For those proposing new development, early engagement can help to secure public acceptance of new development. Meeting the objectives of good design should be the aim of all those involved in the development process and applied to all development proposals, at all scales.

### **Adopted Swansea Local Development Plan (2010-2025)**

PS 2 Placemaking and Place Management – development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

T 6 Parking - proposals must be served by appropriate parking provision, in accordance with maximum parking standards, and consider the requirements for cycles, cars, motorcycles and service vehicles. In those instances where adequate parking cannot be provided on site, or is judged not to be appropriate, the developer will be required to provide a financial contribution towards alternative transport measures where appropriate.

The provision of secure cycle parking and associated facilities will be sought in all major development schemes.

RP 4 Water Pollution and the Protection of Water Resources - development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted. Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality.

Sustainable drainage systems (SuDS) must be implemented wherever they would be effective and practicable. Water courses will be safeguarded through green corridors/riparian buffers. Development proposals that would have a significant adverse impact on biodiversity, fisheries, public access or water related recreation use of water resources, will not be permitted.

RP 5 Avoidance of Flood Risk – In order to avoid the risk of flooding, development will only be permitted in line with Policy principles.

ER 6 Designated Sites of Ecological Importance - Development will not be permitted that would result in a likely significant adverse effect on the integrity of international and national designated sites, except in the circumstances specified in relevant legislation.

Development that would adversely affect locally designated sites should maintain and enhance the nature conservation interest of the site. Where this cannot be achieved development will only be permitted where it can be demonstrated that specified policy criteria are met.

ER 8 Habitats and Species - Development proposals that would have a significant adverse effect on the resilience of protected habitats and species will only be permitted where they meet specific criteria.

ER 11 Trees, Hedgerows and Development - Development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted.

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Ancient Woodland, Ancient Woodland Sites, Ancient and Veteran trees merit specific protection and development that would result in specified outcomes will not normally be permitted. Where necessary a tree survey; arboricultural impact assessment; an arboricultural method statement; tree protection plan and/or scheme for tree replacement, including details of planting and aftercare will be required in support of a planning application.

ER 9 Ecological Networks and Features of Importance for Biodiversity – Development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity. Particular importance will be given to maintaining and enhancing the connectivity of ecological network. Development that could have an adverse effect on such networks and features will only be permitted where meet specific criteria are met.

H 2 Affordable Housing Strategy - provision will be made to deliver a minimum 3,310 affordable homes over the Plan period.

**Consultations Responses:**

**Natural Resources Wales** - We have considered the plans submitted in support of the application for the Variation of conditions 2 (approved plans) and 8 (approved boundary treatments) of permission 2020/0108/FUL and offer no objection.

We note the proposal is to enable amendments to the retaining wall design to due to the presence of an existing Dwr Cymru/Welsh Water drain. It appears there may be some alteration to the planting on the western boundary. We note that the existing foliage, trees and scrub is to be retains as much as possible as per the landscape proposals and look to your Authority's Ecologist to ensure this.

**Council's Tree Officer** - No objection

**Drainage Officer** - The applicant should satisfy themselves that any changes they make accord with the SAB Permission place (2020/0049/SFA). If there are changes a new application will need to be made and site stopped pending a new application being considered.

We will also highlight that the site is subject to enforcement action as they are currently in breach of their SAB conditions and the permission is not active until they are discharged and all works on site should cease with immediate effect.

**Dwr Cymru Welsh Water** - We have no objection in principle to the application for variation of conditions 2 and 8 of permission 2020/0108/FUL, to enable amendments to approved plans. However, with respect to our recent response (Ref: PLA0057269) to an application for discharge of condition 3 (Ref: 2021/1348/DOC), we respectfully request that any new consent granted for the development is subject to approved drainage details per the requirements of condition 3.

**Designing Out Crime Officer** – Made several observations with a view to this development achieving the Secured by Design (SBD) Gold Award which it is required to achieve.

**Local Highway Authority** - The bespoke nature of the proposed Geogrid System retaining wall design is such that the design cannot be verified by the Bridges and Structures Team.

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Onus on the adequacy of the design therefore falls to the Consultant (and their professional indemnity insurance).

### **Neighbour Consultations**

The application was advertised on site and 41 individual properties were consulted. THREE LETTERS OF OBJECTION have been received, which are summarised as follows:

1. This development is not wanted.
2. It's not affordable housing but social housing.
3. It should not have been approved in the first place.
4. If this was on the original plans then it may not have been approved in the first place.
5. There have been issues of rats and water at the site and at the roundabout.
6. The water issues have been caused by the development.
7. The development is in breach of SAB and the density is too great for the existing infrastructure.
8. No further amendments can be considered until existing conditions are met.

### **APPRAISAL**

#### **Main Issues**

The main issues to consider in the determination of this application relate to the impact of the changes to the original proposal on the visual and residential amenity of the area and highway safety having regard to the prevailing provisions of the relevant LDP Policies and National Policy guidance. There are considered to be no additional issues arising from the provisions of the Human Rights Act.

#### **Principle of Development**

It is recognised that due to the previous planning permission granted, this mixed use development is considered acceptable, subject to consideration of the alterations and their resultant impact. Notwithstanding this, the parent permission has been implemented and would remain extant.

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

The changes to the original proposal does not affect the development at the front of the site or the car parking provision. In terms of scale, the changes to the retaining wall to the north of the site does affect the size of the gardens of the adjacent new dwellings as indicated above but no other changes to the layout are proposed. The visual impact of the new retaining wall is not considered to be over and above that of the previously agreed wall and despite the change from gabion walls to a blockwork wall, the finish is considered acceptable. It should be noted that the wall has already been erected for safety reasons and is considered acceptable. Therefore, it is not considered necessary to attach a condition requiring details to be provided and condition 20 of the previous permission is no longer required.

#### **Residential Amenity**

With regards to impact upon existing residents, this issue has been considered previously and the current changes to the retaining wall do not increase any impact to the existing residential in terms of loss of light or privacy or overbearing physical impact.

