

## Planning Committee – 9<sup>th</sup> May 2023

Item 1

Application Number:

2023/0381/FUL

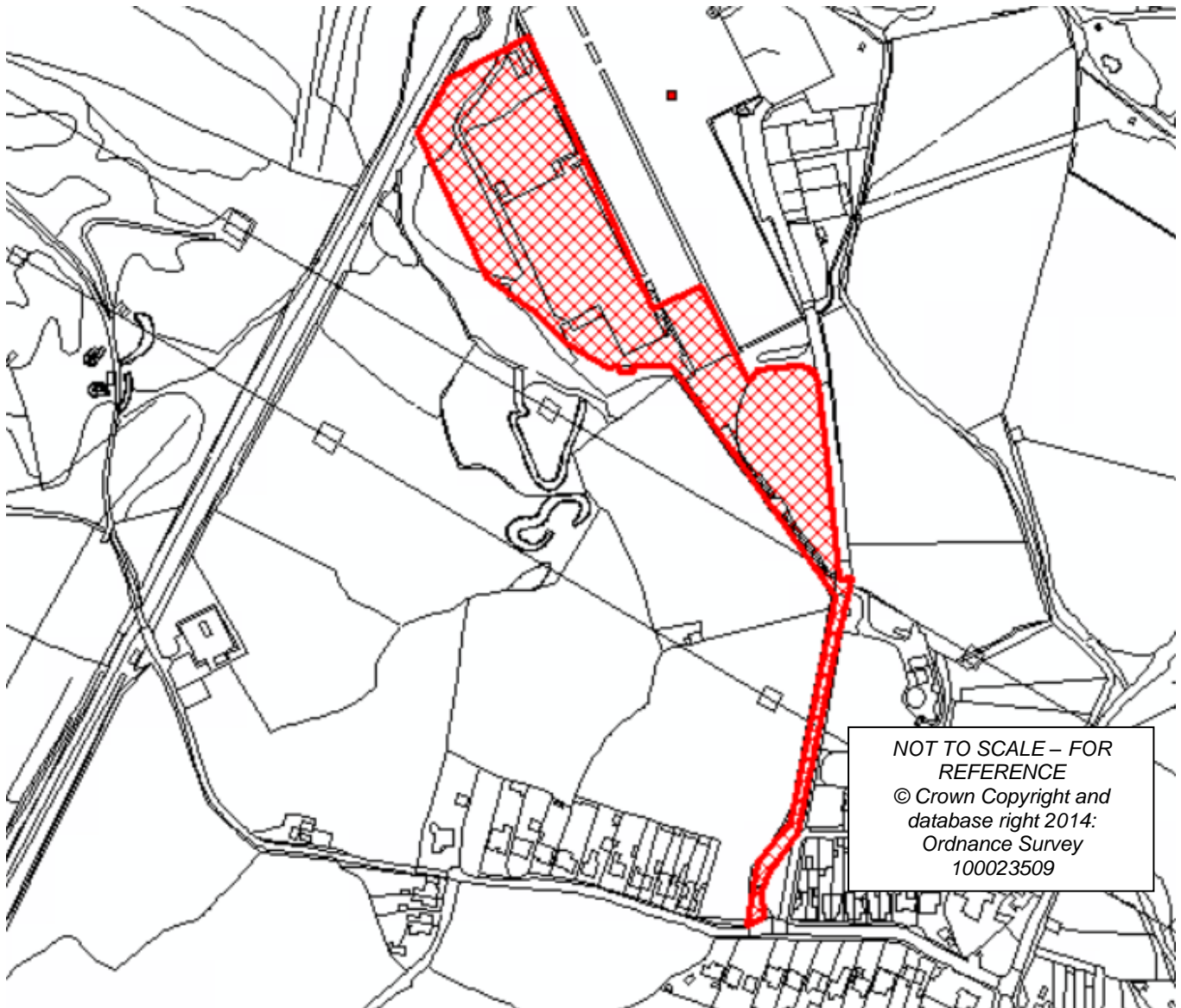
Ward:

Pontarddulais - Area 1

**Location:** Unit 8 , Lye Industrial Estate, Pontarddulais, Swansea, SA4 8QD

**Proposal:** Erection of rear extension (6,226sq.m) to existing warehouse and distribution centre along with demolition of existing link between buildings and part of existing building to facilitate the addition of a new loading bay

**Applicant:** MacMillan Distribution



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### Background

**This application is reported to Planning Committee for decision as the proposed floor areas of the building would exceed 2,000m<sup>2</sup> and the development to be carried out is on a site having an area of 2 hectares or more.**

The proposal relates to the existing Macmillan Publishing warehousing and distribution facility at Lye Industrial Estate, Pontarddulais. The proposed development would assist to achieve an increase in storage capacity at their existing book distribution warehouse. The supporting information indicates that the proposal is necessary in order to secure further investment at the Pontarddulais site

Macmillan Distribution currently has its main storage and distribution facility at the Lye Industrial Estate, Pontarddulais. However, in addition the Company also operates a satellite book warehouse facility at Baglan, Port Talbot. Goods are transferred internally from Baglan to Lye Industrial Estate for onward distribution. It is advised that there are several daily transfer movements between the Lye Industrial Estate and Baglan sites.

The extension to the existing facility is needed to facilitate the existing business on one site only. As stated above, the Company also operates a satellite book warehouse facility at Baglan, Port Talbot and this is an inefficient way for the Company to operate as trips are regularly made between Baglan and the Pontarddulais.

The proposal at the Lye Industrial Estate will enable the Baglan facility to close with Macmillan able to undertake its entire operation without the requirement for the additional facility.

The application site has an area of approximately 9.34 hectares. The proposal would be classed as an infrastructure project under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. As the area of development exceeds the 5 hectare threshold specified within the Schedule, a Screening Opinion was carried out in accordance with the above regulations.

Following this process, it was considered that this proposal, by virtue of its nature and location, would not have significant effects on the environment. It was therefore determined that an Environmental Impact Assessment was not required to be submitted with this application.

### Site Location

The site forms part of an established distribution centre located on the northern side of Pontarddulais. The Industrial estate is outside of the settlement boundary within an area of open countryside and within a Special Landscape Area.

To the north of the site are the lakes associated with the White Springs Fishery, to the east and south of the site is open agricultural land beyond which are the residential properties located along Glanffwd Road. The Heart of Wales railway line (Swansea - Shrewsbury) runs immediately adjacent to the western site boundary beyond which is further open countryside. The access road leading from Glanffrwd Road is a public footpath (Ref LC104).

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### Description of Development

The proposal comprises of the construction of a 6226sq.m (Class B8 Storage and Distribution) extension (to a circa 32,500sq.m book distribution warehouse). The extension would be sited on land that previously housed buildings demolished following the grant of planning permission for construction of a new warehouse building and covered link walkway in 2010, planning application reference 2009/1500.

The extension is to the north-west of the existing building, increasing its length by approximately 75 metres (overall length would be 193m) and extending 23.5m closer to the site boundary. The extension will be the same height as the existing building (eaves height to be 25.706m AOD with building height (to eaves) from ground level to be 14.056m).

The proposal also comprises:

- Partial demolition (710sq.m) of the southern end of Unit 1 to be replaced with a new unloading yard for HGVs;
- Raising the height of the retained southern end of Unit 1 (approximately a section of 20m) adjacent to the new unloading yard (eaves height to be 25.706m AOD with building height (to eaves) from ground level to be 14.056m);
- A new covered pedestrian walkway between the extension and the adjacent Unit 2;
- A reconfigured fire access road located around the perimeter of the new extension; and
- A new loading dock facility and 24m turning circle.

The proposed extension will use the same materials as the existing building. The cladding panels will be coloured in Olive green (BS12B27) with the roof cladding to be Goosewing Grey (BS10A05). The roof will also have inset double skin translucent panels to reduce the amount of artificial lighting (to match existing buildings).

### Planning History

2006/0612	Demolition of two units with construction of new single storey unit, incorporating two storey office and additional car and lorry parking Spaces. Approved on 7th September 2006.
2009/1500	Demolition of existing buildings near south western boundary, and construction of new warehouse building and covered link walkway. Approved on 21st January 2010.
2021/1922/PRE	PRE APP for extension to existing storage warehouses. Mixed response 30th September 2021.
2022/0330/PRE	PRE APP for extension to existing warehouse. Mixed response 16th May 2022.

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**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 5 - Supporting the Rural Economy

Policy 8 - Flooding

Policy 9 - Resilient Ecological Networks and Green Infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

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

PPW (Edition 11) was published by Welsh Government in February 2021 and is the complete land use planning policy document for Wales, providing the foundation for all national, regional and local planning policies. Whilst not part of the Development Plan it has substantial weight in the planning process. The Welsh Government also published in July 2020 Building Better Places which pinpoints the most relevant policy priorities and actions to aid in the recovery. Building Better Places recognises the pivotal role that planners play in shaping our society for the future. They must plan for our priorities around placemaking, decarbonisation and well-being.

The following key sections and extracts from PPW are of particular relevance:

The concept of placemaking is central to PPW and highlighted as key to delivering on the aspirations of the Well-being of Future Generations Act and achieving well-being through development management decisions. PPW (p 14) 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.

PPW states the 6 placemaking principles of the Wales Placemaking Charter (to which the Council is a signatory) that should be referenced in decision making as: people and community; location; movement; mix of uses; public realm; and identity (pg 16).

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PPW states: In responding to the key principles for the planning system, the creation of sustainable places and in recognition of the need to contribute to the well-being of future generations in Wales through placemaking, development plans and development proposals must seek to deliver developments that address the national sustainable placemaking outcomes (para 2.17).

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 (para 3.3).

Biodiversity and Resilience of Ecosystems (S6 Duty) (paras 6.4.1 to 6.4.9) - In accordance with s6 of the Environment Act 2016, the Council has a duty to maintain and enhance biodiversity. [NB: In Swansea, the section 6 duty is embedded as one of the 4 Well Being Objectives in the Public Service Board's Well Being Plan - "Working With Nature". It is also included as Objective 6 of the Council's Corporate Plan "maintaining and enhancing Swansea's Natural Resources. The s6 duty means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so, the LPA must take account of and promote the resilience of ecosystems, in particular the following aspects: diversity, connectivity, scale, condition and adaptability. In fulfilling this duty the LPA must have regard to S.7 list of habitats and species important for Wales and the SoNaRR and any up to date ecological survey information provided.

Planning authorities must follow a step-wise approach to maintain and enhance biodiversity and build resilient ecological networks by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for; enhancement must be secured wherever possible.

Sustainable location (para 3.43 and 4.2.16) - PPW states that in terms of the search sequence for identifying sites for development LPAs should consider allocating previously developed land and/or underutilised sites located within existing settlements in the first instance with sites on the edge of settlements considered at the next stage.

Sustainable travel (para 4.1.19-30 and 4.1.40-41) - The planning system has a key role to play in reducing the need to travel and supporting sustainable transport, by facilitating developments which: are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car; are designed in a way which integrates them with existing land uses and neighbourhoods; and make it possible for all short journeys within and beyond the development to be easily made by walking and cycling. Well-designed, people orientated streets are fundamental to creating sustainable places and increasing walking, cycling and use of public transport. New development should improve the quality of place and create safe, social, attractive streets where people want to walk, cycle and enjoy, and children can play. The Welsh Government policy, Manual for Streets (MfS) and its companion guide MfS 2, requires that street design should not follow the conventional engineering-led approach.

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The design of new or enhanced streets should respond to urban design principles, including those in MfS and the Active Travel Design Guidance. Planning authorities must ensure the design of streets contributes to the creation of high-quality places, which will require a multi-disciplinary approach, and should challenge development proposals with standardised, prescriptive, engineering-focussed, risk-adverse street designs. Design and Access Statements should demonstrate how the design of new or enhanced streets has responded to urban design principles.

The design and layout of streets must give a high priority to their role as public spaces and meeting the needs of pedestrians, cyclists and public transport users, reflecting the principles of the sustainable transport hierarchy. To create streets that are social places, the public realm needs to be safe and attractive and the street designed for low speeds of 20 mph or less. To make streets safer and more attractive places for people, the Welsh Government is making 20 mph the new default speed limit for most streets and taking measures to prevent pavement parking. Active travel infrastructure should be put in place early on in a development, and before the people living there move in, to support active and healthy travel patterns from the outset.

Protection and Management of Designated Sites: (paras 6.4.15- 21) - Protection for Non-statutory biodiversity designations can make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given adequate protection in the development management process. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the County Ecologist and third sector environmental organisations. Assessments should consider the presence of protected and priority species including those on the Section 7 list and appropriate weight attached to their protection. Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated.

Green infrastructure (para 6.2.1 - 6.2.5) - is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. The delivery of multi-functional green infrastructure can make a significant contribution to the sustainable management of natural resources, in particular to maintaining and enhancing biodiversity and the resilience of ecosystems in terms of diversity, extent, condition, connectivity and adaptability. This means that development of Green Infrastructure is an important way for local authorities to deliver their Section 6 Duty. Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and is 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 quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design.

Development and Flood Risk (Para 6.6.22, 6.6.25, 6.6.27) - Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers. Development should reduce, and must not increase, flood risk arising from river flooding on and off the development site itself. Development should not cause additional run off, which can be achieved by controlling surface water as near to the source as possible by use of SUDS.

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Land Contamination (para 6.9.16) - Opportunities offered by the planning system to address land contamination should be maximised as part of its preference for the use of PDL

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

PS 1 Sustainable Places - the delivery of new homes, jobs, infrastructure and community facilities must comply with the plan's sustainable settlement strategy which; directs development to the most sustainable locations within defined settlement boundaries of the urban area and Key villages; requires compliance with Sustainable Housing Strategy (PS 3) and Sustainable Employment Strategy (PS 4); safeguards Green Wedges; and resists development in the open Countryside.

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

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.

RC 10 Employment and Enterprise Development - Land which is in active, viable employment use is considered part of the County's employment land bank and will be protected for B Class employment generating uses. Proposals outside of these areas will need to demonstrate why the proposal cannot reasonably be located within an existing employment area, or designated Strategic Development Areas having regard to the nature and scale of the scheme.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multifunctional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

ER 5 Landscape Protection - Development will not be permitted that would have a significant adverse effect on the character and quality of the landscape of the County.

Priority will be given to protecting, enhancing and managing the character and quality of the 4 Special Landscape Areas (SLAs) (shown on the Proposals Map). Within SLAs development will only be permitted where there is no significant adverse impact, including cumulative impact, on the character and quality of the landscape, a landscape assessment may be required.

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Permitted development should aim to protect and enhance the features for which the SLA has been designated. In exceptional circumstances, where development that will have a significant impact on the landscape is necessary, a landscaping scheme will be required with appropriate mitigation and enhancement measures.

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 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.

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. 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.

RP 1 Safeguarding and Public Health and Natural Resources - development that would result in significant risk to life; human health and wellbeing; property; controlled waters; or the historic and natural environment, especially European designated sites, will not be permitted, particularly in respect of the specified potential risks.

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.



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RP6 Land Contamination - development proposals on land where there is a risk from actual or potential contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any significant risk to life, human health, property, controlled waters, or the natural and historic environment.

RP 7 Land Instability - Development which would create, affect or might be affected by unstable or potentially unstable land will not be permitted where there would be a significant direct risk to life, human health, property, buildings and structures, or the natural heritage on the site or in its vicinity.

Development will only be permitted on unstable or potentially unstable land where it is in line with policy principles. Development is not permitted within Graig Trewyddfa Slip area.

RP 13 Safeguarding Minerals - Development within mineral safeguarding areas that would permanently sterilise identified resources of aggregates will only be permitted where it can be demonstrated compliance with specific criteria. Development of a temporary nature will only be permitted where the site can be restored within a timescale that the mineral is likely to be needed.

HC 3 Development in the Welsh Language Sensitive Area - Proposals within the Language Sensitive Area (defined on the Proposals Map) will safeguard and promote the Welsh language throughout the County by complying with the policy principles.

T 1 Transport Measures and Infrastructure - Development must be supported by appropriate transport measures and infrastructure and dependant the nature, scale and siting of the proposal, meet specified requirements. Development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.

T 2 Active Travel - Development must take opportunities to enhance walking and cycling access either by incorporation within the site, and/or making financial contributions towards the delivery off site of specific measures, as specified in the policy. Developments must not have a significant adverse impact on existing active travel routes as specified in the policy.

T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

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.

Proposals on existing car parks that would reduce parking provision will not be permitted where the loss of the parking facility would result in outcomes specified in the policy.

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T 7 Public Rights of Way and Recreational Routes - development that significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW) will only be permitted where an acceptable alternative route is identified and provided. Linkages, and where appropriate extensions, to the existing PROW network will be expected from all new developments, which must have regard to the existing character of the PROW and the aspiration to improve access for all.

EU 2 Renewable and Low Carbon Energy Technology in New Development - development will be required to maximise the contribution of renewable or low carbon energy technology to meet the energy demands of the proposal, particularly for Significant Energy Consuming Developments. Larger schemes, as specified in the policy, will be required to submit a comprehensive Energy Assessment to determine the feasibility of incorporating low carbon or renewable energy installations into the scheme and/or connect to renewable or low carbon energy technology and district heating networks.

### **Supplementary Planning Guidance:**

The supplementary planning guidance documents: 'City and County of Swansea Parking Standards' (Adopted 2012), 'Development and Biodiversity' (Adopted 2021) and 'The Protection of Trees on Development Sites' (Adopted 2016) are also relevant to the determination of this application.