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Within the site, the dwellings are considered to have an acceptable relationship to each other. When the application was originally considered, concerns were raised with regards to the impact of the properties 24 - 29 given that these were north facing gardens. The amendments have increased the garden length for these properties which has increased usable garden area and improved the outlook from these north facing properties which weighs in favour of the proposal.

Along the western boundary, Plot 23 is the most affected by the new wall as the wall will be within 6.03m of their rear elevation. Similar reductions are noted along the rear elevation of these properties which have their kitchen/ dining rooms at the rear. However, whilst the depth of the garden is less than the depth of the dwelling as recommended in the Adopted Residential Design Guide (SPG), and the retaining wall would be at closer quarters, the easterly facing nature of the garden would ensure there was sufficient light throughout the day and plot 23 still would have a wide garden to ensure this is the case. The orientation of these properties means there is less concern in terms of the impact on light into the gardens and the dwellings with no trees on top of the retaining wall to impact further. The applicant has also submitted photographs of the relationship to aid consideration.

Within this context, and on balance when considered as a whole, the garden area is considered acceptable to these plots which are less sensitive to change given their orientation.

### **Highways Issues**

The change to the retaining wall does not impact upon the previously indicated access and car parking areas and subject to the imposition of the previously recommended highways conditions, and S106 agreement ensuring that the whole of the residential element is for affordable housing, the proposals are considered acceptable and would comply with Policies T1 and T6. Whilst the Highways Officer has commented on the structural integrity of the retaining walls, this would not be a planning or highway issue and retaining walls were previously indicated.

### **Drainage**

The concerns raised over water issues are acknowledged but the site is subject to separate SAB approval and as such, Drainage issues are not being dealt with as part of this application. Dwr Cymru Welsh Water has been consulted on the site and raised no issues subject to a condition requiring the foul drainage to be implemented in accordance with the submitted details.

### **Ecology/ Trees**

The Council's Ecologist offered no objection to the proposal but did request that further information was submitted for approval via condition and appropriate ecological and protected species conditions be imposed. It is considered that the new retaining wall does not bring forward any further ecological issues over and above those previously considered and subject to the imposition of the conditions from the original application, the scheme is considered to comply with Policies ER8 and ER9 of Swansea's Local Development Plan 2010-2025.

### **DEROGATIONS**

i. Regulation 52(3) the development works to be authorised are for the purpose of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.



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This site constitutes disused previously developed land. The proposed development would introduced a mixed use retail and residential development that would provide a range of retail units to serve the locality and create employment as well as providing a significant level of affordable housing that is much needed. The development would increase the County's housing stock with good quality housing. It is therefore considered that there are overriding social and economic considerations of overriding public interest.

ii. There is no satisfactory alternative;

The existing building on site houses bats and it would not be possible to develop the site and retain this building. In addition, doing nothing would result in the existing building falling further into disrepair. The site would subsequently have a negative impact on the local environment and its surroundings and could be subject to anti-social behaviour. The proposed development would provide for a mixed use development on previously developed land. The applicant has confirmed that an alternate scale of development would not be viable.

iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

The Council's Tree Officer raises no objection to the change in siting of the retaining wall.

### **Response to consultations**

The issues of water raised by the objectors have been addressed above in the main body of the report. It is acknowledged that the objectors are not in favour of the development at this location, but planning permission has previously been granted on the site and this has been implemented. The changes to the retaining wall position does not make the overall scheme unacceptable in planning terms to now warrant a recommendation of refusal when considered as a whole.

As noted above, the proposal is considered acceptable in terms of its impact on residential amenity (to neighbours outside of the site), trees, ecology, drainage and highways.

The site is located in the North Strategic Policy Housing Zone where 10% provision would be required from a policy perspective (3 units). However, all 29 units are proposed to be affordable units and although the objector states that affordable housing is social housing at this location, this is not considered an unacceptable tenure of housing. A deed of variation would be required to link the signed S106 agreement to this planning permission.

### **Conclusion**

Consideration has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation due regard has been given to the ways of working set out at section 5 of the WBFG Act and it is considered that this recommendation is consistent with the sustainable development principle as required by section 8 of the WBFG Act.

In conclusion and having regard to all material planning considerations and on balance, the proposal is an acceptable form of development at this location that complies with the overall requirements of Policies PS2, T6,ER6, ER8, ER9, ER11,H2, RP4 and RP5 and approval is recommended.

**RECOMMENDATION**

**APPROVE, subject to a deed of variation to the previously signed Section 106 agreement requiring all residential units to be occupied as and remain as affordable housing only and the following conditions:**

- 1 The development shall be carried out in accordance with the following approved plans and documents: drainage strategy, transport statement, SK02R7 preliminary drainage layout received 20th January 2020, ecological appraisal report, site investigation report, geotechnical and geoenvironmental site investigation report received 27th January 2020, LT1815.04.001 B site plan, LT1815.04.004 A boundary identification layout, LT1815.04.1000 D ground and first floor plans Block 1, LT1815.04.1001 C second floor Page 36 and roof plan block 1, LT1815.04.1002 A sections block 1, LT1815.04.1003F elevations Block 1, LT1815.04.2001 plans and elevations plots 17-20, LT1815.04.2002 A plans and elevations plots 21-23, LT1815.04.2003 plans and elevations plots 24-29 received 6th July 2020. LT1815.04.50 REV A site layout, LT1815.04.51 site sections, SK21-5269-01E retaining wall plans and elevations, SK21-5269-02E retaining wall sections received 28th July 2021.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 2 No building shall be occupied until the foul drainage system for the site has been completed in accordance with the approved details. Thereafter no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.  
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
- 3 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 04 (Bat mitigation and ecological measures) of planning permission 2020/0108/FUL which were approved on 14th May 2021 (Ref: 2021/0347/DOC).  
Reason: To ensure no detrimental impact upon protected species and enhanced biodiversity for the development.
- 4 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 5 (scheme of external lighting), of planning permission 2020/0108/FUL which were approved by the City & County of Swansea on 14th May 2021 (Ref: 2021/0347/DOC).  
Reason: To mitigate detrimental impacts to local wildlife within and surrounding the site
- 5 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 6 (IINNS survey and remediation) of planning permission 2020/0108/FUL which were approved by the City & County of Swansea on 14th April 2021 (Ref: 2021/0442/DOC).  
Reason: In the interests of ecology and to ensure compliance with the Wildlife and Countryside Act 1981.

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- 6 The development hereby permitted shall be undertaken in accordance with the details required by Condition 7 (green infrastructure) of planning permission 2020/0108/FUL which were discharged by the City & County of Swansea on 16th April 2021 (Ref: 2021/02777/DOC).  
Reason: To ensure that the integrity of the green infrastructure is not compromised.
- 7 The approved boundary treatments (as shown on Drawing No. LT1815.04.004 Rev A.) shall be completed as approved under 2020/0108/FUL before the dwelling that they serve is occupied and shall thereafter be retained as such.  
Reason: In the interest of maintaining a satisfactory scheme of landscaping and to protect the visual amenity of the area.
- 8 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 9 (CEMP) of planning permission 2020/0108/FUL which were approved by the City & County of Swansea on 14th May 2021 (Ref: 2021/0347/DOC).  
Reason: In the interests of ecology, to ensure compliance with the Wildlife and Countryside Act 1981 and in the interests of neighbouring amenity.
- 9 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 10 (Tree Protection Plan) of planning permission 2020/0108/FUL which was approved by the City & County of Swansea on 2nd March 2021 (Ref: 2021/0347/DOC).  
Reason: In the interests of the protection of the remaining trees on the site and for the creation of place.
- 10 The materials to be used in the construction of the external surfaces of the development shall be carried out in accordance with the details shown on the approved plans.  
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 11 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 12 (landscaping) of planning permission 2020/0108/FUL which were approved by the City & County of Swansea 16th April 2021 (Ref: 2021/02777/DOC).  
Reason: In the interests of maintaining a suitable scheme of landscaping to protect the visual amenity of the area, to maintain the special qualities of the landscape and habitats through the protection, creation and enhancement of links between sites and their protection for amenity, landscape and biodiversity value.
- 12 Prior to the first beneficial occupation of the 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 by the Local Planning Authority unless an agreement has been entered into under Section 38 of the Highways Act 1980. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.  
Reason: In the interest of highway safety to ensure the streets are managed and maintained appropriately.

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- 13 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 14 (car parking) of planning permission 2020/0108/FUL which were approved by the City & County of Swansea on 14th May 2021 (Ref: 2021/0347/DOC).  
Reason: In the interests of highway safety and for the avoidance of doubt.
- 14 Notwithstanding the submitted details, deliveries to the retail unit(s) shall not be made between 8am and 9.30 am or between 15:30 and 17:30 on any day.  
Reason: In the interests of highway safety and to prevent conflict with other road users at busy times.
- 15 The retail units hereby permitted shall not be open to customers/visitors outside the hours of 07.00 to 22.00hrs on any day of the week.  
Reason: To protect the amenities of the occupiers of nearby residential premises.
- 16 The retail units hereby approved shall be used for Class A1 purposes as defined in the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification) and for no other purpose.  
Reason: For the avoidance of doubt as to the nature of the units hereby approved.
- 17 The development hereby permitted shall be undertaken in accordance with the details provided to discharge condition 18 (waste hierarchy) of planning permission 2020/0108/FUL which were approved on 14th May 2021 (Ref: 2021/0347/DOC).  
Reason: To ensure waste at the site is managed in line with the Waste Hierarchy in a priority order of prevention, re-use, recycling before considering other recovery or disposal option.
- 18 The development shall be undertaken in accordance with the recommendations of Section 5.46 of the Ecological Appraisal Report received on 27th January 2020 as part of planning permission 2020/0108/FUL.  
Reason: To ensure the protection of reptiles during the course of the development.
- 19 Prior to the first beneficial use of Block 1 (retail units or residential units), the cycle parking shall be provided in accordance with the approved details and retained thereafter for the lifetime of the development.  
Reason: To ensure adequate cycle provision is made to support sustainable travel options.

### Informatives

- 1 The development plan covering the City and County of Swansea comprises Future Wales: The National Plan 2040 and the Swansea Local Development Plan (LDP) (2010-2025). The following policies were relevant to the consideration of the application:  
Policies 1, 2, 9, 28 of Future Wales  
Policies PS2, T6, ER6, ER11, ER8, , RP5, RP4, H2, ER9. of the LDP.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.

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- 3 Under the provisions of Schedule 3 of the Flood and Water Management Act 2010, your development may require Sustainable Drainage Approval before any construction work commences. Further details can be found on the Authority's website:- <https://www.swansea.gov.uk/sustainabledrainage> and the SuDS Approval Team can be contacted via [SAB.Applications@swansea.gov.uk](mailto:SAB.Applications@swansea.gov.uk) for further advice and guidance.
- 4 Warning: An European protected species (EPS) Licence is required for this development. This planning permission does not provide consent to undertake works that require an EPS licence. It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine. To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-andwildlife/europeanprotected-species/?lang=en>
- 5 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest in use or being built
  - Take or destroy an egg of any wild bird

No works should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests either in vegetation or buildings immediately before the vegetation is cleared and/or work commences on the building to ensure that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

- 6 Prior to any clearance works, trees shall be inspected for the presence of Potential bat Roost Features. Where trees scheduled for works (including felling / pruning) have the potential for bats to be present, they shall be climbed and inspected no more than 24 hours in advance of any work commencing. Should bats be found to be present, a Natural Resources Wales licence shall be obtained, and a copy submitted to the LPA.

Pre-construction/site clearance checks for bats and nesting birds in buildings due for demolition shall be undertaken. A licensed bat worker/Ecological Clerk of Works (ECoW) shall be employed to oversee the work and check for any evidence of nesting birds or roosting bats. The ECoW shall be in attendance when parts of the roof and other external features are dismantled. They shall supervise a 'soft strip' methodology to minimise the chance of bats being killed/injured and take appropriate measures should bats be located.