The above SPG provide information and guidance to clarify the policy aims of the relevant LDP Policies as set out above. These SPG have been formally adopted by the Council following public consultation and stakeholder engagement that informed the content of the documents. Some of the SPG documents were adopted by the Council prior to the LDP being formally adopted, and in due course the SPG documents will be subject to an updated public consultation and a re-adoption process. Notwithstanding this, it is considered appropriate to have regard to the content of the SPG given: it is fundamentally aligned to (and referenced as a supporting document within) the relevant LDP Policies and are considered to be consistent with national guidance and the overarching principles of Placemaking set out within PPW and the relevant TANs. Ultimately the SPG documents provide useful guidance to confirm how the Council considers the relevant LDP Policy aims and objectives should be interpreted.

### **Consultations:**

#### **Local Highways Authority (LHA):**

The current planning application follows on from the pre-app. A Transport Statement has been prepared by Wardell Armstrong in support of the planning application.

In terms of addressing the issues previously identified the scheme now includes:

1. Provision for EV charge points;
2. Staff numbers are not increasing;
3. Travel plan has been submitted;
4. TS provides clarification on HGV movements;
5. Welsh Government accident data has been reported in the TS; and
6. Swept path analysis has been included within the TS.

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The proposed development comprises a circa 20 % increase in floorspace to enable the rationalization of the Macmillan Distribution Ltd (MDL) South Wales operations and allow for the relocation of an existing satellite warehouse at Baglan Port Talbot to the Lye industrial estate.

The size of the development did not meet the threshold for a full Transport Assessment however it was agreed that a Transport Statement would be provided.

The unit employs 306 persons and operates over four shifts. The supporting document states that no material increase in staffing above current levels is proposed.

Goods are delivered by HGV's and MDL have quantified the typical movements per week, these are 103 deliveries (206 movements) inbound and 60 deliveries (120 two way movements) outbound per week, averaging 43 movements per day. The extension will allow the Baglan depot to be incorporated in the existing unit and hence will save 18 HGV movements per week from taking place. Deliveries vary across the week and there is no identified peak period. Overall the extension will focus all operations at the Lye site and overall result in a minor increase in HGV movements (4 per week) but a reduction in LGV movements (98 per week).

Car parking is currently available at 136 spaces and cycle storage is also provided for up to 20 cycles. MDL also run a cycle to work employee benefit scheme. Access to the site is provided via a priority junction with Glanffrwd Road. The access is subject to a 10mph speed limit and allows for two way vehicle flow but there is no pedestrian segregation.

Visibility is acceptable at the junction and there is no record of any police reported traffic accidents within the last three years.

A travel survey was undertaken and unsurprisingly the dominant mode was as a car driver/passenger (89%), 3% walked, 4% cycled and 4 % travelled by motorcycle. There were no users of public transport which given the remote nature of the site and infrequent services is to be expected.

There is no dedicated footway provision on the access road despite it being a signed public right of way (LC104). The speed limit is 10mph and it is stated that speed reducing measures are in place.

CCS Active travel routes are planned in the area that will encourage travel by more sustainable modes.

During the pre-app consultation it was advised that a pedestrian segregated route would be desirable. However the applicant has responded that in order to maintain two way flow for HGVs there is an insufficient width to accommodate a footway remaining. Given that there is now not anticipated to be any increase in staff numbers (hence minimal increase in pedestrian movements) then this is not considered sufficient cause to warrant a recommendation of refusal on highway safety grounds.

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Section 4.2.9 of the TS identifies proposed measures (ref plan CA12374-002-A) to make the existing vehicular access a more pleasant environment for walkers/cyclists and this is considered to be beneficial in delivering sustainable transport options and reduce over reliance on private vehicles. The drawing however does not indicate any street lighting other than on the new speed tables but this can be secured by condition.

Turning to car parking the existing layout comprises 136 spaces. This is below the standards as set out in the parking guidelines however the operation is existing and the layout is sufficient for the staffing needs. The proposed extension will remove 15 spaces in providing a new turning facility however a further 36 spaces have been accommodated elsewhere within the site so the nett effect is an increase of 21 spaces to 157 spaces. 137 are standard spaces, 16 for EV charging and 4 for disabled parking.

The internal site layout is being changed but a swept path analysis has been provided to support the entry/exit in a forward gear. In addition, the site is accessible to emergency vehicles including fire tenders.

A draft Travel Plan has been submitted the key objectives of which are to promote more sustainable modes of travel and reduce reliance on private cars. The proposed works to the access road should go some way in supporting those aims. A car share platform is also being proposed. The TP targets that within 5 years the number of employees driving to work will not exceed 70%. A Travel Plan Co-ordinator is to be employed for a minimum five years period, and after that as required.

Overall the proposal is not considered to give rise to any highway safety concerns, vehicle trips are marginally increased but this would be offset by a reduction of vehicle movements to and from the site to Baglan.

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

1. The access improvements as shown on Drawing CA12374-002-A being laid out in accordance with the approved plans prior to beneficial use of the extended site commencing and to be retained as such thereafter, the scheme should also include for additional street lighting to promote sustainable travel.
2. The buildings shall not be brought into beneficial use until the access and revised parking layout have been completed and made ready for use, in accordance with the approved drawings. The parking areas shall be made available for vehicular parking all times thereafter.

### **The Coal Authority:**

The Coal Authority Response: Material Consideration

I have reviewed the proposals and confirm that part of the application site falls within the defined Development High Risk Area.

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The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals.

As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application site and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering this particular proposal, the specific part of the site where development is proposed is not within the defined Development High Risk Area so we do not consider that a Coal Mining Risk Assessment is necessary for this proposal and do not object to this planning application.

However, in the interests of public safety the Coal Authority would recommend that the following wording is included as an Informative Note within the Decision Notice:

*The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.*

Further information is also available on The Coal Authority website at [www.coal.gov.uk](http://www.coal.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)

### **Natural Resources Wales:**

We have concerns with the application as submitted. However, we are satisfied that these concerns can be overcome by attaching the following conditions to any planning permission granted:

Condition: Construction Environment Management Plan (CEMP)

Condition: Unsuspected Contamination

Please note, without the inclusion of these conditions we would object to this planning application. Further details are provided below.

### *Protected Sites:*

The site is 44m from the main river, Camffrwd, which hydrologically connects to the Carmarthen Bay and Estuaries SAC, Burry Inlet SPA and Ramsar, and Burry Inlet and Loughor Estuary SSSI. Due to the scale of construction and proximity to the watercourse, there is a potential pathway for pollution from the development to enter and affect the water environment.

However, it may not result in an adverse effect if the developer implements/adheres to pollution prevention guidelines and we would advise that a Construction Environmental Management Plan (CEMP) is undertaken for the site. This should include site-specific measures which will be put in place to prevent pollution to the surrounding land and water environments.

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No assessment of likely significant effect under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 has been undertaken by your authority or it has not been forwarded to NRW for consideration. Should you conclude that the proposed development is likely to have a significant effect on the European site, we look forward to being re-consulted. In the absence of this assessment, we cannot offer assurances that the proposals would not result in an adverse effect upon the SAC.

Condition:

No development shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures; measures to control light spill and the conservation of dark skies.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
- Traffic Management: details of site deliveries, plant on site, wheel wash facilities
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
  
- Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

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### *Land Contamination:*

The following reports have been reviewed:

- Geotechnical and Phase II Contamination Report by Integrale (Feb 2022)

Data in the report identified asbestos present in two samples of Made Ground and some hydrocarbons were also recorded within Made Ground above the LOD (but below the respective criteria for a commercial use). The site is not considered to be of particularly high priority, owing to the secondary aquifers beneath the site and the nature of the proposed development.

However, we would recommend that the following condition for unsuspected contamination should be included in any grant of planning permission:

### Condition:

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

### *Flood Risk:*

The planning application proposes less vulnerable development in the form of an extension to an existing warehouse and distribution centre. Our Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk (2004). The Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding, falling into Flood Zone 2 and Flood Zone 3 for Rivers.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an Flood Consequences Assessment (FCA) that the potential consequences of flooding can be managed to an acceptable level.

We have reviewed the submitted FCA prepared by Wardell Armstrong, dated December 2022 (Ref: CA12358/FINAL). The FCA has been informed using an NRW hydraulic model, a 1D-2D linked ESTRY-TUFLOW model of Pontarddulais, and User Report for Pontarddulais (2019). This model was updated by Hydroland Consulting Engineering Ltd by the addition of local topographical data.

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NRW has not reviewed the model updates or the Digital Terrain Model but would agree with the facts of the FCA regarding model updates and results. They appear to be suitable and appropriate for the scale and nature of the development.

The report also states that the finished floor level of the site is to be set at 11.65AOD, which is 1.27m above the 1 in 100 year (plus climate change) event flood depth.

Overall, the FCA demonstrates that the risks and consequences of flooding are manageable to an acceptable level, as it complies with Section A1.14 and A1.15 of TAN15 and demonstrates no increase in flood risk to third parties. Therefore, we have no objection on flood risk grounds to the application as submitted.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

### *Ancient Woodland:*

We note that a small portion of the site contains Ancient Woodland. Planning Policy Wales recognises the significant value of ancient woodlands and makes provision for their protection against damage or loss.

### **Network Rail**

Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk)

### *Drainage:*

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s).



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Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels - if altered, to be such that water flows away from the railway. Drainage does not show up on Buried service checks.

### *Site layout:*

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

### *Piling:*

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### *Excavations / earthworks:*

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

### *Demolition:*

The demolition works on site must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building, due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence.

Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings/structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.

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### *Plant, scaffolding and cranes:*

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

### **Health and Safety Executive:**

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of major hazard sites and major accident hazard pipelines.

The proposed development is located fully within the inner HSE consultation zone of the 28 Feeder Felindre (Swansea)/Brecon Major Accident Hazard Pipeline. The development is proposed to be a 6,226 sq.m extension to an existing warehouse which currently has more than 100 occupants. Within HSE's methodology this would be classified as a sensitivity level 2 development. HSE would advise against a sensitivity level 2 development located within the inner zone.

However, Rule 4 within HSE's methodology applies in certain circumstances with an 'Advise Against' response where the proposed development involves an extension to an existing facility such as this. Within the planning application, and from correspondence with the planning authority, it is detailed that there will be no material increase in the staff levels as a result of this development. Using Rule 4b it can be determined that as the population at the development will not increase by more than 10%, the sensitivity level can then be reduced to a sensitivity level 1 development. HSE would not advise against a sensitivity level 1 development within the inner zone.

Consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

This advice supersedes that gained through the HSE Land Use Planning Web App on 24/02/23 (HSL-230224150801-268). In these circumstances, there is no need for HSE to consider requesting that the application be called-in by the Secretary of State for his own determination.

### **Placemaking and Strategic Planning:**

#### *Overview*

This full application relates to Unit 8 on Lye Industrial Estate in Pontarddulais, Swansea, and proposes the erection of a rear extension (6,226sq.m) to the existing warehouse and distribution centre along with the demolition of an existing link between the buildings and part of the existing building to facilitate the addition of a new loading bay. The supporting information indicates that the extension is necessary in order to secure further investment at the Pontarddulais site.

The proposal was subject to a previous pre app (2022/0330/PRE) to which detailed Placemaking and Strategic Planning comments were provided and are applicable to this response. This concluded:

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The proposal involves the extension of an existing established business within a Special Landscape Area in the open countryside. It is considered the proposal would be acceptable in line with Policy CV2. The submitted landscape assessment indicates the landscape has the capacity to accommodate a development of the scale proposed and that the appraisal has shown that the potential for adverse effects on landscape character and visual amenity resulting from the proposed development would be limited in scale and that none of the effects would be significant. This conclusion appears reasonable. Subject to the comments of the Councils Landscape Officer the proposal is considered acceptable in line with Policy ER5.

The site is within a C2 floodplain and in line with TAN 15 a Flood Consequence Assessment has been submitted. The applicant considers the proposal meets the justification tests in section 6.2 of TAN 15. This conclusion appears reasonable. However, consultation with NRW and the Councils drainage engineers on the submitted FCA should be undertaken to determine whether a future proposal could be considered acceptable in line with Policies RP1 and RP5. Importantly, the applicant should be advised of the position set out above in terms of the new TAN and the NRW approach to advice.

The site is located within a Welsh Language Sensitive Area. In line with Policy HC3 any future planning application would need to provide a Welsh Language Action Plan (WLAP). It is important to note that the WLAP does not have to be extensive but meet the policy principles of HC3. It should be proportionate to the proposed development and can be incorporated as part of another document as long as it is clearly signposted as the WLAP (such as a planning statement).

The site is adjacent to a Mineral Safeguarding Area, SINC and Ancient Woodlands. However, it is not considered that the proposed development would have an unacceptable impact in relation to these designations.

Finally, any future scheme would need to be acceptable in terms of highways impact including the provision of electric vehicle charging infrastructure and also the development of historic contaminated land. Relevant Council colleagues will advise on these matters to inform any future planning application.

### *Principle of Development*

The principle issues are the acceptability of the proposed development in respect of its countryside location within a Landscape Protection Area and its location within a flood risk area and a Welsh Language sensitive area.

*Countryside Location and Landscape Protection Area* - Previous comments set out in relation to the pre app response and summarised above in relation to Policy CV2, RC10 and ER5 remain relevant to the consideration of the application. Flood Risk - In respect of

*Flood Risk matters* - previous comments are also applicable. Fundamentally the proposal will need to be in compliance with RP4 and RP5. It is noted an updated FCA (December 2022) has been provided and having regard to this the applicant considers the justification tests can be satisfied.

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If the technical merits of the updated FCA are found to be acceptable following consultation with the Council drainage engineers and NRW, this conclusion would be reasonable. In respect of the new Flood Map for Planning, the extension would be located within Flood Risk Zones 3 - with pockets in Flood Risk Zone 2. This data is considered the best available information held on flood risk. A revision to the Draft Amended TAN 15 is currently out for consultation until 17 April 2023 which has a far more restrictive approach to new development in flood risk areas. This is not yet adopted policy and the proposal should be assessed against the current TAN15, however it is noteworthy that the current draft TAN15 sets out that the proposal would need to meet more stringent tests for a less vulnerable use within a Flood Risk Zone 3 area.

*Welsh language* - Previous comments on the pre app identified that given its location within a Welsh Language Sensitive Area a Welsh language Action Plan should be submitted: It is important to note that the WLAP does not have to be extensive but meet the policy principles of HC3. It should be proportionate to the proposed development and can be incorporated as part of another document as long as it is clearly signposted as the WLAP (such as a planning statement). From the information currently submitted, it does not appear that members of the public will visit the site (i.e. no retail or sales services on site). The WLAP should recognise the sites location within the WLSA and state if the proposal will involve any enhancement, promotion and/or mitigation measures, such as bilingual signage around the site (and maybe internally).

Other measures could include support they wish to give/could suggest in terms of Welsh language provision and/or promotion (such as lessons, clubs or societies) for employees.

If any community consultation will take place with regard to any forthcoming planning application regard should be had for the Welsh language as part of that process and that could be highlighted within the WLAP.

The Planning Statement includes a section entitled Wales Language Action Plan. This sets out that there are very few welsh speakers within the company and accordingly it does not have a welsh language policy. However the company has outlined it will convert all external signs to bilingual to help preserve the welsh language. In addition the PAC consultation included site notices in English and Welsh and consultation letters to councillors and stakeholders were sent out in English and welsh. It is indicated that the proposal will create further long term employment opportunities in the warehouse. Therefore should the Case Officer consider it reasonable the WLAP could include a commitment to ensure that all internal signage is bilingual to promote the welsh language to future employees. Given the low level of welsh speakers it may also be reasonable for the company to explore opportunities to promote take up of the welsh language through lessons or active promotion of relevant welsh groups/societies/classes in the local area as a notification for employees. The Case Officer can conclude whether the above measures are acceptable in line with Policy HC3

*Ancient Woodland* - The pre app response highlighted the proximity of the site to Ancient Woodland. The Arboricultural Assessment (AA) indicates that through liaison with NRW the woodland area to the north west bordering the railway line was classed as Ancient Woodland of unknown category. NRW have confirmed this will be removed from the Inventory however an area to the west of the site in close proximity to the development will remain as an ancient woodland site of unknown category. The AA states this will not be affected by development.

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The AA states the proposal will result in the loss of two Category C trees. However, the Trees Woodland SPG indicates the tree replacement standard does not apply to such trees. Nevertheless, the AA indicates replacement tree planting will be delivered which will support biodiversity enhancement. Subject to tree officers comments the proposal appears acceptable in line with Policy ER11 and the Trees, Woodland SPG.

*Mineral Safeguarding Area* - Previous comments outlined the site is adjacent to a Mineral Safeguarding Area for Categories 1 and 2 sand and gravel mineral resources. However, given the location of a train track between the site and the safeguarded mineral, it is unlikely that the development will result in significant proximal sterilisation of the mineral resource and therefore accords with Policy RP13.

*Energy* - The Planning Statement highlights Policy EU2 as a relevant policy for determination of the application given the size of the proposed extension. In line with this policy for non-residential developments of 1000sqm or more they are required to submit an Energy Assessment to determine the feasibility of incorporating low carbon or renewable energy installations. It doesn't appear an Energy Statement has been submitted with the application. Further information on the Energy Assessment for the proposal should be provided with the application. This demonstrates the commitment to improving the sustainability credentials of the building and reducing CO2 emissions. The DAS for example highlights that the development will incorporate a range of sustainable measures in order to comply with the 'Very Good' rating under BREEAM.

### *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:

Future Wales Policy 2 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, and
- 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, and that
- 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.

In line with Policy ER2 development should 'take opportunities to maintain and enhance the extent, quality and connectivity of the County's Multifunctional Green Infrastructure network'.