- 7 Note that all British reptiles are protected under Schedule 5 of the Wildlife and Countryside Act 1981 as amended. It makes it an offence to intentionally kill or injure adder, slow worm and common lizard. If the reptiles listed above are encountered, work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634 960).

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8 Pre-construction checks for any reptile species shall be undertaken by a suitably qualified Ecologist. Any vegetation clearance shall be undertaken avoiding the main reptile hibernation period (October-March). The Reptile Method statement detailed in section 5.46 of the Ecological Appraisal Report shall be followed and adhered to.

9 Otters may be present. Otters are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2017. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of otter use is encountered (e.g. live otters, droppings or resting places) during the works, work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634960).

10 All trenches and excavations shall be fenced off or covered-over at night to prevent any animals (hedgehogs and other species) from falling in and becoming trapped. If this is not possible an adequate means of escape must be provided (i.e. a gently graded side wall or provision of gently sloped wooden plank or equivalent). Any exposed pipes and trenches must be checked for trapped wildlife each morning before starting construction activities.

11 In order to retain habitat connectivity for Species of Principal importance, such as hedgehogs, boundary treatments shall not be flush to the ground, or suitably sized gaps 13 x 13 cm shall be left at strategic points. See <https://www.hedgehogstreet.org/hedgehog-friendly-fencing/>

12 A scheme of mitigative native tree, hedgerow and shrub planting and aftercare shall be submitted to the LPA for approval, due to the loss of trees on the site. The scheme shall incorporate a combination of diverse native tree and shrub species and varied nursery aged stock.

13 A mix of native species of local provenance, to include fruit and nectar bearing shrubs, trees and wildflowers shall be provided to increase biodiversity and to provide foraging resources for local birds, small mammals and invertebrates and to increase habitat connectivity. The fully detailed planting/landscaping scheme and aftercare shall be submitted to the LPA for approval.

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

Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com).

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

- 15 Works taking place during October to March should be carefully undertaken to avoid injuring hibernating animals by undertaking works in suitable habitat slowly, being particular careful when using machinery within a foot of ground level or when removing brash/log piles.
  - 16 The applicant must contact the Highway Management Group, Swansea Council, Guildhall offices C/O Civic Centre, Swansea SA13SN before carrying out any work. Please email [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk).
  - 17 All works on the existing highway are subject to an agreement under section 278 of the Highways Act 1980. All design and implementation will be at the expense of the developer.
  - 18 To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
-





**Background Information**

**Policies**

LDP - TR6 - Static Caravan, Touring Caravan and/or Camping Sites within the AONB  
New Static Caravan, Touring Caravan and/or Camping Sites within the AONB - Within the AONB no new static caravan sites will be permitted. New touring caravan and/or tented camping sites for 6 or more units, and tented camping and/or up to a maximum of 5 touring caravans on seasonal sites will be supported subject to compliance with specific criteria. Proposals for tented camping and/or up to a maximum of 5 touring caravans on seasonal sites will be supported subject to compliance with specific criteria. New sites for touring caravans and/or camping will be conditioned to restrict the use and occupancy records must be made available.

LDP - PS2 - Placemaking and Place Management

Placemaking and Place Management - development should enhance the quality of places and spaces and should accord with relevant placemaking principles.

LDP - CV2 -Development in the Countryside

Development in the Countryside - Development outside defined settlement boundaries will be required to ensure the integrity of the countryside is conserved and enhanced. There is a presumption against development in the countryside except where it meets a specific set of criteria. Countryside development must be of a sustainable form with prudent management of natural resources and respect for the cultural heritage of the area. Where possible, existing buildings should be reused and where this is not feasible new buildings should be positioned close to existing buildings.

Proposals to increase residential chalets on 4 existing chalet sites will not be permitted.

LDP - CV5 - Farm Diversification

Farm Diversification - Proposals for the diversification of working farms will be permitted where specific criteria are met. Where a new build can be justified it must be located within or, if a suitable site within is not available, immediately adjacent to the existing farm complex.

LDP - ER4 -Gower Area of Outstanding Natural Beauty (AONB)

Gower Area of Outstanding Natural Beauty (AONB) - Development must have regard to the purpose of the designation to conserve and enhance the natural beauty of the area in accordance with policy criteria. Cumulative impact will also be taken into consideration. Development proposals that are outside, but closely interlinked with the AONB must not have an unacceptable detrimental impact on the natural beauty of the AONB.

LDP - TR1 - Tourism, Recreation and Leisure Development

Tourism, Recreation and Leisure Development - Tourism, recreation and leisure development that capitalises upon the County's distinctive assets and help create a year round destination will be supported. Development proposals that would have an unacceptable adverse impact on features and areas of tourism interest and their settings, or that would result in the unjustified loss of tourism facilities or heritage assets, will not be permitted. A Tourism Needs and Development Impact Assessment will be required in support of a planning application.

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LDP - TR3 - Sustainable Tourism and Recreation Development in the Countryside  
Sustainable Tourism and Recreation Development in the Countryside - Proposals for sustainable tourism and recreation related attractions and facilities outside settlement limits will only be permitted where specific criteria are met. A Tourism Needs and Development Impact Assessment will be required in support of a planning application.

**Site History**

<b>App Number</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
2017/0407/FUL	Retention of marquee for 12 months of the year, for a further 3 years	TEM	16.04.2018
2021/1159/S73	To site and use a marquee for 12 months of the year for a further 2 years (Variation of condition 1 and 3 of Planning Permission 2017/0407/FUL granted 16th April 2018)	APP	23.06.2021
2015/1425	Change of use of field from 1st May to the 31st October for a maximum of ten tents and portable toilet facilities	APP	01.09.2015
2015/0290	Construction of Agricultural barn	APP	13.08.2015
2014/0982	Construction of barn (application for Prior Notification to the Local Planning Authority)	INV	
2014/0954	Variation of condition 06 of planning permission 2013/0399 granted 7th November, 2013 to allow amplified or live music to be played	APP	07.11.2014
2013/0399	Siting of marquee	APP	07.11.2013
2012/1496	Siting of marquee and conversion of existing barn to function room	INSFE E	13.03.2013
2011/0625	Retention of conversion and extension of barn to Function Room	APP	20.06.2012

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2010/0880	Conversion of existing barns into 4 units of holiday accommodation to include an increase in ridge height of barn G with 2 front dormers and side balcony, insertion of 2 front and 2 rear dormers to barn F, addition of first floor to barns C,D and E with fenestration and external alterations	WDN	05.07.2010
2009/1652	Conversion of existing barn into 4 no. holiday letting units	INV	
2003/0352	Conversion of existing barn into two holiday letting units	APP	28.05.2003

### RESPONSE TO CONSULTATIONS

The application was publicised by means of displaying a Site Notice within the vicinity of the site, and by means of a Press Notice, due to the development not being in accordance with the Development Plan. One individual letter was also sent to a neighbouring property. No objections or comments have been received.

### APPRAISAL

#### Description

This application is reported to Planning Committee for determination due to the proposal not being in accordance with the Local Development Plan.

This Section 73 application relates to the variation of Condition 2 of planning permission 2017/0820/FUL granted the 30th January 2019 to extend the life of this temporary consent by a further 2 years.

Planning permission 2017/0820/FUL granted consent for the siting of 10 timber camping pods to be available for 12 months of the year for a 2 year period.

Condition 2 of the 2017/0820/FUL permission states:

Notwithstanding the provisions of Section 91 of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development ) Order 1995 (as amended), planning permission is granted for a temporary period only, expiring on 1st May 2021. No glamping pods or associated structures shall be on site after the 1st May 2021 and the land shall be re-instated to its former condition.

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Reason: The nature of the use is considered to be acceptable on site for a temporary period of three years to enable the Local Planning Authority to assess the reestablishment of the farm enterprise.

### Policy Issues

Future Wales (FW), published by the Welsh Government (WG) on 24th February 2021, contributes the national tier of the Development Plan. FW has policies relating to those matters that government considers are a national priority, and matters which are distinctly spatial and require national leadership.

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

The following policies are relevant in this instance:

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 4 - Supporting Rural Communities

Policy 9 - Resilient Ecological Networks and Green Infrastructure

National Planning Policy

The following guidance in Planning Policy Wales (PPW) is of relevance:

Placemaking - The concept of placemaking is central to PPW and delivering on the aspirations of the Well-being of Future Generations Act and achieving well-being through plan making and development management decisions. It defines placemaking as: a holistic approach to the planning and design of development and spaces, focused on positive outcomes. It draws upon an area's potential to create high quality development and public spaces that promote people's prosperity, health, happiness, and well-being in the widest sense. Placemaking considers the context, function and relationships between a development site and its wider surroundings. This will be true for major developments creating new places as well as small developments created within a wider place. Placemaking should not add additional cost to a development, but will require smart, multi-dimensional and innovative thinking to implement and should be considered at the earliest possible stage. Placemaking adds social, economic, environmental and cultural value to development proposals resulting in benefits which go beyond a physical development boundary and embed wider resilience into planning decisions. Good design is fundamental to creating sustainable places where people want to live, work and socialise. Design is not just about the architecture of a building but the relationship between all elements of the natural and built environment and between people and places. To achieve sustainable development, design must go beyond aesthetics and include the social, economic, environmental, cultural aspects of the development, including how space is used, how buildings and the public realm support this use, as well as its construction, operation, management, and its relationship with the surrounding area.

Tourism

5.5.2 The planning system encourages tourism where it contributes to economic development, conservation, rural diversification, urban regeneration and social inclusion, while recognising the needs of visitors and those of local communities. ...In some places however there may be a need to limit new development to avoid damage to the environment or the amenity of residents and visitors.

5.5.3 In rural areas, tourism-related development is an essential element in providing for a healthy and diverse economy. Here development should be sympathetic in nature and scale to the local environment.

The Swansea Local Development Plan ('LDP' 2010 - 2025) was adopted 28th February 2019. The policies contained within this will therefore be used in the determination of this application. LDP Policies PS2, CV2, CV5, ER4, TR1, TR3 and TR6 are material to the determination of this application.

The LDP is clear (para 2.11.27) the " Proposals for new caravan, camping and lodge or cabin sites which are considered non-permanent developments under planning law should be assessed under Policies TR 6 New Static Caravan, Touring Caravan and/or Camping Sites Within the AONB"

Policy TR6 states: Within the AONB, no new static caravan sites will be permitted.

New touring caravan and/or tented camping sites for 6 or more units will be supported in areas shown to have landscape capacity subject to the following criteria:

- i. Landscape capacity has been demonstrated in accordance with the Gower Landscape Sensitivity and Capacity Study;
- ii. There would be no material harm to the landscape character and environmental quality of the surrounding area, either individually or cumulatively with other sites in the vicinity;
- iii. There are satisfactory service arrangements in terms of access roads, sewerage, power and water supply, surface water disposal and waste disposal;
- iv. The site is well located in relation to an adequate road system which can accommodate the traffic generated, and where possible convenient access to public transport;
- v. Ancillary facilities such as shower and/or toilet blocks, drying rooms, waste disposal and dishwashing/laundry facilities should be of an appropriate scale and sited to avoid material harm to landscape character;
- vi. A Tourism Needs and Development Impact Assessment is submitted that sets out an appropriate tourism justification in support of the application

Having regard to the above Policy, the proposal has been publicised as a Departure from the adopted Development Plan and compliance with the Policy is discussed later in the report

Section 73 Procedures

As a Section 73 application, the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and

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- a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- b) If they decide that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Any new planning permission should include all the previous conditions (where necessary) to avoid the possibility of the new permission being interpreted as having no conditions other than those applied to vary.

Circular 16/2014 sets out three tests which should be taken into consideration when 'renewing' an application under section 73 of the 1990 Act.

The tests are set out and discussed below:

### Test 1

- There has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning policy guidance, material to the renewal application).

It is acknowledged that this application is limited to extending the life of the previous temporary planning permission by 2 years.

Site circumstances have not changed since the 2017/0820 permission was granted on the 30th January 2019.