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All development should demonstrate that opportunities to maintain and enhance the County's GI network have been explored which should be proportionate to the nature of scheme. The proposal will need to incorporate Sustainable Drainage to be determined through a SAB application and this should be considered as part of the overall GI approach for the site. It is noted that as part of the Biodiversity enhancement measures this will deliver additional GI on site. Whilst it is only reasonable for incorporation of GI to be proportionate to the nature of the scheme, nevertheless all opportunities to contribute to new GI will enhance the provision and connectivity of the wider County GI network.

### *Biodiversity Enhancement*

Complementary to the need to align with placemaking requirements, developments are required to take opportunities to enhance biodiversity and integrate nature-based solutions to the design process wherever possible, in line with Development Plan policy and having regard to Council adopted SPG on Biodiversity and Development. This reflects the Council's duty under Section 6 of the Environment (Wales) Act 2016 ('the S6 duty').

Future Wales Policy 9 and PPW require that:

- all applications demonstrate the actions that have been taken where possible to maintain and enhance biodiversity and ecosystem resilience, as well as relevant GI assets.
- a clear and proportionate approach is taken to considering biodiversity and securing overall enhancement.

An ecological Impact Assessment has been prepared (Feb 22). The planning statement appropriately considers the Biodiversity SPG and the Stepwise process. The applicant considers the ecological reports meet the requirements of the SPG and Stepwise process. It states that the proposal will result in the loss of 275m<sup>2</sup> of semi natural woodland to facilitate construction of the extension however 550m<sup>2</sup> of woodland will be planted to compensate. In addition an area of dense scrub (1500m<sup>2</sup>) will be delivered as part of ecological compensation proposals. The planning statement indicates that biodiversity enhancements are proposed at retained woodland, bird and bat boxes, soil mounds for mining bees and brush piles for hedgehog. Ultimately the Councils ecologist will identify if the biodiversity enhancements proposed are acceptable and a clear and proportionate approach has been taken to considering biodiversity and securing overall enhancement on site.

Extracts from the Council's Biodiversity and Development SPG are provided in Annex B of this response. These relate to how the requirement for biodiversity can be addressed, as well as details of specific measures that could be provided to enhance biodiversity and ecosystem resilience.

*Other Key Issues Transport* - A Transport Statement has been provided. Highways colleagues will provide advice regarding matters relating to the impact of the proposal on the network, provision of parking, measures to promote sustainable travel options to the site. Ultimately, the scheme would need to satisfy the requirements set out in Policies T1, T2, T5 and T6 of the LDP. Similarly in line with Future Wales, 10% of car parking spaces should incorporate EV charging. This will need to be secured by condition.

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*SUDS* - Given the scale of the application the proposal will need to incorporate Sustainable Drainage and will require a separate SAB application. It doesn't appear this has been considered. The SUDS proposal should appropriately consider how this can contribute to the overall delivery of GI across the site.

*Historic Contaminated Land (Glanhir)* - The site is identified as historic contaminated land. A contaminated land assessment has been provided. The Council's Contaminated Land officer should be consulted as to whether the proposal complies with Policy RP6.

*Site of Importance for Nature Conservation* - The site lies in close proximity to the Ynys Marches and Slopes SINC. An ecological assessment has been submitted which concludes the development will not result in a direct loss of habitats within the SINC. The Council's Ecologist will be consulted as to whether these findings are reasonable and whether the proposal is acceptable in line with policy ER6.

### *Final Comments*

The proposal involves the extension of an existing established business within a Special Landscape Area in the open countryside. As referred in our previous pre app response it is considered the proposal would be acceptable in line with Policy CV2. Similarly the submitted landscape assessment indicates the landscape has the capacity to accommodate a development of the scale proposed and that the appraisal has shown that the potential for adverse effects on landscape character and visual amenity resulting from the proposed development would be limited in scale and that none of the effects would be significant. This conclusion appears reasonable. Subject to the comments of the Council's Landscape Officer the proposal is considered acceptable in line with Policy ER5.

The site is within a C2 floodplain and an updated Flood Consequence Assessment has been submitted. The applicant considers the proposal meets the justification tests in section 6.2 of TAN 15. Consultation with NRW and the Council's drainage engineers on the submitted FCA should be undertaken as to the technical acceptability of this to determine whether it could be considered acceptable in line with Policies RP1 and RP5. It should be noted however whilst the existing TAN15 represents the current adopted national policy on flood risk, an amended draft TAN15 is currently out for consultation until 17 April which has a more restrictive approach to less vulnerable development within the Flood Zone 3 in the new Flood Map for Planning.

The site is located within a Welsh Language Sensitive Area. The Planning Statement sets out its approach to the Welsh language Action Plan. The Case Officer will need to decide if the measures are reasonable and proportionate to the proposed scheme and meet the policy principles of HC3.

Given the scale of the proposal an Energy Statement needs to be provided in line with Policy EU2.

The site is adjacent to a Mineral Safeguarding Area, SINC and Ancient Woodlands. The assessments indicate the proposals would not have an unacceptable impact in relation to these designations.

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In line with Policy ER2 appropriate and proportionate GI enhancements should be secured across the site. This should be considered alongside necessary SUDS provision. In line with Policy ER9 an Ecological Impact Assessment has been undertaken and a series of biodiversity enhancements are proposed. It will need to be determined these are acceptable and proportionate to the scheme.

The proposed incorporation of electric vehicle charging points within existing car park areas will need to be secured.

### **Trees/Hedgerows**

No objection. Only some category C trees are to be removed. The ancient woodland classification is also being removed from the affected area of trees by NRW so therefore the application complies with Policy ER11. In the event of approval please condition the supplied tree protection plan.

### **Dwr Cymru Welsh Water**

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

However, the accompanying Pre-Application Consultation (PAC) Report, prepared by Smith & Love Planning Consultants Ltd, fails to acknowledge receipt of our response dated 29th March 2022. Notwithstanding this, whilst the referenced 'Preliminary Drainage Strategy' does not appear to be included on the Council's website, we can confirm our response offered no objection on the understanding the development relies on an existing foul water connection to the public sewerage system whereas surface water flows discharge to a watercourse and are subject to SAB consent.

### **Ecology**

Relevant documents reviewed:

- Ecological Impact Assessment, Wardell Armstrong, February 2022

#### *Protected Sites:*

The Ynys Marshes and Slopes Site of Importance for Nature Conservation (SINC) is located adjacent to the application site and the development must therefore comply with Policy ER6.

Policy ER 6: Designated Sites of Ecological Importance of the LDP states the following: Development that would adversely affect locally designated sites of nature conservation importance 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:



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- i. The need for the development outweighs the need to protect the site for nature conservation purposes;
- ii. There is no satisfactory alternative location for the development that avoids nature conservation impacts; and
- iii. Any unacceptable harm is kept to a minimum by effective avoidance measures and mitigation, or where this is not feasible, compensatory measures must be put in place to ensure that there is no overall reduction in the nature conservation value of the area.

In assessing the potential harm the Council will consider:

- The individual and cumulative effects which will include impacts during construction;
- The role of the site in the ecological connectivity network; and
- Whether effective mitigation and/or compensation measures have been provided.

In order to comply with Policy ER6, a CEMP will be required to demonstrate how the SINC will be protected.

*Construction Environmental Management Plan (CEMP):*

A CEMP for the site shall be submitted to the LPA for approval prior to the commencement of development (including site clearance) on site. The document will need to include sufficient detail to demonstrate how construction will be managed to ensure pollution prevention and protection of habitats and species on and adjacent to the site.

*Trees:*

The council has now adopted a new Trees, Hedgerows and Woodlands SPG:  
<https://www.swansea.gov.uk/treespg>

An area for compensatory woodland and scrub planting is shown on the woodland retention/clearance plan in the submitted ecology report. Please condition a full landscaping strategy.

*Protected Species:*

Condition:

Due to the low risk of protected species being present on site, all vegetation clearance must be undertaken in the presence of a suitably qualified ecological clerk of works. Toolbox talks should be given to all operatives on site, detailing which species could be present and the requirement to stop works and seek ecological advice should any be discovered.

*Bats:*

Please include the following informative:

All UK bat species are protected under Schedule 5 of The Wildlife & Countryside Act 1981 (as amended) and 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:

- Deliberately take, injure or kill a bat;
- Intentionally or recklessly disturb a bat in its roost;
- Damage or destroy the breeding site or resting place of a bat (even if it is not occupied at the time);

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- Intentionally or recklessly obstruct access to a bat roost.

If evidence of bats is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or Natural Resources Wales (NRW) sought before continuing with any work (0300 065 3000).

### *Breeding/nesting birds:*

Please include the following informative:

It is an offence under The Wildlife & Countryside Act 1981 (as amended) to intentionally:

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

Additionally, bird species listed on Schedule 1 of the Act are also protected from intentional or reckless:

- Disturbance while it is building a nest or is in, on or near a nest containing eggs or young; and
- Disturbance to dependent young of such a bird.

### *Condition:*

No clearance/pruning of trees, shrubs, scrub or buildings shall be undertaken during the bird nesting season (late February-early September). Where this is not possible, a check for active nests by a suitably qualified ecologist will be required prior to clearance. Any active nests will be left in situ until chicks have fledged or the nest is no longer active. If any nests of Schedule 1 species are found, additional measures to avoid disturbance will be required.

### *Badgers:*

Please include the following informative:

Badgers and their setts are protected under The Protection of Badgers Act 1992. It is an offence to:

- Kill, injure or take a badger;
- Damage, destroy or obstruct access to a badger sett; and
- Disturb a badger when it is occupying a sett.

If evidence of badgers is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or NRW sought before continuing with any work (0300 065 3000).

### *Condition:*

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

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### *Hedgehog:*

Please include the following informative:

There is the potential for hedgehogs to be present in the area. Hedgehogs are protected under Schedule 6 of The Wildlife and Countryside Act 1981 (as amended), which prohibits killing and trapping by certain methods. They are also listed on Section 7 of The Environment (Wales) Act 2016. This is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

### *Condition:*

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 should be left at strategic points. See: <https://www.hedgehogstreet.org/hedgehog-friendly-fencing/>

### *Reptiles & Amphibians:*

Please include the following informative:

Reptiles & amphibians may be present. All British reptile & amphibian species are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It makes it an offence to intentionally kill or injure these species. If widespread reptile/amphibian species are encountered (common lizard, slow worm, adder, grass snake, common frog, common toad, smooth newt, palmate newt), they should be allowed to move away from the works on their own. An ecologist should be contacted if assistance is required to locate reptiles/amphibians to a suitable habitat.

### *Lighting Strategy:*

A sensitive lighting strategy for the site shall be submitted to the LPA for approval prior to the commencement of development on site. It should aim to protect bats and other nocturnal species. A plan showing location, light spill and specification for any proposed lights on the site (during construction & operation) must be submitted for approval. The lighting plan should reflect the Bat Conservation Trust's Bats and Artificial Lighting in the U.K. (2018) guidance: <https://www.bats.org.uk/our-work/buildings-planning-anddevelopment/lighting>

### *Invasive Non-native species (INNS):*

It is an offence to plant or otherwise cause to grow in the wild any plant species listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended) or Schedule 2 of The Invasive Alien Species (Enforcement and Permitting) Order 2019.

Please add the Japanese knotweed management plan as an approved plan/condition adherence to it.

### *Ecological Enhancements:*

The Biodiversity Supplementary Planning Guidance (SPG) should be referred to for further information: <https://www.swansea.gov.uk/biodiversityspg>

A scheme to demonstrate that the development will conserve and enhance biodiversity and resilient ecosystems will be required to support any application. This is in line with the Section 6 Duty of the Environment (Wales) Act 2016, the Resilient Wales Goal of the Well-being of Future Generations Act 2015, Planning Policy Wales Edition 11, Future Wales and Technical Advice Note 5.

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The enhancement plan within the ecology report is acceptable, please add this as an approved plan/condition adherence to it.

### *Sustainable Drainage (SuDS):*

From 7 January 2019, all new developments of more than 1 house or where the construction area is of 100m<sup>2</sup> or more require sustainable drainage to manage on-site surface water. It is advised that reference is made to the Swansea Council LDP. SuDS work by making use of landscape and natural vegetation to control the flow of surface water and reduce the risk of flooding. Designs can include ponds, permeable paving and swales, which slow down the discharge of surface water more than conventional piped drainage.

Standard S5 addresses the design of SuDS to ensure, where possible, they create ecologically rich green and blue corridors in developments and enrich biodiversity value by linking networks of habitats and ecosystems together. Biodiversity should be considered at the early design stage of a development to ensure the potential benefits are maximised.

Reason: Conserving and enhancing biodiversity and ecosystem resilience.

### **Pollution Control:**

Please find conditions below:

Phase 3: Remediation Strategy Options Appraisal  
this shall:

- Indicate all measures to be taken to reduce the environmental and human health risks identified in Phase 1 and Phase 2 to an acceptable level, in a managed and documented manner, to best practice and current technical guidance.

Phase 3: Validation/verification Report

- On completion of remediation works a validation/verification report will be submitted to the Local Planning Authority that will demonstrate that the remediation works have been carried out satisfactorily and remediation targets have been achieved.

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

### **Drainage:**

We have reviewed the submitted application and based on the details currently in the applicant has not taken into account the requirements of Schedule 3 of the Flood and Water Management Act 2010 and the accompanying WG Statutory SuDS Standards.

In the absence of any SuDS Compliance Statement and plans and in the Authority's opinion there is no space within the redline to meet statutory SuDS requirements we are obliged to OBJECT IN PRINCIPLE to the application as it currently stands.

Schedule 3, Flood and Water Management Act 2010.

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Your development proposal has been identified as requiring SuDS Approving Body consent irrespective of any other permissions given.

From 7 January 2019, all new developments more than 100m<sup>2</sup> will require sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh ministers.

These systems must be approved by the local authority acting in its SuDS Approving Body (SAB) role before construction work begins. The SAB will have a duty to adopt compliant systems so long as it is built and functions in accordance with the approved proposals, including any SAB conditions of approval.

Which legislation are we referring to?

Schedule 3 of the Flood and Water Management Act (FWMA) 2010 requires surface water drainage for new developments to comply with mandatory National Standards for sustainable drainage (SuDS). Schedule 3 to the FWMA 2010 also places a duty on local authorities as SuDS approving body to approve, adopt and maintain systems compliant with section 17 of the schedule.

What exactly is a SAB?

The SAB is a statutory function delivered by the local authority to ensure that drainage proposals for all new developments of more than 1 house or where the construction area is 100m<sup>2</sup> are designed and built in accordance with the national standards for sustainable drainage published by Welsh Ministers.

The SAB is established to:

- Evaluate and approve drainage applications for new developments where construction work has drainage implications, and
- Adopt and maintain sustainable surface water drainage systems according to Section 17 of Schedule 3 (FWMA).
- The SAB also has powers of inspection and enforcement
- And uses discretionary powers to offer non-statutory pre- application advice

What does it mean for my development?

Whether you are a developer, an agent or an individual seeking planning permission for a development, if your development is of more than 1 house or of 100m<sup>2</sup> or more of construction area you must also seek SAB approval alongside planning approval. You will not be allowed to start construction until the 2 permissions are granted.

Further details on how to apply and guidance can be obtained from the website <https://www.swansea.gov.uk/sustainabledrainage> and by contacting the SuDS Approving Body via email [Sab@swansea.gov.uk](mailto:Sab@swansea.gov.uk)

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### Mid and West Wales Fire and Rescue Service:

The site plan/s of the above proposal has been examined and the Fire and Rescue Authority would wish the following comments to be brought to the attention of the planning committee/applicant. It is important that these matters are dealt with early on in any proposed development:

- The Fire Authority has no comment to make on access for fire appliances or water supplies.
- The Fire Authority has no objection to the proposed development and refers the Local Planning Authority to any current standing advice by the Fire Authority about the consultation.

The developer should consider the need to provide adequate water supplies and vehicle access for firefighting purposes on the site and general guidance on this matter is given in the attached Appendix and the following links: <https://www.water.org.uk/guidance/national-guidance-document-on-the-provision-of-water-for-firefighting-3rd-edition-jan-2007/>

<https://www.ukfrs.com/index.php/promos/16847>

Furthermore, the applicant should be advised to contact the Local Authority Building Control Department, which is the responsible authority, when determining issues concerning means of warning and escape, internal fire spread (linings and structure), external fire spread, access and facilities for the Fire and Rescue Service, in accordance with the 2007 version of Approved Document B (Wales).

### Environment Officer:

Planning condition CL12 must be placed upon this application.

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

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

In order for the condition to be discharged, the developer must devise an appropriate and suitable method statement, acceptable to myself, for the control of the plant.