However, since the 2017/0820 permission was granted, there have been significant changes to development plan policies. The Swansea LDP and Future Wales have been adopted since the 2017/0820 was granted permission in early 2019.

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes. The following policies are relevant in this instance:

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 4 - Supporting Rural Communities

Policy 5 - Supporting the rural economy

Since the previous grant of approval, the Swansea Local Development Plan (2010-2025) has been adopted. There are several new LDP policies that are highly relevant to the determination of this application, namely TR1 (Tourism Recreation and Leisure Development), TR3 (Sustainable Tourism and Recreation Development in the Countryside) and TR6 (New Static Caravan, Touring Caravan and/or Camping Sites within the AONB).

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The proposal is discussed and assessed against these new LDP Policies in the 'Analysis and Recommendation' section of this report.

### Test 2

- Continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area.

This test is not entirely relevant in this instance, as the current submission seeks to retain rather than defer development.

### Test 3

- The application is premature because the permission still has a reasonable time to run.

An application under Section 73 may only be made where the original permission is still live. Where an application has expired, a fresh application for planning permission is required and the Authority would not be restricted to considering the conditions only. Case law has established however that determination of a S73 application beyond the expiry of the application can be made, provided the application was made prior to the expiry of the application. In this instance the application was received prior to the expiry of the application, but not prematurely so.

## **Analysis and Recommendation**

### Key Issues

In view of the above mentioned policy context the key issues to consider in this planning application relate to the principle of allowing the continued siting of the 10 camping pods for a further 2 years in this location, impact upon visual amenity, impact upon the residential amenities of neighbouring occupiers and future occupiers along with parking and highway safety impacts.

### Background/Site History

In 2012 an Enforcement Notice was issued for the removal of an unauthorised wedding marquee from the land and the removal of any associated builders waste, rubble or material from the land within 6 months. An enforcement appeal which was subsequently made to the Welsh Government was dismissed.

Whilst the Inspector conceded that the 'wedding venue' use was an appropriate form of farm diversification, it was considered that given the marquee's prominence, size and colour within the protected Gower AONB, it would be a stark and uncompromising feature on the ridge of undulating countryside clearly viewed from the road below and from scenic vantage points of Kittlehill, Stormy Castle, Landimore, Weobley Castle and Parc-y-Rhedyn and as such was considered to fail to conserve the natural beauty of the area.

Furthermore the Inspector noted that a landscaping scheme would not necessarily mitigate the visual harm caused by the marquee. Notwithstanding the Inspector's conclusions in favour of the appellants in terms of farm diversification, he did not consider that this overcame the significant harm caused by the marquee to the character and appearance of the Gower AONB and dismissed the appeal.

Since the enforcement appeal, planning permission was approved under (2011/0625) for the retention of the conversion and extension of a barn to a function room and as such the site became more established as a tourist destination since the previous appeal decision. Subsequently, application 2013/0399 granted consent for the retention of the marquee for 6 months of the year for a temporary period of three years, in order to provide sufficient funds to enable the applicant to re-establish the farm through re-stocking and construction of an additional agricultural building, which was considered to have economic and social benefits to the wider community. The retention of the marquee was also considered to sustain and increase local supply chains and provide both direct and indirect jobs to the local communities of Gower.

Application 2017/0407/FUL extended the retention of the marquee for a further 3 years, this time allowing its operation for 12 months of the year, to generate sufficient funds to enable the applicant to re-establish the farm through re-stocking and develop a permanent solution for the wedding functions. In conjunction with this application, 2017/0820/ful granted temporary consent for the siting and use of 10 timber camping pods to further contribute to the attractiveness of the venue as a year round venue, assisting in the generation of the funds required to secure the future of the business.

The Covid 19 worldwide pandemic has seen the venue closed since April 2020 with the 2021 wedding and holiday season remaining hugely uncertain, and at best significantly scaled down. This has impacted significantly on the business and critically the ability to have generated sufficient funds to finance future permanent development solutions required at the site (to replace the existing marquee).

A recent planning application 2021/1159/S73 which sought the retention of the marquee for a further two years was approved on the 23rd June 2021. That granted a temporary consent until the 1st July 2023. Given the synergy between the two elements (marquee and camping pods) it is logical that if a further temporary permission is granted for the camping pods, that it also has an expiry date of the 1st July 2023.

#### Principle of Use

It is accepted that the principle of development has to some extent previously been established, albeit temporarily. Ocean View is an existing established wedding destination and the proposal will increase the range and quality of this destination by retaining quality accommodation and the facilities on offer and secure the number of bed spaces on offer. Allowing the continued use of the pods and providing additional serviced bed spaces will help ensure the retention of additional jobs, which undoubtedly contribute to the economy of the area, in line with National Guidance and the provisions of the Development Plan.

Allowing the accommodation on offer at this destination for a further 2 years will enable the enterprise to operate to its highest possible capacity in terms of number of weddings and associated numbers of visitors, which in turn will generate additional funds to provide the business with the financial capability to begin to recover from the enforced Covid closure and further re-establish the farm and ensure the long term longevity, vitality and viability of the agricultural business as one entity.

As indicated above, since the previous permission at the site was granted, the Swansea LDP has been adopted.



Policy CV5 specifically relates to farm diversification and states as follows:

Proposals for the diversification of working farms will be permitted where:

- i. The proposed non-agricultural use is run in conjunction with, and is complementary to, the existing farm operation;
- ii. The proposal is supported by an appropriate business case which demonstrates the link to the existing agricultural activities of the working farm and the benefits of the scheme in terms of sustaining the rural economy;
- iii. There will be no significant adverse effect on natural heritage or the vitality and viability of any nearby defined settlement;
- iv. Adequate parking is provided to meet the needs of the diversified scheme;
- v. In relation to new build development, the applicant is able to demonstrate that there are no suitable existing buildings available that could be converted/re-used in preference to new build.