### Neighbour comments:

The development was advertised on site and around the vicinity of the site with four notices (dated 1st March 2023) and the application was also advertised in the Press on the 13th March 2023. The occupiers of Owens Lodge, Glanffrwd Stables were also consulted by letter. FOUR LETTERS OF OBJECTION AND TWO COMMENTS were received, which are summarised below:

1. Increased traffic flow of workers on shift and additional HGV/LGV goods vehicles;

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2. Increased noise and pollution from large number of cars and lorries; With the additional increase in traffic, this will have further impact on the pollution for the road. Currently the air pollution already exceeds one W.H.O. limit, with the pollutant PM2.5 being at 7.18mcg/m<sup>3</sup> when the WHO limit is 5mcg/m<sup>3</sup>
3. Impact of additional traffic on the condition of roads;
4. Litter;
5. A Bypass Road should be built from the Lye Industrial Estate to Tyn Y Bonau Road as planned in the past before you grant the permission to erect this building;
6. The speed of workers travelling along the approach roads;
7. There are no restrictions on heavy goods vehicles arriving and departing the premises. It is a regular occurrence where you have these lorries travelling after 10pm and about 4 30 in the morning, these lorries are quite noisy because of the poor road conditions. Could the hours of delivery be capped possibly?
8. Any increase in traffic from HGV's and cars is going to cause significant issues for the residents of Glanffrwd Road. The road itself is in a terrible condition. When HGV's pass, our houses shake and the noise is enough to wake us up;
9. The junction coming onto Glanffrwd Road is not suitable for HGV's. The road is not wide enough and cars often end up having to go onto the pavement to avoid an oncoming HGV; and
10. Increased light pollution from external lights on the front elevation and translucent roof panels which become major artificial light emitters at night, destroying the rural night skies and confusing wildlife

### APPRAISAL

#### Main Issues

The main issues to consider in the determination of this application relate to the principle of development, effect on the character and appearance of the area including Mawr Uplands Special Landscape Area and the integrity of the countryside, any impact upon residential amenity, ecology/biodiversity/ green infrastructure, drainage, land stability and contamination, flooding, trees, and highway issues, having regard to the prevailing provisions of the relevant development plan 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

Policy PS1 sets out the LDP's approach to sustainable development. In order to deliver sustainable places and strategically manage the spatial growth of the County, the delivery of new homes, jobs, infrastructure and community facilities must comply with the Plan's sustainable settlement strategy that requires development to be directed to the most sustainable locations within the defined settlement boundaries of the urban area and Key Villages; and inappropriate development in the countryside is to be resisted. Policy CV2 states:

*"Outside defined settlement boundaries development will be required to ensure that the integrity of the countryside is conserved and enhanced. There is a presumption against development in the countryside, except where it is for:*

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- i. *The purposes of agriculture, forestry or other rural enterprise;*
- ii. *The expansion of an existing rural business;*
- iii. *Affordable housing to meet local need at acceptable and sustainable locations within, or infilling, or adjoining settlements, or as minor extensions to small groups of dwellings in the countryside;*
- iv. *A rural exception site for employment in or adjoining a settlement;*
- v. *Development to allow a small business to operate from home;*
- vi. *One Planet Development;*
- vii. *Necessary infrastructure provision and enhancement of infrastructure networks; or*
- viii. *Recreational equine activities.*

Policy ER5 states:

*"Development will not be permitted that would have a significant adverse effect on the character and quality of the landscape of the County. Priority will be given to protecting, enhancing and managing the character and quality of the following Special Landscape Areas (SLAs), as shown on the Proposals Map and listed below:*

- i. *Mawr Uplands*
- ii. *Lower Loughor Valley and Estuary and Southern part of the Burry Inlet; and*
- iii. *North East Gower and Cockett Valley*
- iv. *Garngoch and Lower Afon Llan Valley*

*Within SLAs, development will only be permitted where there is no significant adverse impact, including cumulative impact, on the character and quality of the landscape. The development should aim to protect and enhance the features for which the SLA has been designated. Where appropriate, a Landscape Impact Assessment will be required in order to consider the impact of the development on the designated area. In exceptional circumstances, where development is necessary and could result in a significant landscape impact, a landscaping scheme will also be required and appropriate mitigation and enhancement measures should be provided."*

As outlined above, Policy CV 2 states that outside defined settlement boundaries development will be required to ensure that the integrity of the countryside is conserved and enhanced. The policy emphasises the presumption against development outside settlement boundaries within the countryside, however there are certain specific exceptions to this principle. One such exception is the expansion of an existing rural business.

Policy RC10 recognises that land which is in active, viable employment use is part of the land bank and will be protected for B Class employment uses. The supporting information indicates the proposed extension to the existing warehouse will enable the rationalisation of the existing South Wales operation and the relocation of an existing satellite distribution warehouse at Baglan, Port Talbot and the Lye Industrial Estate.

Further to the above, Planning Policy Wales on the subject of economic development states that wherever possible, planning authorities should encourage and support developments which generate economic prosperity and regeneration. Indeed Section 1.1.2 of TAN 23 (Economic Development) states:



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- Economic development is development (new or change of use) where the resulting space will be occupied by economic activities;
- An economic activity, or economic land use, is an activity which directly generates wealth (output), jobs and income;
- Generating jobs includes providing or sustaining existing jobs as well as creating new jobs.

TAN 23 also goes on to state that "Economic growth is worthwhile wherever it is located, and in the interests of economic growth the planning system should generally aim to provide land where there is demand for it.

It is therefore considered that having regard to TAN 23 the economic benefits of the scheme will be beneficial to the area. The current business operation is considered to fit into the definition of a 'rural business' which under the provisions of policy CV2 is permitted to expand, providing the new development is in accordance with the policy requirements to conserve and enhance the quality of the countryside setting.

### Placemaking/ Visual Impact

The siting of the extensions would largely be on a visually enclosed, unattractive previously developed parcel of land, which arguably contributes little to the surrounding Countryside or Special Landscape Area. Overall, it is not considered that the proposal would result in a disproportionate addition over and above the size of the original development. Subject to additional landscaping to screen views from railway line to mitigate for the loss of any vegetation, it is considered that the proposal would conserve the integrity of the countryside in accordance with LDP policy CV2.

Notwithstanding the above, the site also lies within Mawr Uplands Special Landscape Area. Policy ER5 indicates that development should not have an adverse impact on the character and quality of the landscape of the County. The Policy advises that within SLA's development will only be permitted where there is no significant adverse impact, including cumulative impact on the character and quality of the landscape. The development should aim to protect and enhance the features for which the SLA has been designated.

The current submission is accompanied by a detailed LVIA. This concludes that the landscape has the capacity to accommodate a development of the scale proposed and that the appraisal has shown that the potential for adverse effects on landscape character and visual amenity resulting from the proposed development would be limited in scale and that none of the effects would be significant. The extensions would be viewed in the context of the existing industrial buildings already on site and would be integrated in terms of design and matching materials. Furthermore, a landscaping condition is recommended to further ensure the development integrates successfully into its surroundings.

It is not therefore considered that the proposal would result in a significant impact on landscape character and therefore would be considered acceptable in line with Policy ER5.

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### **Residential Impact**

The application site is a considerable distance (over 200m) from existing residential properties and the allocated strategic development site; south of Glanffrwd Road to ensure that local residents would not be materially affected by the proposed development in respect of the proposal resulting in an overbearing, overshadowing or overlooking/loss of privacy impact.

In respect of a noise and disturbance impact from traffic movements associated to the development with particular regard to the existing residents of Glanffrwd Road, as noted in the opening paragraphs of this report, the proposed development would enable the rationalisation of Macmillan's existing south Wales operations and the relocation of an existing satellite distribution warehouse at Baglan, Port Talbot onto the Lye Industrial Estate site.

The submitted Transport Statement which accompanies the planning application advises that the proposal will result in the relocation of the current average of 9 weekly inbound deliveries by HGV (18 movements) from Baglan to Lye Industrial Estate. This increase will be offset by the removal of the requirement for daily transfer movements between and Baglan of 1 HGV delivery (2 two-way movements) and 7 LGV deliveries (14 two-way movements) on average per day. Therefore it is submitted that the net position in relation to the movement of goods vehicles associated with the proposed extension will be a reduction of approximately 94 vehicle movements per week. In addition, the number of staff employed at the site is not predicted to materially change as part of the proposed development.

Any potential nuisance to local residents during the construction process can be controlled via a condition for the submission and approval of a Construction Environmental Management Plan (CEMP) to ensure that the construction process is properly managed, in terms of night time working, dust and noise and increase in traffic movements (deliveries, materials, etc.) prior to the commencement of development.

On this basis, it is considered that the development would not have any significant adverse effect on the amenity of local residents in accordance with LDP Policies PS2, RP1, RP2 or RP3.

### **Drainage and Flood Risk**

Welsh Water offer no objection to the proposals on the basis that the development relies on an existing foul water connection to the public sewerage system whereas surface water flows discharge to a watercourse and are subject to SAB consent. A condition is therefore recommended for the foul sewage disposal arrangements.

The Local Authority's Drainage Engineer has confirmed that the development will require sustainable drainage to manage on-site surface water and subsequent SuDS Approval Body Consent will be required.

Policy ER 1 seeks to mitigate the effects of climate change. RP 5 also seeks to avoid flood risk. The application site is located within a C2 Flood Risk Zone and the applicants have submitted a Flood Consequence Assessment (FCA). TAN 15 describes Flood Zone C2 as areas of the floodplain without significant flood defence infrastructure and states that only less vulnerable development should be considered subject to application of justification test, including acceptability of consequences.

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Section 6.2 of TAN 15: 2004 states that development will only be justified within zone C2 if it can be demonstrated that:

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement, or
- ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

and,

- iii. It concurs with the aims of PPW and meets the definition of previously developed land; and
- iv. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

In this instance, it is considered that the proposal clearly accords with criteria (ii) in that it forms a key employment area.

In terms of criterion (iii), the proposal complies with the aims of PPW and would constitute previously developed land. The less vulnerable nature of the use aids this interpretation providing the consequences of flooding are considered to be acceptable through an FCA. The proposals are therefore considered to comply with the requirements of criterion (iii).

Figure 2 in section 5 of TAN 15 categorises general industrial, employment, commercial and retail development, transport and utilities infrastructure, car parks, mineral extraction sites and associated processing facilities as less vulnerable development. Given the nature of the proposed development, it is considered that it falls under the 'less vulnerable development' category which weighs in its favour.

The submitted FCA notes that the proposed extension is mostly located within Flood Zone C2 (without significant flood defence infrastructure) with a small section to the west located within Flood Zone A (considered to be at little or no risk of fluvial or coastal/tidal flooding. Due to the site location, it is considered to be at low tidal flood risk and flood risk from all other sources is low. However as the development is located in Zone C2, and the justification tests outlined in sections 6 and 7 of TAN 15 need to be applied.

As this is an extension to the facilities at an existing warehouse, it is advised that there is no other viable location outside of Zone C2 for the development. The development is located on an existing hardstanding area serving the warehouse. Finished floor levels for the warehouse extension have been set to 11.65m Above Ordnance Datum (AOD), which is above the 1 in 100 year + climate change level of 10.376m AOD. A condition is recommended to secure the finished floor levels of the buildings (11.65m above ordnance datum (AOD)). A surface water management scheme is currently under development which will provide betterment over the existing drainage regime and runoff will be attenuated on site before discharging to the existing watercourse at a controlled rate.

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The applicants Macmillan Distribution also has an existing Flood Response Plan and have flood prevention measures in place to prevented flood ingress into the premises.

Notwithstanding the above, NRW's Flood Map for Planning is the most up to date source of flood information available for planning purposes, however, the Chief Planning officer's letter of 15th December 2021 in respect of TAN 15 clarifies that the Flood Map for Planning holds no formal weight as it is not yet national policy, but may be regarded as a material consideration in decision making as it is the best available information.

NRW has commented that the site is within Zone 2 and Zone 3 for Rivers. However, NRW, who are the Council's technical advisors on flooding matters, has considered that the flood consequences assessment and consider the information to be suitable and appropriate for the scale and nature of the development. In this regard, they have not raised any flooding-related objections to the proposal.

On the basis of the above and subject to a condition for the finished floor levels of the buildings, the proposal is a less vulnerable development and it has been demonstrated that the consequences of flooding can be satisfactorily managed as set out in TAN 15 Development and Flood Risk (2004).

### **Land Stability/ Contamination**

The application is supported by a Geotechnical and Phase II Contamination Report, prepared by Integrale. In addition, an Enviro+ Geo-Insight Report is provided from Groundsure as well as site investigation information from the British Geological Society (BGS).

The assessments demonstrate that;

- There are no shallow coal seams mapped beneath the site and no relevant coal mining legacy features have been identified within influencing distance. Therefore, it is not necessary to further consider the risk of surface instability from historic shallow coal mining;
- There are established variations in ground conditions across the site with the depth to (conjectured) rockhead being shallower to the east (c.8-12m) and deeper to the west (c.18-21m); and
- Ground conditions indicate a variable thickness mantle of Gravel, locally becoming soft/firm gravelly Clay Made Ground, over poorly consolidated and compressible clayey peaty organic Alluvium, and a continuous stratum of Glacial soils.

The Coal Authority has been consulted on the proposed development and appear to agree with the above findings noting that the specific part of the site where development is proposed is not within the defined Development High Risk Area and as such do not consider that a Coal Mining Risk Assessment is necessary for the proposal and do not therefore object to the proposal subject to a recommendation that an informative should be attached to any planning permission stating that the proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards in the interests of public safety.

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Having regard to the assessment findings listed above, the following hazard-pathway-receptor linkages are therefore established for this site:

- Locally, (low level) Asbestos fibres have been detected within Made Ground.
- Copper and Zinc are potentially phytotoxic within Made Ground and Alluvial soils.
- WRAS Contaminant Threshold Concentrations are exceeded in the Made Ground and Alluvial soils.
- Carbon Dioxide present beneath the proposed building, will potentially pose a risk to future users of the building.
- Sulphates and acids present in shallow depth Made Ground will potentially pose a risk to building materials.

The submitted Integrale Report recommends that for the protection of public health, there should be a suitable design and if required installation of passive anti-gas measures for the new building, advice and protection to ground workers during excavations and finally dust suppression during all groundworks and wheel washing of all haulage vehicles before leaving the site. A watching brief should be kept at all times while groundworks are occurring.

NRW has reviewed the submitted Geotechnical and Phase II Contamination Report by Integrale and commented that the data in the report identifies asbestos present in two samples of Made Ground and some hydrocarbons were also recorded within Made Ground above the LOD (but below the respective criteria for a commercial use). NRW advise that the site is not considered to be of particularly high priority, owing to the secondary aquifers beneath the site and the nature of the proposed development. However, NRW has recommended that a condition for unsuspected contamination should be included in any grant of planning permission. Similarly, the Council's Environmental Health Officer has also recommended conditions in respect to contaminated land.

Subject to adhering with the recommendations in the submitted Integrale Report and conditions recommended from NRW, the Council's EVH Division and the Coal Authority informative note, it is considered that the proposal would comply With LDP policy RP5 (Land Contamination) Instability.

### High Pressure Pipeline

LDP Policy RP 1 (Safeguarding and Public Health and Natural Resources) seeks to ensure that the County's natural environment is protected from materially harmful development. The policy also seeks to ensure that potential risks to human health associated with development within the statutory consultation zones stipulated by Health and Safety Executive (HSE) for hazardous installations, are fully identified and assessed.

To this end, the proposed development is located within the inner HSE consultation zone of the Feeder Felindre (Swansea)/Brecon Major Accident Hazard Pipeline. Within HSE's methodology, the proposal would be classified as a sensitivity level 2 development. HSE would advise against a sensitivity level 2 development located within the inner zone.

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However, Rule 4 within HSE's methodology applies in certain circumstances with an 'Advise Against' response where the proposed development involves an extension to an existing facility such as the current proposal. As previously identified the proposed development would not result in a material increase in the staff levels. Using Rule 4b, it can be determined that as the population at the development will not increase by more than 10%, the sensitivity level can then be reduced to a sensitivity level 1 development where in such circumstances HSE would not advise against a sensitivity level 1 development within the inner zone. As a result, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

It is therefore considered that the potential risks to human health associated with the proposed development within the statutory consultation zone stipulated by HSE has been fully assessed in accordance with LDP policy RP1.

Wales and West Utilities has also been consulted on the planning application and advised that the proposed development must not be built over any plant or enclose their apparatus.

### **Trees/Hedgerows**

The proposal would necessitate the removal of two category 'C' quality groups, the partial removal of trees from another category 'C' tree group and the removal of three small areas of scrub. LDP policy ER 11 (Trees, Hedgerows and Development) advises that *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. 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.*

An Arboricultural Impact Assessment (AIA) has been submitted in support the planning application. The Tree Survey identifies twelve individual trees, ten tree groups and one woodland located on and immediately adjacent to the site. The survey revealed that 8% of the individual tree population is classified as category 'A' quality, 50% is classified as category 'B' quality, 25% is classified as category 'C' quality and 17% is classified as category 'U' quality. The survey also revealed that 50% of the tree groups are category 'B' quality, with the remaining 50% being category 'C' quality.

Woodland (W1) is categorised as category 'B' quality, primarily for its screening/ value in the landscape. This narrow woodland area was classified as Ancient Woodland by Natural Resources Wales; however the Ecological Impact Assessment undertaken by Wardell Armstrong LLP (WA) did not reveal any ground or arboricultural features that would support this designation.

Additionally, Ordnance Survey mapping has been submitted which demonstrates that between 1888 and 1913; and 1937 woodland does not exist where the ancient woodland is located and on the latter mapping railway spur lines are shown as going through the area. For woodland in Wales to be classified as ancient woodland it has to have been continuously wooded since 1600, therefore it is submitted that the woodland W1 is highly unlikely to be of ancient origin.

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Mitigation and compensation for the removal of the trees will be provided by replacement tree planting. The trees that are to be retained on the site will be protected during the proposed works with tree protection fencing. Unless otherwise stated in an Arboricultural Method Statement (AMS), the protective fencing will comprise the default barrier described in BS5837:2012.

In view of the above, the Council's Tree Officer has raised no objection to the proposal noting that only some category C trees are to be removed and has provided confirmation that the ancient woodland classification is being removed from the affected area of trees by NRW. Accordingly, the effect of the proposed development upon trees and woodland and is considered to be acceptable and in accordance with Policy ER11 of the Adopted Swansea Local Development Plan (2010-2025) and The Protection of Trees on Development Sites SPG.

### **Ecology/Biodiversity/ Green Infrastructure**

In determining planning applications, Local Planning Authorities should have regard to the Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Habitats Directive in respect of the land use planning system.

The consideration of the likelihood of significant effects is a form of screening process or risk assessment. The planning authority must consider whether the proposed development would be likely to have a significant effect on any European site or European offshore marine site alone or in combination with other plan or projects. In doing so, it must adopt a precautionary approach.