As referenced earlier in the report, this application is limited to extending the life of a previous temporary planning permission by 2 years. The previous application demonstrated that the provision of additional serviced accommodation (year round) within the existing venue provides long term and county wide economic and social benefits to the wider area in compliance with both national and local planning policies. The ten additional luxury pods assist the site owners in the diversification of their business, providing local employment opportunities, increasing local economic prosperity and minimising the need to travel for employment, whilst securing the future of the farm in compliance with the general thrust of criteria i and ii of Policy CV5.

The proposal is considered to benefit nearby settlements through attracting visitors, positively enhancing the vitality and viability of the area. The site is well served by ample off-street parking and turning facilities in accordance with criterion iii and iv. Suitable existing buildings at the site have already been converted to accommodate the wedding business and provide for quality holiday accommodation; there are no further suitable disused buildings at the site and as such criterion v of Policy CV5 is also met.

National Planning Policy and guidance also recognises that many economic activities can be sustainably located on farms and support farm diversification provided such schemes are small scale and integrate well with the surrounding countryside.

Policy TR1 supports proposals for sustainable tourism in rural area where proposal seek to conserve and enhance the County's natural heritage and reinforce vibrant communities. Policy TR3 supports sustainable tourism facilities where it is demonstrated that proposals are economically viable and contribute towards improving the range of tourism offer in the County and would not adversely affect natural or cultural heritage.

Policy TR6 specifically excludes new static caravan sites within the AONB and states that new touring caravan and/or tented camping sites for 6 or more units (including cabins/pods such as those subject to this application) will be supported in areas shown to have landscape capacity subject to the following criteria:

- i. Landscape capacity has been demonstrated in accordance with the Gower Landscape Sensitivity and Capacity Study;

- ii. There would be no material harm to the landscape character and environmental quality of the surrounding area, either individually or cumulatively with other sites in the vicinity;
- iii. There are satisfactory service arrangements in terms of access roads, sewerage, power and water supply, surface water disposal and waste disposal;
- iv. The site is well located in relation to an adequate road system which can accommodate the traffic generated, and where possible convenient access to public transport;
- v. Ancillary facilities such as shower and/or toilet blocks, drying rooms, waste disposal and dishwashing/laundry facilities should be of an appropriate scale and sited to avoid material harm to landscape character;
- vi. A Tourism Needs and Development Impact Assessment is submitted that sets out an appropriate tourism justification in support of the application.

With regard to the above criteria of Policy TR6, the following comments are made. The application site falls within Landscape Character Area (LCA) 10: Burry Pill as defined within the Gower Landscape Sensitivity and Capacity Study. This LCA has a landscape character sensitivity which ranges from medium to high with the highest sensitivity along the coastal slopes on its southern boundary. Its visual sensitivity also ranges from medium to high. The resultant landscape sensitivity is medium-high and when combined with the high landscape value, results in an overall landscape capacity which is low.

The pods are however an existing established feature at the site and do not appear prominent or domineering when viewed from wider public vantage points within the Gower AONB as they are viewed within the context of the buildings. The pods are positioned adjacent to the main cluster of farm buildings and farm house and are therefore not viewed in isolation. The site benefits from satisfactory service arrangements in terms of access roads and utility supplies and is well located in relation to the road network and can be reached via a number of modes of transport. Ancillary toilet, washing and drying facilities exist on site, all of which are appropriately sited and cause no material harm to the landscape character.

Therefore, whilst it is accepted that the proposal does not comply with criterion (i) of Policy TR6, it does comply with criterion (ii-v) of Policy TR6. However, on the basis that the proposal seeks to retain structures already a feature within the landscape, the landscape impact is considered to be no different from the current situation, and the proposal therefore considered an acceptable departure from Policy TR6.

It should also be noted that as Policy TR6 specifically prohibits the siting of static caravans within the Gower AONB and as camping pods are defined as static caravans for the purposes of interpreting this LDP Policy, the proposal is contrary to this policy. However, the scale and general appearance of the camping pods are very different to that of a conventional static caravan and their visual or landscape impact is consequently not as great and in this case, is considered to be acceptable.

LDP Policies TR1 (Tourism, Recreation and Leisure Development) TR3 (Sustainable Tourism and Recreation Development in the Countryside) and TR6 (New Static Caravan, Touring Caravan and/or Camping Sites within the AONB) all require developers to submit a Tourism Needs Development Impact Assessment (TNDIA) alongside any planning proposals for new, or extensions to existing tourism facilities or accommodation.

The applicant has submitted the requisite TNDIA which is summarised as follows:

Windmill Farm is a third generation working farm diversified to provide accommodation for holiday/short stays on the Gower peninsular, in cottage and glamping pod units. Since 2007 our Award winning (SCC Innovation award) holiday cottages set overlooking the north Gower coast have been hosting visitors to this sought after are in Wales, with the addition of Glamping accommodation (pods) later to fulfil increased demand.

Windmill Farm provides comfortable, affordable, and sustainable accommodation for visitors to Wales, providing the opportunity for relaxation and outdoor activity. Our Farm accommodation brings visitors from all over the UK and abroad at all different times of year for many differing reasons, bringing incredible benefit our local community and the tourism sector of Gower and Wales generally.

Our accommodation is set in a beautiful and peaceful location and has established a reputation for quality accommodation and rural hospitality. During the period, the Glamping Pods have been available they have provided much needed additional accommodation for visitors, offering a unique and special place to stay in aesthetically pleasing units offering a valuable middle ground alternative to traditional cottages/hotel stay or caravan retreats all year round, but especially in the summer months where accommodation is in unprecedented demand. Consistently demand is greater than capacity and Windmill Farm will redirect visitors to other local area accommodation providing support to our local communities and the small unique businesses within.

There is unprecedented demand for accommodation in North Gower, offering great opportunity to the tourism sector as the area has capacity to provide more visitor stays with the addition of a quieter outlook but close to Gower's other great amenities in the south. We are always over-subscribed and could let out many times over, our colleagues in the area offering accommodation have the same experience providing the evidence of the requirement for ours and more visitor accommodation.