A Habitats Regulations Assessment (HRA) of the likely significant effects on Carmarthen Bay and Estuaries European Marine Site (EMS) which comprises Carmarthen Bay and Estuaries Special Area of Conservation (SAC), Carmarthen Bay Special Protection Area (SPA) and Burry Inlet SPA and Ramsar Site has been undertaken by the Council's Ecologist. The Assessment concludes that the proposal is unlikely to cause significant pollution effects due to the minor nature of the development and the distance to the EMS. Therefore, an Appropriate Assessment is not deemed necessary. However, in order to mitigate any potential minor construction impacts, the adherence to the submitted CEMP and a drainage strategy are recommended as conditions.

An Ecological Impact Assessment (EclA) of the application site has been undertaken and has been submitted in support the planning application. The Ynys Marshes and Slopes Site of Importance for Nature Conservation (SINC) is located adjacent to the application site and the development must therefore comply with Policy ER6.

LDP policy ER6 states that 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

A Preliminary Ecological Appraisal (PEA) was undertaken in November 2021, which identified that a range of habitats and species may be affected by the proposed development, and they have therefore been considered as part of the EclA.

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Further specialist survey and consultations considered relevant following the completion of the PEA included the following; Otter survey, Preliminary Ground Level Roost Assessment of trees, Ecological Ancient Woodland survey and discussion with the Planning Ecologist at Swansea Council.

Further surveys determined that no evidence of otter was present, that there were a number of trees with low suitability for roosting bats within woodland BW2 (where clearance is expected) in addition to trees already identified with potential and that previously recorded ancient woodland within the application area has been lost to previous construction works at Lye Industrial Estate and is replaced by regenerating woodland (woodland reference BW2).

Measures have been specified in the EclA to ensure that the Carmarthen Bay and Estuaries SAC/SSSI, Ynys Marshes and Slopes SINC (Site of Importance for Nature Conservation) and Loughor Corridor SINC are not adversely affected by the development.

Measures have also been specified to include protection of Habitats of Principal Importance and fauna species from harm and disturbance and habitat creation measures to mitigate the significant adverse effects of the proposed development on ecological receptors. This includes where relevant incorporation into the Construction Environmental Management Plan.

The EclA reports that with the implementation of suitable mitigation, no significant residual effects on the ecological features are anticipated.

Biodiversity enhancements (including at retained woodland, bird and bat boxes, soil mounds for mining bees and brush piles for hedgehog) and management specifications for habitats and species will be implemented via Biodiversity Management Plan.

The Council's Ecologist has reviewed the EclA and noted that in order to comply with Policy ER6, a Construction Environmental Management Plan (CEMP) will be required to demonstrate how the SINC will be protected which can be conditioned accordingly. Others conditions and informatives are recommended in respect of landscaping strategy (for compensatory woodland and scrub planting), all vegetation clearance to be undertaken the presence of a suitably qualified ecological clerk of works, bats, breeding/ nesting birds, badgers, hedgehogs, reptiles and amphibians, lighting strategy, invasive non-native species, ecological enhancements and SuDS.

NRW has also recommended that a site wide CEMP is submitted to and approved by the Local Planning Authority to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

### **Renewable/ Low Carbon Technology**

Policy EU2 of the LDP requires that development maximises the contribution of renewable or low carbon energy technology to meet the energy demands of the proposal.

A Building Regulations Part L & Energy Performance Certificate (EPC) Report has been submitted in support the planning application. The report has been prepared to demonstrate compliance with Part L 2014 Wales Building Regulations for the proposed development.



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In order to demonstrate compliance with Part L 2014 of the Welsh Building Regulations, the Building Emission Rate (BER) is required to be less than or equivalent to the carbon emissions of the notional building set by the Target Emissions Rating (TER) with compliance demonstrated for primary energy factors.

The submitted report confirms the following:

- The proposed building passes the Part L 2014 compliance assessment confirming that the Building Emission Rate (BER) is less than or equivalent to the carbon emissions of the notional building set by the Target Emissions Rating (TER).

To achieve compliance with Criterion 2 of Part L, the performance of the building fabric u-values, air permeability and building services should be no worse than design limits.

- The proposed building passes the design limit check as detailed in the BRUKL certificate the building fabric and fixed building services achieve compliance with Part L as they are no worse than the design limits.

To achieve compliance with Criterion 3 of Part L, the occupied spaces in the building should have appropriate passive control measures to limit the solar gains.

- The proposed building generally passes the solar gain check as detailed in the submitted BRUKL certificate.

The Energy Performance Certificate indicates that the energy rating of the building is 14, which falls within a grade A rating. Information has also been provided by the agent to advise that Macmillan are actively pursuing and keen to install solar panels on Unit A AND are in consultation with Caplor Energy. Caplor Energy state the current proposal will generate 929,891 kWh's pre year, and achieve a CO2 savings of over 217 tonnes / year.

Whilst the submitted Energy report demonstrates the commitment to improving the sustainability credentials of the building and reducing CO2 emissions, the document doesn't fully address the requirement of LDP policy EU2 to consider the feasibility of incorporating low carbon or renewable energy installations into the scheme and/or connect to renewable or low carbon energy technology and district heating networks.

The proposal will however maximise opportunities for sustainable construction incorporating a range of sustainable measures to obtain a BREEAM rating of 'Very Good'. Such measures will include reinforced concrete pad bases to carry the superstructure loads to suitable ground, steel frame of optimum design efficiency, composite insulated panels to match existing and the roof will have double skin translucent panels to reduce the amount of artificial lighting. Furthermore, the EPC demonstrates that the proposal would be resource efficient and would achieve grade A energy rating which is the most energy efficient rating that can be achieved (unless net zero CO2 emissions).

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It also must be acknowledged in this instance that the proposal relates to an extension to a building rather than new development and therefore the integration of measures to make a contribution towards increased levels of energy generation from renewable or low carbon sources may not be feasible. Finally, the proposal would provide the provision of 16 electric vehicle charging points which would encourage the use of electric vehicles.

In view of the above, the proposal maximises opportunities for sustainable construction and would be resource efficient. Information has also been provided which investigates the potential to incorporate renewable energy installations, which cumulatively would help to meet the Welsh Government's decarbonisation and renewable energy targets.

Overall it is therefore considered that the proposal is fundamentally aligned to meet the aims of Policy EU2 and PS2 of the LDP.

### **Highway Safety/ Active Travel**

A Transport Statement has been submitted in support the planning application. The Statement assesses the on-site parking provision, vehicular access arrangements, accessibility by sustainable modes of travel and likely changes in vehicle trip generation.

In summary the TS outlines that;

1. The existing site is accessible by a range of sustainable transport modes and measures such as covered cycle parking, showering/changing facilities and provision of a 'bike to work' scheme are all in place to promote sustainable travel.
2. A Travel Plan (TP) will be introduced to further promote and enable access to the site by sustainable transport modes;
3. The proposed extension will enable the rationalisation of MDL's existing operation reducing the overall number of goods vehicle movements required to operate the facility;
4. The number of staff employed at the site is not predicted to materially change as part of the proposed development.
5. The proposed parking provision is sufficient to meet demand. Due to the location being remote from the public highway network, there are not anticipated to be any issues relating to parking on the surrounding network.
6. Following a review of the most recent personal injury accidents (PIA) records, there is no evidence that the proposed development will have a detrimental impact on highway safety.

In view of the above, the TS concludes that the proposal would have no material detrimental impact on the highway network. The Local Highway Authority has reviewed the TS and submitted documentation and advised that overall the proposal is not considered to give rise to any highway safety concerns, vehicle trips are marginally increased but this would be offset by a reduction of vehicle movements to and from the site to Baglan. Additionally, the proposed development would not affect the use of the public footpath route along the access road.

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On this basis, the Head of Transportation and Engineering has raised no highway objections to the proposal.

The development is therefore in accordance with Policies T1, T5, T6 and T7 of the Swansea Local Development Plan 2010- 2025.

### **Other Issues:**

The site is located within a Welsh Language Sensitive Area. The submitted PS includes a section entitled Wales Language Action Plan. This sets out that there are very few welsh speakers within the company and accordingly it does not have a welsh language policy. However the company has outlined it will convert all external signs to bilingual to help preserve the welsh language. In addition, the PAC consultation included site notices in English and Welsh and consultation letters to councillors and stakeholders were sent out in English and welsh. It is indicated that the proposal will create further long term employment opportunities in the warehouse. In view of this, it is considered that the measures sets out in the WLAP are acceptable to protect, promote and enhance the Welsh language in line with Policy HC3.

The site is adjacent to a Mineral Safeguarding Area for Categories 1 and 2 sand and gravel mineral resources. However, given the location of a train track between the site and the safeguarded mineral, it is unlikely that the development will result in significant proximal sterilisation of the mineral resource and therefore accords with Policy RP13.

Japanese knotweed, Himalayan balsam and Montbretia are present within, and adjoining the application site, which are Invasive Non-Native Species (INNS) and are listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). A Japanese Knotweed Management Plan has been submitted which will be conditioned to ensure the developer adheres to.

### **Response to Consultation**

In response to public consultation, as noted above in the report, the net position in relation to the movement of goods vehicles associated with the proposal will be a reduction of approximately 94 vehicle movements per week. In addition, the number of staff employed at the site is not predicted to materially change as part of the proposed development. Therefore the proposal will reduce traffic movements and in turn reduce disturbance and pollution levels to improve the environmental quality of the surrounding community.

The proposed spine road and associated junctions, to run from Glanffrwd Road to Tyn y Bonau Road and Station Road forms part of the strategic site to the south of Glanffrwd Road, Pontarddulais which is allocated within the LDP for a comprehensive, residential led, development of circa 486 homes. As the current proposal would reduce traffic movements, it would not be reasonable to request that the applicant contributes towards or delivers new highway infrastructure.

Concerns have been raised that the translucent strips within the existing building and proposed extension lead to light spillage at night to the detriment of the natural environment. Also that external lights on the front elevation of the premises lead to light pollution. In respect of external lighting, the Council's Ecologist has requested that an external lighting Strategy is submitted and approved by the LPA to protect bats and other nocturnal species.

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No evidence has been submitted by the objector to support an objection on light pollution grounds. Given the existing industrial use of the site and that the site is not a designated protected dark sky environment, it is not considered necessary to request any mitigation measures, over and above a sensitive lighting strategy which can include light spill from any new internal lights in the new extension to prevent light pollution.

In respect of the comment raised about litter, as previously noted, the proposed development would not result in a material increase in staffing levels, which may increase the issue. In any event, the throwing down, dropping or depositing of litter on land is controllable by the Environmental Protection Act.

### Conclusion

The proposal involves the extension of an existing established business within a Special Landscape Area in the open countryside which is acceptable in line with Policy CV2. The proposal would meet PPW's objective and TAN 23 (Economic Development) to provide sustainable economic development that will generate sustainable long term prosperity, sustain existing jobs and incomes.

The submitted landscape assessment indicates the landscape has the capacity to accommodate a development of the scale proposed and that the appraisal has shown that the potential for adverse effects on landscape character and visual amenity resulting from the proposed development would be limited in scale and that none of the effects would be significant in line with Policy ER5. It is also considered that the proposals represent an acceptable form of development which would not have a significant adverse effect on residential and general amenity of the surrounding area, nor will it have a detrimental impact upon ecology, trees, highway/pedestrian safety or land stability or contamination and pollution.

The site is within a C2 floodplain and a Flood Consequence Assessment has been submitted. The proposal meets the justification tests in section 6.2 of TAN 15 and NRW has raised no objection to the proposal.

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

### RECOMMENDATION

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

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

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- 2 The development shall be carried out in accordance with the following approved plans and documents: Existing site plan (MDL01-CPL-00-XX-DR-A-0100- REV P01), location plan (MDL01-CPL-00-XX-DR-A-0090 REV P02), construction traffic (MDL01-CPL-00-XX-DR-A-0095 REV P03), proposed site plan (MDL01-CPL-00-XX-DR-A-0105 REV P06), proposed GA plan (MDL01-CPL-00-XX-DR-A-0112 REV P06), roof plan (MDL01-CPL-00-XX-DR-A-0115 REV P03), existing elevations (MDL01-CPL-00-XX-DR-A-0200 REV P02), proposed elevations (MDL01-CPL-00-XX-DR-A-0201 REV P03), GA Sections (MDL01-CPL-00-XX-DR-A-0300 REV P02), 3D perspectives (MDL01-CPL-00-XX-DR-A-0700 REV P02), travel plan, ecological impact assessment and transport statement, received on 15th February 2023.  
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the details submitted to date, no development or site clearance shall take place until there has been submitted to and approved in writing by the Local Planning Authority a fully detailed scheme of landscaping including species, spacings and height when planted of all new planting. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first beneficial occupation of the new buildings hereby approved or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.  
Reason: 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 and in the interest of mitigating and enhancing Mawr Uplands Special Landscape Area
- 4 No development shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:
1. Construction methods: details of materials, how waste generated will be managed;
  2. General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
  3. Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
  4. Soil Management: details of topsoil strip, storage and amelioration for re-use.
  5. CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.

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6. Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of measures to minimise noise and vibration from piling activities, for example acoustic barriers; details of dust control measures;
7. Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
8. Traffic Management: details of site deliveries, plant on site, wheel wash facilities
9. Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
10. Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.
11. Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.
12. Excavations/earthworks: full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: To ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment and transportation infrastructure during construction.

- 5 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Reason: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks.

- 6 No development approved by this permission shall commence until a site-wide scheme to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by the Local Planning Authority. The site-wide scheme shall include the following:

1. Remediation Strategy Options Appraisal indicating all measures to be taken to reduce the environmental and human health risks identified in Phase 1 and Phase 2 of the submitted Geotechnical and Phase II Contamination Report, prepared by Integrale, to an acceptable level, in a managed and documented manner, to best practice and current technical guidance.

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2. A verification plan providing details of the data that will be collected in order to demonstrate that the remediation works have been carried out satisfactorily and remediation targets have been achieved. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: Controlled waters at this site are of high environmental sensitivity and contamination is known/strongly suspected at the site in accordance with LDP Policies RP1, RP4 and RP6.

- 7 The submitted Knotweed Management Plan, prepared by Japanese Knotweed Ltd received on the 15th February 2023, shall be implemented to eradicate invasive non-native species at the site prior to the commencement of the development hereby approved and shall be carried out in accordance with the approved details and timescales.

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

- 8 Notwithstanding the submitted details, prior to its installation, details of an external lighting strategy to cover the construction stage and operational stage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved details.

Reason: To ensure an ecologically sensitive lighting strategy is installed.

- 9 The development shall be implemented in accordance with the mitigation measures for bats, breeding/ nesting birds, badgers, hedgehogs and reptiles and amphibians set out within the following documents:

Ecological Impact Assessment (February 2023, conducted by Wardell Armstrong)

Reason: In the interests of ecology and biodiversity

- 10 No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

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

- 11 The finished floor levels of the buildings, shall be set at 11.65m above ordnance datum (AOD).

Reason: In the interest of flood risk and amenity

- 12 The Ultra Low Emission Vehicle (ULEV) charging points, as shown on drawing MDL01-CPL-ZZ-00-DR-A-0107 Swept Path Analysis of Appendix B of the Transport Statement (November 2022), prepared by Wardell Armstrong, shall be implemented in accordance with the approved details and the charging points shall be available for use prior to the occupation of the development hereby approved.

Reason: In order to ensure the proposed development encourages the use of Ultra Low Emission Vehicles in accordance with PPW and LDP Policy EU2

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- 13 No development hereby approved, including site clearance, ground preparation, temporary access construction/widening, material storage or construction works shall commence until the tree protection scheme, as specified within the document "Arboricultural Impact Assessment (dated January 2023 prepared by Wardell Armstrong) has been implemented on site. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme. The tree protection scheme shall be retained as approved for the entire duration of the construction phase of the approved development.  
Reason: To ensure the retained trees are afforded sufficient protection in accordance with LDP Policy ER2, ER8, ER9 and ER11.
- 14 The access improvement as indicated on the General Arrangement Proposed Site Access (CA12374-002-A) drawing within the submitted Transport Assessment shall be provided and available for use prior to the beneficial occupation of the extension hereby approved, and to be retained as such thereafter.  
Reason: In order to ensure satisfactory access to the development in accordance with LDP Policies T2 and T5.
- 15 The car parking layout, as shown on drawing MDL01-CPL-ZZ-00-DR-A-0107 Swept Path Analysis of Appendix B of the Transport Statement (November 2022), prepared by Wardell Armstrong, shall be implemented in accordance with the approved details and shall be available for use prior to the occupation of the development hereby approved.  
Reason: In the interests of highway safety
- 16 Notwithstanding the details submitted to date, prior to the commencement of development, a scheme of Ecological Enhancement Measures and an Implementation Timetable shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Enhancement shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable and retained thereafter for the lifetime of the development.  
Reason: In the interests of biodiversity and to provide a net benefit to biodiversity in accordance with Policy 9 of Future Wales and ER 9 of the Swansea Local Development Plan (2010-2025).
- 17 No development shall commence until details of a scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the use of the development hereby approved commencing and retained thereafter for the lifetime of the development  
Reason: To protect the integrity of the Public Sewerage System and 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.
- 18 The development shall be implemented in accordance with the mitigation measures for important trees and hedgerows set out within the following documents:  
Arboricultural Impact Assessment (dated January 2023 prepared by Wardell Armstrong)  
Reason: In the interests of trees, woodlands and hedgerows that provide important ecosystem services.



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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 1 - Where Wales Will Grow

Policy 5 - Supporting the Rural Economy

Policy 8 - Flooding

Policy 9 - Resilient Ecological Networks and Green Infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

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: PS1, PS2, CV2, RC10, ER2, ER5, ER6, ER8, ER9, ER11, RP1, RP4, RP5, RP6, RP7, RP13, HC3, T1, T2, T5, T6, T7 and EU2.

- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 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 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com).

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

In accordance with Planning Policy Wales (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

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5 Due to the low risk of protected species being present on site, all vegetation clearance must be undertaken in the presence of a suitably qualified ecological clerk of works. Toolbox talks should be given to all operatives on site, detailing which species could be present and the requirement to stop works and seek ecological advice should any be discovered.

6 All UK bat species are protected under Schedule 5 of The Wildlife & Countryside Act 1981 (as amended) and 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:

Deliberately take, injure or kill a bat;

Intentionally or recklessly disturb a bat in its roost;

Damage or destroy the breeding site or resting place of a bat (even if it is not occupied at the time);

Intentionally or recklessly obstruct access to a bat roost.

If evidence of bats is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or Natural Resources Wales (NRW) sought before continuing with any work (0300 065 3000).

7 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

Additionally, bird species listed on Schedule 1 of the Act are also protected from intentional or reckless:

Disturbance while it is building a nest or is in, on or near a nest containing eggs or young; and Disturbance to dependent young of such a bird.

8 No clearance/pruning of trees, shrubs, scrub or buildings shall be undertaken during the bird nesting season (late February-early September). Where this is not possible, a check for active nests by a suitably qualified ecologist will be required prior to clearance. Any active nests will be left in situ until chicks have fledged or the nest is no longer active. If any nests of Schedule 1 species are found, additional measures to avoid disturbance will be required.

9 Badgers and their setts are protected under The Protection of Badgers Act 1992. It is an offence to:

Kill, injure or take a badger;

Damage, destroy or obstruct access to a badger sett; and

Disturb a badger when it is occupying a sett.

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If evidence of badgers is encountered during development, work must cease immediately and the advice of a suitably qualified ecologist or NRW sought before continuing with any work (0300 065 3000).

- 10 All trenches and excavations shall be fenced off or covered overnight to prevent any animals from falling in and becoming trapped. If this is not possible an adequate means of escape shall be provided (i.e. a gently graded side wall or provision of gently sloped wooden plank or equivalent). Any exposed pipes and trenches shall be checked for trapped wildlife each morning before starting construction activities.
- 11 There is the potential for hedgehogs to be present in the area. Hedgehogs are protected under Schedule 6 of The Wildlife and Countryside Act 1981 (as amended), which prohibits killing and trapping by certain methods. They are also listed on Section 7 of The Environment (Wales) Act 2016. This is a list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

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 should be left at strategic points. See: <https://www.hedgehogstreet.org/hedgehog-friendly-fencing/>

- 12 Reptiles & amphibians may be present. All British reptile & amphibian species are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). It makes it an offence to intentionally kill or injure these species. If widespread reptile/amphibian species are encountered (common lizard, slow worm, adder, grass snake, common frog, common toad, smooth newt, palmate newt), they should be allowed to move away from the works on their own. An ecologist should be contacted if assistance is required to locate reptiles/amphibians to a suitable habitat.
- 13 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848

Further information is also available on The Coal Authority website at [www.coal.gov.uk](http://www.coal.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)

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## Planning Committee – 9<sup>th</sup> May 2023

Item 2

Application Number:

2022/2489/S73

Ward:

Gorseinon And  
Penyrheol - Area 1

Location:

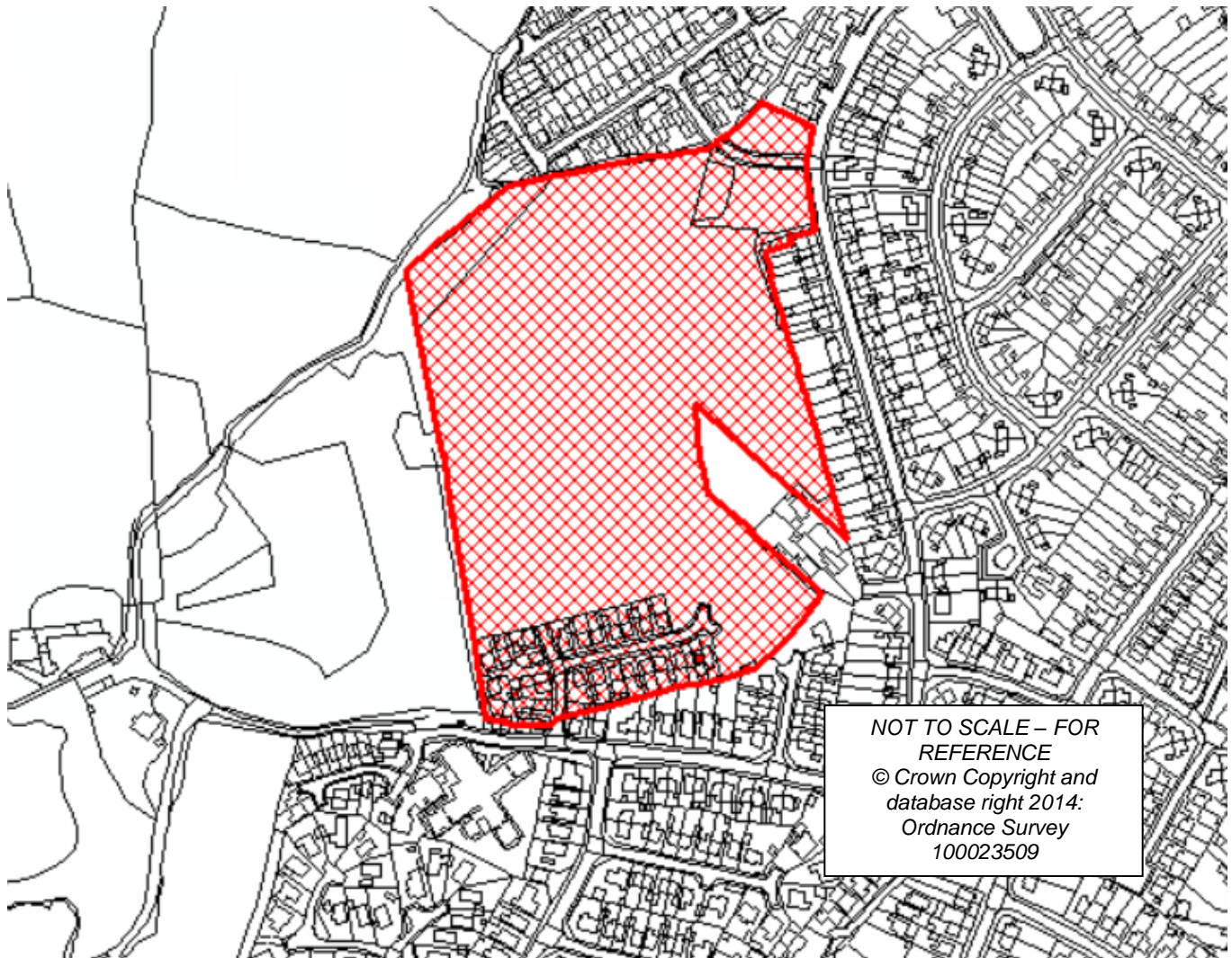
Land West Of Gower View Road And North Of Brynafon Road,  
Penyrheol, Swansea

Proposal:

Residential development incorporating public open space and new access roads from Gower View Road and Brynafon Road (outline) (Variation of conditions 1, 3 and 4 of planning permission 2005/2355 granted 23rd April 2010) to extend the time period for the submission of Reserved Matters on the remaining site area in accordance with the revised Design and Access Statement and Masterplan (Variation of condition 28 of planning permission 2019/0911/S73 granted 8th October 2019) to allow for an additional use for the community building under Class A3 (Cafe)

Applicant:

Gwynfaen Community Hub S73 Pobl Group



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Item 2 (Cont'd)

Application Number:

2022/2489/S73

### Background

This application is being reported to Planning Committee as the development exceeds the threshold for the number of dwellings.

Outline planning permission was granted for a residential development incorporating public open space and new access roads from Gower View Road and Brynafon Road subject to conditions and a S106 agreement in March 2010 (ref: 2005/2355). Following the outline approval, a Reserved Matters application for 30 dwellings was approved in November 2012 (ref: 2012/1113). This development has subsequently been constructed and the outline permission has therefore been implemented. A Section 73 application was approved by Members by decision notice dated 2nd July 2019 (2019/0911/S73 refers), to extend the time period for Reserved Matters to be submitted. Reserved matters for development of the remaining part of the site for 144 dwellings were duly submitted and approved under application 2019/2144/RES. All pre-commencement conditions have been duly discharged and development is at an advanced stage.

The approved details within the reserved matters contained a Community Hub building located centrally within the site (shown as plots 70-74/House Type 12-A on the approved Detailed Masterplan), with the ground floor of the three storey building allocated as a D1 use with residential flats above. The D1 use is controlled via Condition 28 of the aforementioned S.73 consent.

The Community Building and flats above are in the process of being constructed but not yet completed or occupied.

With this in mind, the applicant, Pobl, conducted a local consultation within the SA4 postcode to identify what the community would like the hub to provide (the findings of which are contained within the supporting documentation for the application), with the majority of responses identifying a preference for a range of clubs and activities, as well as the provision of a community café.

Subsequently, an application has been submitted to vary condition 28 to allow for a café along with the approved D1 use. Originally, an A1 use was also proposed, however, this element has since been removed from the application as the area is already served by a shop nearby on Frampton Road, such that an A1 element it would conflict with Policies RC 2 and RC 6 such that sufficient "specific need" could not be evidenced to justify a departure. Therefore, any reference to an A1 use within the consultation responses is no longer applicable.

The application site has an area of approximately 7ha. Therefore this proposal falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, as the application site area exceeds 150 dwellings and 5 hectares. However, a Screening Opinion was carried out in accordance with the above regulations in relation to the previous S.73 application. It was considered that the application, by virtue of its nature and location, would not have a significant environmental impact and an Environmental Impact Assessment was not required to be submitted. Given the limited time that has passed since that application and the development in an advanced state, it is not considered that further screening is required as no additional environmental impacts would arise from this application outside of those that could be suitably controlled by condition.

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**Item 2 (Cont'd)**

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### **Site Location**

The application site covers an area of approx. 7 hectares (including the development at the southern end of the site) and lies to the north of Brynafon Road and to the west of Gower View Road on the edge of the settlement area of Penyrheol and Loughor.

To the north, the site abuts the rear gardens of recently constructed residences built by Persimmon Homes on Heol Y Creyr Bach and Heol Y Pibydd. To the east, rear gardens of dwellings on Gower View Road and Fernhill Road abut the site and include an informal access to a garage that runs along part of the eastern boundary. A new access (Heol Y Creyr Bach) was created from Gower View Road to provide access to the Former Honeybee Nursery site to the north of the application site. This access runs through the site and provides the northern access to the application site.

In addition, a new access has been created in the south to serve the development to the south (Min Yr Aber and Ffordd y Coegylfinir) from Brynafon Road. This development was laid out with future development in mind with two access points internally from the existing development.

### **Description of Development**

An application has been made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary Condition 28 of planning permission 2019/0911/S73, granted 2nd July 2019.

The original planning permission has the following description of development:

Residential development incorporating public open space and new access roads from Gower View Road and Brynafon Road (outline) (Variation of conditions 1, 3 and 4 of planning permission 2005/2355 granted 23rd April 2010) to extend the time period for the submission of Reserved Matters on the remaining site area in accordance with the revised Design and Access Statement and Masterplan.

Condition 28 reads: "The proposed community building shall be limited to a maximum of 285m<sup>2</sup> floorspace and shall only be used for use class D1 purposes.

Reason: For the avoidance of doubt as to the details hereby permitted."

As stated previously, the development has already commenced, the original consent is therefore still live.

This S.73 application would amend the wording of condition 28 to allow A3 (café) use in tandem with the D1 use, and the applicant has proposed that the condition be worded as follows:

"The proposed community building shall be limited to a maximum of 285m<sup>2</sup> floorspace and shall only be used for use class A3(Café) & D1 purposes or a mixed-use combination of the two specified uses and no other use.

Reason: For the avoidance of doubt as to the details hereby permitted."

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### Consultation

The application was advertised by Ward Member and Consultation letters sent on 28th November 2022. Several Site Notices were also placed on public highways adjoining the site on 13th December 2022.

### Consultation Responses

#### Placemaking and Strategic Planning

This Section 73 application seeks to amend the wording of condition 28 of planning permission 2019/0911/S73 from:

'The proposed community building shall be limited to a maximum of 285m<sup>2</sup> floorspace and shall only be used for use class D1 purposes.'

To:

'The proposed community building shall be limited to a maximum of 285m<sup>2</sup> floorspace and shall only be used for use class A3(Café) & D1 purposes or a mixed-use combination of the above uses'

The application site comprises the Gwynfaen Community Hub which is proposed to be sited centrally within the wider new residential development and is also within good walkable distance from existing homes around it. The first and second floors above the hub are to contain 5 no. 1 bed flats. The applicant has put forward some consultation feedback from local residents on what would be a good use for the building, with the main responses reported as being "use of the space for a range of clubs and activities that were suitable for all ages"; and "community café"; with a smaller number suggesting "somewhere local to buy basic necessities". Pobl have put forward the proposal to widen the permitted uses in order to address the requirements and wishes of the local community to ensure it is a well used space.

#### Principle of Development

LDP Policy RC 2: Retail and Leisure Development is relevant to the consideration of all new development proposals for A1 and A3 uses, and is in-line with national planning policy regarding the need for a sequential approach to be applied for retail and other uses complementary to retail and commercial centres. It states that proposals for such uses must in the first instance assess the suitability of sites and premises within the Centres of the identified retail hierarchy, having regard to the nature, scale and location of the proposed development. The site is not located within or on the edge of an identified retail centre, neither is it in a Retail Park which is identified in the Plan as the favoured location for out of centre proposals when they arise.

The policy states that retail and leisure proposals will only be permitted at out of centre locations outside Retail Parks in certain exceptional circumstances (listed under criteria a, b and c), and where a specific need is identified. Importantly, one of these criteria is for small scale development intended only to serve an identified local need (with small scale being defined as less than 1,000 sq m gross floor area, in accordance with Policy RC 6 Local Centres). This development is well below exceeding the scale threshold and therefore the exceptional circumstance could potentially apply in this case.

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In order to comply with the exceptional criteria, applicants are required to submit evidence that there is a specific local need, and that there are not suitable sequentially preferable premises to meet that level of need in the closest Centre of the hierarchy. In this case that Centre is Gorseinon District Centre. The LDP states that establishing quantitative need is the first requirement and takes precedence over qualitative factors such as the impact on travel patterns. It is noteworthy in this respect that the consultation undertaken by Pobl registered 13 responses that indicated a wish for a convenience A1 use class store. Nonetheless, latest google streetview images show an existing out of centre convenience store available close to the development on the junction of Brynafon Road and Frampton Road. Ultimately the Case Officer will need to consider if this existing facility is likely to be able to support the need of residents on this new residential development in terms of, for example, fulfilling the opportunity for 15 minute walkable neighbourhoods and if the applicant, in this context, has sufficiently demonstrated the local need for new 'out of centre' A1 use space that needs to be located at this location rather than at a sequentially preferable available site.

The added flexibility of having a café A3 use at this location for people to meet as part of a wider community facility has been highlighted by 59 responses in the applicant's consultation alongside the need for use of the space for a range of clubs and activities that were suitable for all ages, which was highlighted by 68 responses. Given the apparent absence of similar facilities in the immediate neighbourhood and the information submitted by the applicant, there does appear a reasonable case to introduce more flexibility for potential future operators for the building in terms of having an A3 café element as part of the community hub building. The case officer will ultimately need to decide whether there is sufficient information submitted to illustrate that this would be beneficial at this location to meet a local need (as opposed to any available sequentially preferable sites in the District Centre) and contribute to enhancing the attractiveness of the consented community hub and the placemaking objectives of the wider residential development.

#### 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: Future Wales Policy 2 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, and 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, and that 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



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Complementary to the need to align with placemaking requirements, developments are required to take opportunities to enhance biodiversity and integrate nature-based solutions to the design process wherever possible, in line with Development Plan policy and having regard to Council adopted SPG on Biodiversity and Development. This reflects the Council's duty under Section 6 of the Environment (Wales) Act 2016 ('the S6 duty').

Future Wales Policy 9 and PPW require that:

- all applications demonstrate the actions that have been taken where possible to maintain and enhance biodiversity and ecosystem resilience, as well as relevant GI assets.
- a clear and proportionate approach is taken – to considering biodiversity and securing overall enhancement.

### Local Highway Authority

There are not considered to be any highway safety issues associated with the proposed inclusion of A1 and A3 uses within the community hub (D1). It is assumed that car parking and servicing areas will continue as previously agreed. I recommend that no highway objections are raised to the proposal.

### Pollution Control

Please find below conditions:

No development shall take place until a scheme for ventilation extraction, including full details of the equipment to be installed for that purpose has first been submitted to and approved by the Local Planning Authority. Details provided should include:

- Flue design including termination height,
- Location and installation method of all fans/air movement devices,
- Noise rating of all fans/air movement devices,
- Details of any noise mitigation i.e. silencers or enclosures,
- Odour control for the system including type of cooking, types of filters to be used and cleaning/maintenance schedule.

The approved scheme shall be fully installed prior to its use being commenced.

### Gorseinon Town Council

No objection raised in the minutes of the Town Council Meeting dated 7th December 2022.

No further comments have been received to this application to date.

## **APPRAISAL**

### **Section 73 procedure**

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-

- 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

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- 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) in order to avoid the possibility of the new permission being interpreted as having no conditions other than those applied to vary.