The Farm is set in an outstanding area of natural beauty and recreational facilities of the Gower and Welsh coasts provide the reasoning for visitors to stay on-site and elsewhere on the peninsular. Windmill Farm's history as a working farm and even a schoolhouse in days when schools moved between villages, offers visitors a unique opportunity to stay and immerse themselves in the rural culture we offer. 13 years of accommodation offering firstly cottages then glamping has provided support for the farm, increased spending in the locality with visitors buying local groceries, visiting local pubs, restaurant and spending valuable income in a rural area where every and all support is needed. With industry and farming becoming more difficult to sustain in rural areas, the tourism option for rural village is a vital tool providing support and income for all involved with a ripple effect on the whole community.

Our accommodation provides valuable jobs in our rural village, our cleaners/chambermaids and general maintenance staff and business providing good and support to us are all locally sourced. Our diversification has been welcomed by our neighbours and support our efforts to keep Llanrhidian alive and at the heart of the tourism sector in North Gower. We support our local church, community council and all elements that make up a great community hub without which we could not sustain our business.

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Demand for our service is high which also allows us to share the benefits with other accommodation providers in the area and further afield. We directly pass on and take in visitors from others in the area, there is no competition for business as the demand outstrips the capacity. As already mentioned, our accommodation attracts visitor who spend valuable money in the area, with all the local business benefiting from that spending.

Windmill Farm is accessed via a private lane off the main road leading from Llanrhidian cross to Llandimore. With parking at the front in a dedicate car park with a small area also in the rear paddock. These areas will provide plenty of on-site parking for visitors now and well into the future and are sufficient for the operation needs of the pods. Sustainable electric buggy transport is used to get guests to their pods. There is no evidence that there will be any impact in respect of the highway as the usage over the last few years have proved there is no issue.

Overall, the TNDIA, is considered commensurate to the proposal and the specific nature of the accommodation on offer Windmill Farm. The TNDIA is considered acceptable and having regard to the policy framework set out above, it is therefore considered that the principle of development remains acceptable.

#### Visual Impact

In visual terms, the pods are sited within an existing level and clear enclosure (save for peripheral planting). The siting of the pods do not require the clearance of any existing shrubbery and neither do the pods require fixed/constructed bases. Rather they sit on a raft style timber base, entirely removable. All of the pods measure some 8m<sup>2</sup> in floor area, save for pod No. 8 which is a larger "honeymoon" Pod and measures some 16m<sup>2</sup>. All of the pods measure approximately 2.9m in height. Therefore the size and scale of the pods are minimal and subordinate to the parent buildings and do not appear prominent when viewed from the wider landscape. The site has sufficiently dense planting to the enclosure peripheries which help shield the pods from long range views from Cefn Bryn to north.

The pods do not appear prominent or domineering when viewed from wider public vantage points within the Gower AONB as they are viewed within the context of the buildings. The pods are positioned adjacent to the main cluster of farm buildings and farm house and are therefore not viewed in isolation from public vantage points.

Overall therefore it is considered that in visual terms the continued siting of the pods would have an acceptable impact upon the character and appearance of the area and the landscape quality of the Gower AONB, in compliance with Policies PS2, CV2, CV5, ER4, TR1, TR3 and TR6 of the LDP. Furthermore it is not considered that the pods will create harmful levels of 'visitor pressure'.

#### Residential Amenity

There are no residential properties within the immediate vicinity that would be adversely affected by the proposal by virtue of unacceptable overbearance, overshadowing or overlooking impacts, and as such the proposal is considered to comply with Policy PS2 of the Swansea LDP.

### Highway Safety

Ocean View is an established complex with good access onto the adopted highway. The complex is situated on a large site and the main areas are accessed via an existing relatively long private drive. There is ample parking facilities on site, plus it is on a bus route and is easily accessible to walkers and cyclists. It is not therefore considered that the proposal raises any highway concerns.

### Conclusion

In conclusion it is considered that the variation of condition 2 of planning permission 2017/0820/ful to allow for the continued siting and use of the 10 camping pods will make a valuable contribution to the economy of the area and complement the existing wedding business and tourist use by adding to the facilities on offer. Furthermore the minimal size, scale and number of pods is such that they do not prove prominent when viewed from wider vantage points, given their grouping with the existing buildings and that they are viewed against the backdrop of existing buildings. In addition to this the proposal is not considered to have an unacceptable impact upon highway safety and the residential amenities of the neighbouring residents. Therefore the proposal is considered to comply with Policies PS2, CV2, CV5, ER4, TR1, TR3 and TR6 of the Swansea LDP.

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

## RECOMMENDATION

### APPROVE subject to the following conditions:

- 1 Planning permission is granted for a temporary period only, expiring on 1st July 2023, after which time the use shall cease. No glamping pods or associated structures shall be on site after the 1st July 2023 and the land shall be re-instated to its former condition no later than the 1st September 2023.

Reason: The nature of the use is considered to be acceptable on site for a temporary period of two years to enable the Local Planning Authority to assess the re-establishment of the farm enterprise.

- 2 This planning permission relates to the following approved plans and documents:

1 Site Plan Showing Proposed Pod Layout and Toilet Facilities, 02 Plan and Elevations of Proposed Pod Unit - Type 1 and 3 Plan and Elevations of Proposed Pod Unit - Type 2, received 12th October 2018. 4 Site Location Plan, received 29th April 2021.

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

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- 3 The camping pods shall be used for holiday accommodation only and shall not be occupied by any person or persons for more than 28 consecutive days or for more than 65 days in any calendar year.

The site operator shall maintain an occupancy register of all occupiers of the camping pods, which shall be made available to the Local Planning Authority for inspection upon request.

Reason: In order to ensure that the accommodation is occupied solely for holiday accommodation only and not for any other residential purposes.

### **Informatives**

- 1 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 2 The national development plan is Future Wales: The National Plan 2040. The following policies were relevant to the consideration of the application: Policies 1, 2, 4, 5 and 9
- The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: Policies PS2, CV2, CV5, ER4, TR1, TR3 and TR6
- 3 The application is advised that Llanrhidian Lower footpath 12 is adjacent to the site boundary. The footpath should not be blocked or obstructed at any time unless a temporary closure order is applied for.
-