### Issues

The main issues for consideration during the determination of this application relate to whether the variation of this condition will have an acceptable impact upon the character of the area, highway safety, residential amenity and the vitality and viability of the District Centre having regard for the provisions of the Swansea Local Development Plan and the Site History.

### Principle of Development

Given the proposed leisure use would be outside an established Centre, the proposal would need to address the requirements of LDP Policy RC 2.

Policy RC2 promotes a 'town centre first' approach in line with national policy. The policy makes clear that the Plan's defined Centres sit at the top of the retail hierarchy and are the most appropriate and sustainable locations for locating new retail, leisure and supporting commercial development. The policy states that retail and leisure developments must in the first instance assess the suitability of sites and premises within Centres having regard to the nature, scale and location of the proposed development. Where evidence clearly demonstrates that no sites within centres or at edge of centre locations can be made available for the proposed development, out of centre sites will be considered and, in such circumstances, developers should consider available sites and premises within defined Retail Park boundaries, which are the preferred location for out of centre retail and leisure developments.

The policy identifies that retail and leisure proposals will only be permitted at out of centre locations (such as the proposed site) outside of Retail Parks in exceptional circumstances, and only where a specific need is identified such as 'small scale development intended only to serve an identified local need' (exception criterion a, with small scale being defined further as less than 1,000sq m gross floor area within Policy RC 6 Local Centres). The proposed development area is well below that threshold and as such, criterion a) may be considered applicable. It is noted that no sequential assessment has been provided in support of the application. However, given the scale of the development and the need established by the local survey results, as well as the specific local use that would be generated by the new residential development surrounding the site, it is considered that the proposal would accord with the requirements of Policies RC 2, in that the health and vitality of the nearby local centre would not be impacted by the proposed A3 (Café) use at this out of centre location. However, given that an A3 Use could be altered to a A1 use under permitted development rights and the potential impact that would have on the viability of the nearby District Centre, as well as the character of the area and amenity of neighbouring occupiers, it is considered that additional conditions would be required should consent be granted to retain suitable control of the community building and its future use.

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In terms of Policy SI 2, it is noted that the D1 (non-residential institutions) use is to be retained. It is also noted that the community centre and flats above are in the process of being constructed but not yet completed or occupied and, as such, it cannot be stated that the proposal would constitute a loss of a community facility. Furthermore, the community element was put forward by Pobl and was not a request of the Local Planning Authority, with the scheme being considered complimentary, not compulsory, to that consent being granted. Given all of the above, and the scale of the proposed café element, it is not considered that a conflict with Policy SI 2 would arise.

### Visual Amenity

No external alterations are proposed within this application, therefore no visual impact assessment is required.

### Residential Amenity

No details outside of the proposed use class have been provided with this application. However, given the proximity of residential units directly above the proposed unit, and the scope for air, noise and light pollution to occur from ventilation/fume extraction associated with A3 use, it is considered necessary to impose a further condition to any consent that may be granted to ensure suitable control, in line with the recommendation of the Council's Pollution Control Team. Similarly, whilst it is noted that no hours of operation were imposed upon the D1 use within the original consent, an uncontrolled A3 use at this location could generate harm to the nearby residential occupiers, particularly those above the Hub by use occurring beyond sociable hours and a suitable condition should be added in this regard. It is noted that an end user has yet to be identified and that Pobl would retain control of the building. However, the aforementioned extraction details (once end user is identified) are required to ensure no undue impact on the amenity of the residential occupiers above the unit would result.

In addition, whilst an end user has yet to be identified as operator of the community café, an unrestricted A3 use at this location could impact the residential units (such as a takeaway only unit) as well as the vitality and viability of the nearby District Centre. It is therefore considered necessary to restrict the use, via condition, to A3 café and no other use, such that the Authority may retain control of any future use should any use outside of community café be required in future. It is noted that the D1 use was not previously restricted and as such, further control of this element could not be justified. However, the proposed A3 use poses additional impacts beyond those generated by the D1 use, in terms of residential amenity and on the nearby District Centre, such that strict control of the A3 (café) use is required. In terms of the aforementioned hours of operation, it is considered that restricting the A3 use to 7am-7pm would leave sufficient marketability for the premises whilst an end user is not known, whilst protecting those occupiers of nearby residential units from undue air and noise pollution at unsociable hours.

### Highway Safety

Whilst no proposed parking details have been provided as part of the application, parking and servicing areas were approved as part of the original consent. The Local Highway Authority do not consider any additional access or highway safety concerns would result from the proposed A3 use within the community hub.

**Ecology**

No additional ecological impacts are considered to arise from the amended scheme and the details of the ecological enhancement scheme approved by Swansea Council on 10th September 2020 via application 2020/1272/DOC are still applicable.

**Other Issues**

The S73 procedure effectively grants a new permission for the site, which in this instance involves the entire residential development. Therefore, it is necessary to include all the original conditions, and, where relevant, those that have since been amended, in order to retain control of the site via approved details. The development is in an advanced state, with all the pre-commencement conditions already discharged, therefore, where necessary, the relevant conditions have been amended to reflect the discharged details accordingly.

**Planning Obligations**

The original S.106 agreement for this development provided for the following:

- i. The provision of an equipped play area and an appropriate commuted sum for the future maintenance of the new play area.
- ii. Commuted sums for the future maintenance of all areas of public open space.
- iii. An agreed contribution towards the cost of the necessary upgrade of the traffic signal installation and associated works at the junction of Frampton Road/Alexandra Road/Borough Road/Bryn Road.
- iv. All off-site roadworks which shall include:
  - a. a pelican crossing being installed on Frampton Road, the precise location and type of crossing being subject of further agreement;
  - b. a new bus stop, shelter and associated works being provided on Gower View Road adjacent to the new site access;
  - c. a traffic signal junction being installed at the junction of Pencaecrwn Road/Frampton;
  - d. traffic and pedestrian safety measures being implemented in accordance with details to be submitted and agreed and shall include: speed indicator displays; a lay-by for speed camera vehicles; and Traffic Regulation Orders near the school
- v. Affordable Housing in particular a contribution of 15% intermediate housing and 5% off-site contribution to be paid on 50% beneficial occupation of the first phase (these details will need to be finalized as part of the Section 106 Planning Obligation).

Following a deed of variation in line with the 2019 Section 73 consent, the remaining provisions were:

- i) Provision of a minimum of 15% affordable housing units on site to DQR - to be all to be disposed of via a RSL with a MIP clause included
- ii) Commuted sums for the maintenance of the play area and open space within the development
- iii) Education contribution of £20,744 towards YGG Pontybrenin
- iv) Highway improvement works comprising:

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- a) A new bus stop, shelter and associated works being provided on Gower View Road adjacent to the new site access (to be secured via S278 agreement or sum provided to cover cost of works)

As this application would effectively result in a new permission for the whole site, a new legal agreement is required (via a deed of variation) to ensure ongoing compliance with the applicant's obligations listed above. The amended condition, which forms part of this section 73 application, would not create any additional obligations or require additional contributions over and above those remaining from the existing S.106 agreement.

### Conclusion

In conclusion, the proposed variation of condition 28 (listed as condition 25 below) to allow for an A3 (café) use to be included within the community hub is considered acceptable. However, it is also considered necessary to include conditions pertaining to limiting the use, hours of operation and extraction/ventilation.

### RECOMMENDATION

**Approve, subject to the conditions indicated below and the applicant entering into a Deed of Variation to the Section 106 Planning Obligation in respect of the contributions listed above;**

**If the Section 106 agreement is not signed within 3 months of the date of the Committee resolution, then delegated powers be given to the Head of Planning and City Regeneration to exercise discretion to refuse the application.**

- 1 The proposed residential development of the site, with the exception of the 30 dwellings already constructed pursuant to reserved matters application 2012/1113, shall be carried out in accordance with the guidance contained within the Gwynfaen Design and Access Statement dated 29th May 2019, Concept Plan (Drawing No. edp4783\_d022a) dated 22nd May 2019, Green Infrastructure Strategy (Drawing No. edp4783\_d031b) and Draft Energy Statement Revision 2 dated 14th May 2019 submitted with application 2019/0911/S73 and reserved matters application 2019/2144/RES.  
Reason: To ensure that the site is comprehensively developed to a high standard of sustainable urban design in accordance with National and Local Planning Policy and Guidance and for the avoidance of doubt or confusion as to the extent of the permission hereby granted.
- 2 Phasing of the development shall be in accordance with the details approved under application 2020/0852/DOC, approved by Swansea Council on 10th June 2020.  
Reason: To ensure that the development is completed in accordance with the plans and scheme of phasing approved by the City and County of Swansea, and so avoid any detriment to amenity or public safety by works remaining uncompleted.
- 3 External finishes shall be completed in accordance with the details submitted under application 2021/1808/DOC, as approved by Swansea Council on 19th October 2021.  
Reason: In the interests of visual amenity.

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- 4 No further dwelling unit in the development, with the exception of the 30 dwellings already constructed under reserved matters application 2012/1113, shall be occupied until details of all the means of enclosing the boundaries of the site and the individual curtilage of all dwellings have been submitted to and approved in writing by the Local Planning Authority, with consideration given to future hedgehog access. The approved means of enclosure shall be completed in accordance with a programme to be included as part of the details to be submitted to and approved by the Local Planning Authority.  
Reason: In the interests of visual amenity and general amenity.
- 5 A landscaping scheme for the site, excluding the application site area for reserved matters application 2012/1113, shall be submitted as part of the reserved matters, and shall retain the existing trees and hedgerows around the site unless otherwise approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The landscaping scheme shall provide for a mosaic of habitats for scrub and open areas as outlined in 8.17 of the Further Protected Species Survey. The approved scheme shall be carried out within 12 months from the completion or occupation of the development, whichever is sooner, excluding the occupation of the 30 dwellings pursuant to reserved matters application 2012/1113. Any trees, shrubs or plant material which are part of the scheme, which die, become seriously damaged or diseased within five years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.  
Reason: In the interests of the visual amenity of the site as a whole, and to accord with Section 197 of the Town and Country Planning Act 1990.
- 6 The proposed areas of open space within the application site should be landscaped in accordance with a Landscape Management Plan, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to first beneficial occupation of the 31st dwelling on site.  
Reason: To ensure the protection and maintenance of the landscaped areas.
- 7 Engineering details of the internal road layout and footways shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial occupation of the 35th dwelling and shall be constructed in accordance with the approved details.  
Reason: To allow the proper consideration of all details in the interests of highway and pedestrian safety.
- 8 Other than Plot 1 to 4, no dwelling shall be occupied until the adoptable roads linking that unit to the existing adopted road network have been constructed to base course level and provided with street lighting in accordance with the details to be submitted to and approved in writing by the Local Planning Authority.  
Reason: To ensure that the development is completed in accordance with the plans approved by the Council, and so avoid any detriment to amenity or public safety by works remaining uncompleted.

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- 9 Prior to the first beneficial occupation of the 31st dwelling hereby approved, a Travel Plan that includes measures to reduce reliance on the private car shall be submitted to, and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.  
Reason: In the interests of sustainability and to prevent unacceptable highway congestion.
- 10 The foul drainage scheme shall be implemented in strict accordance with the details submitted under application 2020/0874/DOC, approved by Swansea Council on 22nd June 2020.  
Reason: To ensure that a satisfactory comprehensive means of foul drainage is achieved in order to prevent the hydraulic overloading of the public sewerage system.
- 11 The surface water regulation system shall be implemented in strict accordance with the details submitted under application 2020/0874/DOC, approved by Swansea Council on 22nd June 2020.  
Reason: To prevent pollution of the water environment.
- 12 Affordable housing provision shall be in strict accordance with the details provided under application 2020/0873/DOC, approved by Swansea Council on 3rd July 2020.  
Reason: In order to provide an element of affordable housing within the proposed development.
- 13 Vehicular access shall be obtained via a looped distributor road with access through Gower View Road and Brynafon Road as indicated in the Gwynfaen Design and Access Statement and Concept Masterplan (any access to Cobham Close shall be restricted to a pedestrian and cycleway link only along that cul-de-sac).  
Reason: In the interests of highway and pedestrian safety and in order to provide an accessible and permeable development.
- 14 Prior to the first beneficial occupation of the 35th dwelling, full details of the proposed arrangement for future management and maintenance of the proposed street within the development shall be submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.  
Reason: In the interests of highway safety and to ensure that the highways within the development are maintained appropriately thereafter.
- 15 The potable water supply shall be implemented in strict accordance with details submitted under application 2020/0874/DOC, approved by Swansea Council on 22nd June 2020.  
Reason: To ensure the site is served by a suitable potable water supply.
- 16 The Japanese Knotweed eradication scheme shall be implemented in strict accordance with the details submitted under application 2020/0852/DOC, approved by Swansea Council on 10th June 2020.  
Reason: In the interests of the ecology and amenity of the area.

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- 17 The zip wire and benches between the playground and Gower View Road shall be relocated in strict accordance with the details submitted under application 2020/1272/DOC, approved by Swansea Council on 10th September 2020.  
Reason: To ensure that the existing play equipment and amenity area is relocated in a timely manner.
- 18 The works hereby approved, with the exception of the 30 dwellings approved pursuant to reserved matters approval 2012/1311, shall be undertaken in accordance with the recommendations set out in Paragraphs 5.4 and 5.5 of the Welsh Language Action Plan dated April 2019 and any subsequent recommendations made in the subsequent Addendum.  
Reason: To ensure the impact of the development on the Welsh language is suitably mitigated and the Welsh language is promoted in promotion material.
- 19 The works hereby approved, with the exception of the 30 dwellings approved pursuant to reserved matters approval 2012/1311, shall be undertaken in accordance with the recommendations set out in Paragraphs 8.1 to 8.8 of the Further Protected Species Surveys dated June 2019 (ref: HE/49/2018) prepared by Hawkeswood Ecology.  
Reason: To ensure ecological mitigation is provided in accordance with best practice during the course of the works.
- 20 The scheme for ecological enhancement measures shall be undertaken in strict accordance with the details submitted under application 2020/1272/DOC, approved by Swansea Council on 10th September 2020.  
Reason: To ensure a net ecological gain is provided as part of this development.
- 21 The Reptile Translocation/ Mitigation Strategy shall be undertaken in strict accordance with the details submitted under application 2020/1010/DOC, approved by Swansea Council on 31st July 2020.  
Reason: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development.
- 22 The scheme for local employment and training opportunities as part of the construction phase of the development shall be undertaken in strict accordance with the details submitted under application 2020/0873/DOC, approved by Swansea Council on 1st July 2020.  
Reason: To provide training and employment opportunities to local residents and facilitating a wider distribution of economic benefit whilst supporting sustainable communities.
- 23 The development shall be constructed in accordance with the Construction Environment Method Statement submitted under application 2020/1272/DOC, approved by Swansea Council on 10th September 2020.  
Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, protect controlled waters and protected species, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.



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24 The development shall be undertaken in accordance with the sensitive lighting strategy submitted under application 2020/1272/DOC, approved by Swansea Council on 20th October 2020.

Reason: To ensure dark corridors are provided post development so that protected species using the site for foraging and commuting purposes can continue to do so.

25 The proposed community building shall be limited to a maximum of 285m<sup>2</sup> floorspace and shall only be used for use class A3(Café) & D1 purposes or a mixed-use combination of the two specified uses and no other use (including any other purpose in Class A3 of the Schedule to 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).

Reason: The development hereby approved is such that the Council wish to retain control over any future development being permitted in order to ensure that a satisfactory form of development is achieved at all times.

26 Prior to any A3 (Cafe) use of the Community premises referred to in Condition 25 above, full details pertaining to a scheme for ventilation extraction shall be submitted to and approved in writing by the Local Planning Authority.

Details shall include:

- Flue design including termination height,
- Location and installation method of all fans/air movement devices,
- Noise rating of all fans/air movement devices,
- Details of any noise mitigation i.e. silencers or enclosures,
- Odour control for the system including type of cooking, types of filters to be used and cleaning/maintenance schedule.

The scheme shall then be implemented in accordance with the approved details prior to the commencement of the A3 (Café) use and retained as such thereafter.

Reason: To protect the residential units above the premises from any adverse impact arising from air/noise/light pollution, in accordance with Policies PS 2, RP 2 and RP 3.

27 The A3 (Café) use hereby approved shall not be open for customers or for takeaway outside the hours of 7am-7pm on any day.

Reason: To safeguard the amenities of neighbouring occupiers, in accordance with Policy PS 2 of the Swansea Local Development Plan 2010-2025.

### Informatives

1 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: PS1, PS2, IO1, IO2, HC1, HC3, H1, H3, ER1, ER2, ER6, ER8, ER9, ER11, T1, T2, T5, T6, T7, EU2, EU4, RP1, RP2, RP3, RP4, RP5, RP8, RC 2 and SI 2

2 The applicant is advised to consider the comments of the Council's Ecologist which are included in full in the original Officers Report and in particular:

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1. All trenches and excavations must be fenced off or covered-over at night to prevent any animals (hedgehogs, badgers, otters 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.

2. In order to retain habitat connectivity for Species of Principal importance, such as hedgehogs, boundary treatments should not be flush to the ground, or suitably sized gaps 13 x 13 cm should be left at strategic points (as per 8.15 of the 2019 report). See <https://www.hedgehogstreet.org/hedgehog-friendly-fencing/>

3. Dormice are protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. Consequently, it is an offence to intentionally or recklessly kill a dormouse, disturb a dormouse whilst it is occupying a resting place or breeding site. As there may be suitable habitat on site, the following procedure is essential. Immediately prior to the commencement of any preconstruction/enabling works onsite, including vegetation clearance, a site walkover must be conducted by a suitably qualified ecologist, to determine any significant changes to those habitats supported by the site with respect to dormouse. The purpose of the site walkover is to determine whether any further, species-specific working methodologies or a Dormouse Mitigation Strategy document will be required.

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

5. The important north and western site boundaries along with as much of the scrub woodland area at the east of the Site as possible should be retained (as per section 8.3 of the 2017 report). These areas must be protected during construction works. These measures will help retain areas of the Site important for commuting and foraging bats.

3 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 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 whether a bat is present at the time or not. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (0300 065 3000).

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- 4 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.

- 5 The Highways Authority has advised the following:
1. 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.
  2. The applicant is advised that in order to discharge condition 17 the LPA requires a copy of the constitution and details of a Private Maintenance and Management Company confirming funding, management and maintenance regimes.

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).

- 6 The applicant is advised to consider the full comments of the Police Designing Out Crime Officer which are available in full on the original application page on the Council's website:
- [www.swansea.gov.uk/planningsearch](http://www.swansea.gov.uk/planningsearch)

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

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

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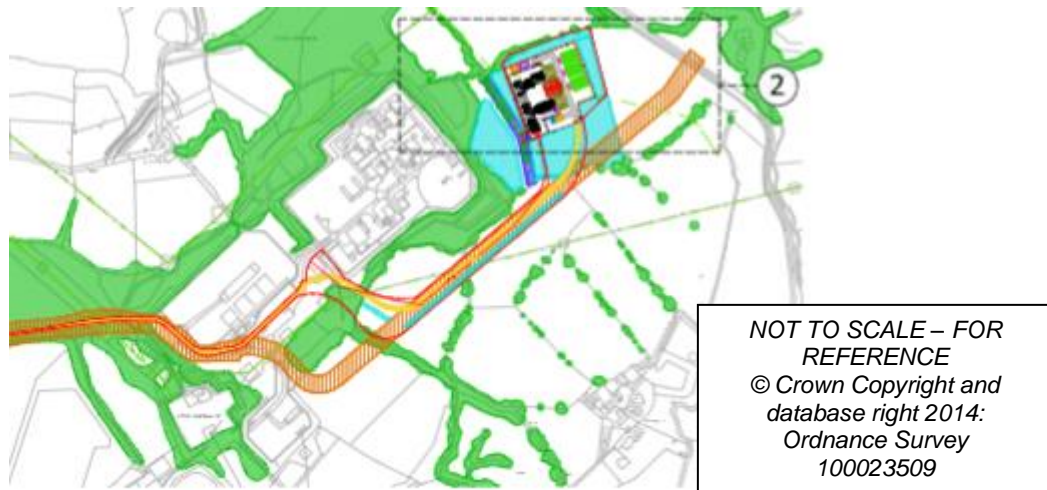
Ward:

Llangyfelach - Area 1

**Location:** Land West Of Rhydypanyd Road, Murryston, Swansea

**Proposal:** Construction of a Greener Grid Park comprising energy storage and grid balancing equipment, including change of use from agricultural grazing land, along with associated infrastructure, landscaping and access track. Variation of condition 2 (plans) of planning permission 2021/0163/FUL granted 9th August 2021 to allow for changes to proposed equipment and layout

**Applicant:** Mr Seb Woodward Statkraft UK Ltd



### Background

The application is reported to Planning Committee as the site area for the original application exceeds the Committee threshold of 2 hectares or more, with the site area being some 4.47 hectares.

The original application was reported for decision to the Planning Committee and full planning permission was subsequently granted on 9th August 2021 for the following development:

"Construction of a Greener Grid Park comprising energy storage and grid balancing equipment, including change of use from agricultural grazing land, along with associated infrastructure, landscaping and access track".

To the east of the site, and including part of the access to the proposed development, a Development Consent Order (DCO) has been granted by the Secretary of State for Business, Energy and Industrial Strategy in 2019 for a gas fired generating station known as the Abergelli Power Project (APP). Separately, two planning permissions were granted (2018/2020/FUL and 2018/2021/FUL) for gas and electric connections to the APP. The latter would be partly within the site area for the proposed energy storage facility.

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The proposal falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, as the site area exceeds 0.5Ha. A Screening Opinion was carried out in accordance with the above regulations in November 2019 (ref: 2019/2361/SCR). It was considered that the proposal, by virtue of its nature and location, would not have a significant environmental impact. It was therefore determined that an Environmental Impact Assessment was not required to be submitted with the planning application. Following a review of the 2019 screening opinion, and having regard to the changes proposed under this application, it is not considered that circumstances have changed materially since the previous Screening Opinion was adopted. Therefore both the original Screening Opinion assessment and its conclusions are still considered to be valid.

### **Site Location**

The application site has a total area of 4.47Ha and is located to the north east of the Felindre National Grid substation and gas compressor station. The main part of the site where the energy storage facility would be located is within an agricultural field that borders an agricultural access track associated with Abergelli Farm. The proposed access track to the development crosses further fields before linking up to the B4489 via the existing access road through the National grid substation.

### **Description of Development**

The original planning permission was for the construction of a "Greener Grid Park" comprising an energy storage and grid balancing facility, with associated infrastructure, landscaping and access track.

In short, the proposal was for an electricity storage and distribution facility, designed to balance electricity demand and supply in order to prevent shortages and blackouts as a result of the intermittent nature of renewable energy sources that feed into the national grid.

This is a Section 73 minor amendment application to amend the plans condition attached to the original application to amend the design and layout of the scheme. The proposed amendments would not increase the energy storage capacity of the facility as there is no proposed increase in battery storage on site.

Following an assessment of the operational requirements of the proposed development, and in light of technological changes and the demands/needs of the national grid since the original scheme was developed, the applicant is proposing several amendments to the approved development:

#### **Energy Management System (EMS) Buildings:**

The EMS buildings contain the grid balancing equipment and e-houses. Within the approved development one EMS building was proposed centrally within the compound area measuring 10m in height to the pitched roof with 4 coolers located to the north and south. The EMS building contained 2 x synchronous compensators which provide grid stability from transmission systems with a high amount of renewable infeed.

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Under the current proposals there would be two smaller EMS buildings measuring 7m in height to the pitched roof, located either side of a central bank of coolers enclosed within a 4m noise attenuation wall. Each EMS building would contain 2 x synchronous compensators (four in total).

Inverters:

The approved development included 6 x inverters whereas the current proposals are for 3 x inverters.

Northern Part of the Compound:

The approved development included a welfare building, main control room and switchgear containers. Under the proposed changes the northern part of the compound would be occupied by 2x Genset containers and one Comms building, which would house various electrical communication components and monitoring devices.

Southern Part of the Compound:

The approved development included an emergency diesel generator and an LV switch house in this area. Under the proposed changes the southern part of the compound would contain 2x offices and 2x stores buildings.

Other main changes within and around the compound:

The layout of the transformers within the high voltage yard remain similar to the approved layout albeit with greater separation between the transformers. The 10m high fire wall and embankments around the compound are indicated to be deleted under the new proposals. The area of hardstanding within the compound would, however, increase by approximately 100 square metres and the internal road layout within the compound would be amended. Like the buildings approved under the original planning permission, and aside from the EMS building, the proposed buildings housing the equipment within the compound would be flat roof container type buildings.

The proposed fencing system would alter from the original proposals with the provision of palisade fencing around the high voltage compound, this being an essential National Grid requirement to provide an appropriate level of security. The remainder of the perimeter of the wider compound would be weldmesh fencing as previously approved. A 3.4m high electrical pulse fence is also now proposed around the compound, set inside the boundary fence, as an added security measure.

### 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 17 - Renewable and Low Carbon Energy and Associated 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.

#### 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.

Climate Change, Decarbonisation and the Sustainable Management of Natural Resources

3.30 In 2019 the Welsh Government declared a climate emergency in order to coordinate action nationally and locally to help combat the threats of climate change. The planning system plays a key role in tackling the climate emergency through the decarbonisation of the energy system and the sustainable management of natural resources. The transition to a low carbon economy not only brings opportunities for clean growth and quality jobs, but also has wider benefits of enhanced places to live and work, with clean air and water and improved health outcomes.

3.31 The Environment (Wales) Act 2016 sets a legal target of reducing greenhouse gas emissions in Wales by at least 80% in 2050. The Act also requires a series of interim targets (for 2020, 2030 and 2040) and carbon budgets. The budgets set a limit on the total amount of greenhouse gas emissions in Wales over a 5-year period to serve as stepping stones and ensure progress is made towards the decadal targets.

3.32 In May 2019 the Climate Change Committee published its recommendation for the UK to set a net zero target for 2050. It recommended Wales set a 95% target as our fair contribution to the UK effort. The Welsh Government accepted this recommendation, but is seeking to go beyond 95% to reach net zero.

3.33 Climate change is a global challenge, with impacts felt at the local level presenting a significant risk to people, property, infrastructure and natural resources. We need to plan for these impacts, reducing the vulnerability of our natural resources and build an environment which can adapt to climate change. The planning system plays a significant role in managing this risk. Development allowed today will be around for decades to come. The most important decision the planning system makes is to ensure the right developments are built in the right places.

The Best and Most Versatile Agricultural Land

3.58 Agricultural land of grades 1, 2 and 3a of the Agricultural Land Classification system (ALC)<sup>15</sup> is the best and most versatile, and should be conserved as a finite resource for the future.

3.59 When considering the search sequence and in development plan policies and development management decisions considerable weight should be given to protecting such land from development, because of its special importance.



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Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

**Supporting Infrastructure**

3.61 Adequate and efficient infrastructure, including services such as education and health facilities along with transport, water supply, sewers, sustainable waste management, electricity and gas (the utilities) and telecommunications, is crucial for economic, social and environmental sustainability. It underpins economic competitiveness and opportunities for households and businesses to achieve socially and environmentally desirable ways of living and working. Infrastructure which is poorly designed or badly located can exacerbate problems rather than solving them.

3.62 Planning authorities should, in conjunction with key providers, take a strategic and long term approach towards the provision of infrastructure as part of plan making. This may involve collaboration between planning authorities and key infrastructure providers to ensure infrastructure provision is sustainable, fit for purpose and can be co-ordinated and timed to support placemaking aspirations.

3.63 Development should be located so that it can be well serviced by existing or planned infrastructure. In general this will involve maximising the use of existing infrastructure or considering how the provision of infrastructure can be effectively co-ordinated to support development plans. Infrastructure choices should support decarbonisation, socially and economically connected places and the sustainable use of natural resources.

**Energy**

5.7.1 The Welsh Government's highest priority is to reduce demand wherever possible and affordable. Low carbon electricity must become the main source of energy in Wales. Renewable electricity will be used to provide both heating and transport in addition to power. The future energy supply mix will depend on a range of established and emerging low carbon technologies, including biomethane and green hydrogen.

5.7.2 Overall power demand is expected to increase as a result of growing electrification of transport and heat. In order to ensure future demand can be met, significant investment will be needed in energy generation, transmission and distribution infrastructure. The system will need to integrate renewable generation with storage and other flexibility services, in order to minimise the need for new generation and grid system reinforcement. Collectively we will need to concentrate on reducing emissions from fossil fuel sources, whilst driving further renewable generation which delivers value to Wales.

5.7.3 These priorities contribute to reducing carbon emissions, as part of our approach to decarbonisation, whilst enhancing the economic, social, environmental and cultural well-being of the people and communities of Wales, in order to achieve a better quality of life for our own and future generations.

This means taking precautionary action to prevent Wales being 'locked in' to further fossil fuel extraction and high carbon development. The planning system should facilitate delivery of both this and Welsh, UK and European targets on renewable energy.

5.7.4 Future Wales - The National Plan 2040 sets out the national development plan context for energy and provides specific policies for heat network and renewable energy development.

5.7.5 These priorities contribute to reducing carbon emissions, as part of our approach to decarbonisation, whilst enhancing the economic, social, environmental and cultural well-being of the people and communities of Wales, in order to achieve a better quality of life for our own and future generations. This means taking precautionary action to prevent Wales being 'locked in' to further fossil fuel extraction and high carbon development. The planning system should facilitate delivery of both this and Welsh, UK and European targets on renewable energy.

5.7.6 The planning system should secure an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts. This forms part of the Welsh Government's aim to secure the strongest economic development policies, to underpin growth and prosperity in Wales, recognising the importance of decarbonisation and the sustainable use of natural resources, both as an economic driver and a commitment to sustainable development.

5.7.7 The benefits of renewable and low carbon energy, as part of the overall commitment to tackle climate change and increase energy security, is of paramount importance. The continued extraction of fossil fuels will hinder progress towards achieving overall commitments to tackling climate change. The planning system should:

- integrate development with the provision of additional electricity grid network infrastructure;
- optimise energy storage;
- facilitate the integration of sustainable building design principles in new development;
- optimise the location of new developments to allow for efficient use of resources;
- maximise renewable and low carbon energy generation;
- maximise the use of local energy sources, such as district heating networks;
- minimise the carbon impact of other energy generation; and
- move away from the extraction of energy minerals, the burning of which is carbon intensive.

#### Electricity Grid Network and Energy Storage

5.7.8 An effective electricity grid network is required to fulfil the Welsh Government's renewable and low carbon ambitions. An integrated approach should be adopted towards planning for energy developments and additional electricity grid network infrastructure. In certain circumstances, additional electricity grid network infrastructure will be needed to support the Pre-Assessed Areas in Future Wales, but also new energy generating developments more generally.

5.79 The Welsh Government's preferred position on new power lines is that, where possible, they should be laid underground. However, it is recognised that a balanced view must be taken against costs which could render otherwise acceptable projects unviable. Where undergrounding of lines is not possible or applicable, proactive engagement with energy companies and the public to mitigate the visual impact of any potential new transmission lines should take place.

5.7.10 Planning authorities should plan positively for grid infrastructure. Development plans should facilitate the grid infrastructure required to support the renewable and low carbon energy potential for the area, particularly areas identified for such development. Planning authorities should support appropriate grid developments, whether or not the developments to be connected are located within their authority.

5.7.11 Planning authorities and the energy industry, including National Grid and Distribution System Operators, should engage with each other to ensure development plans take grid infrastructure issues into account. This can also ensure investment plans for transmission and distribution align with the identified potential for renewable and low carbon energy as well as the future challenges of increasing electrification of transport and heat.

5.7.12 Energy storage has an important part to play in managing the transition to a low carbon economy. The growth in energy generation from renewable sources requires the management of the resultant intermittency in supply, and energy storage can help balance supply and demand. Proposals for new storage facilities should be supported wherever possible.

### Renewable Energy Targets

5.7.14 The Welsh Government has set targets for the generation of renewable energy:

- for Wales to generate 70% of its electricity consumption from renewable energy by 2030;
- for one Gigawatt of renewable electricity capacity in Wales to be locally owned by 2030; and
- for new renewable energy projects to have at least an element of local ownership by 2020.

5.7.15 The planning system has an active role to help ensure the delivery of these targets, in terms of new renewable energy generating capacity and the promotion of energy efficiency measures in buildings.

### 5.9 Renewable and Low Carbon Energy

5.9.1 Local authorities should facilitate all forms of renewable and low carbon energy development and should seek cross-department co-operation to achieve this. In doing so, planning authorities should seek to ensure their area's full potential for renewable and low carbon energy generation is maximised and renewable energy targets are achieved. Planning authorities should seek to maximise the potential of renewable energy by linking the development plan with other local authority strategies, including Local Well-being plans and Economic/ Regeneration strategies.

Development Management and Renewable and Low Carbon Energy

5.9.19 In determining applications for the range of renewable and low carbon energy technologies, planning authorities should take into account:

- the contribution a proposal will make to meeting identified Welsh, UK and European targets;
- the contribution to cutting greenhouse gas emissions; and
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development.

5.9.20 Planning authorities should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The construction, operation, decommissioning, remediation and aftercare of proposals should take into account:

- the need to minimise impacts on local communities, such as from noise and air pollution, to safeguard quality of life for existing and future generations;
- the impact on the natural and historic environment;
- cumulative impact;
- the capacity of, and effects on the transportation network;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so, consider whether measures to adapt to climate change impacts give rise to additional impacts.

5.9.21 Prior to an application being submitted, developers for renewable and low carbon energy developments should, wherever possible, consider how to avoid, or otherwise minimise, adverse impacts through careful consideration of location, scale, design and other measures.

5.9.22 Whatever the size of a scheme, developers should take an active role in engaging with the local community on renewable energy proposals. This should include pre-application discussion and provision of background information on the renewable energy technology that is proposed.

Re-powering, Life Extension, Decommissioning and Remediation

5.9.30 Energy-related developments should be decommissioned and sites remediated as soon as their use ceases. Planning authorities should use planning conditions or legal agreements to secure the decommissioning of developments and associated infrastructure, and remediation of the site. Planning authorities should consider including appropriate conditions for the decommissioning of energy generating developments and site restoration when they reach the end of their design life, taking into account any proposed afteruse of the site. In addition, operators should ensure that sufficient finance is set aside to enable them to meet restoration obligations. An authority may require financial guarantees by way of a Section 106 planning obligation/ agreement, as part of the approval of planning permission to ensure that restoration will be fully achieved.

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.

6.3 Landscape

6.3.1 Landscape is an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors. Landscape policy is guided by the European Landscape Convention.

6.3.2 The landscapes of Wales are rich and varied. Many Welsh landscapes are iconic, and a quarter of the land area of Wales is designated as either a National Park or Area of National Outstanding Beauty (AONB). The character and special qualities of all our places and landscapes, both urban and rural, can provide a strong sense of place, inspiration and belonging, and contribute to the distinctive cultural identity of Wales.

6.3.3 All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. Considering landscape at the outset of formulating strategies and policies in development plans and when proposing development is key to sustaining and enhancing their special qualities, and delivering the maximum well-being benefits for present and future generations as well as helping to deliver an effective and integrated approach to natural resource management over the long term. Collaboration and engagement with adjacent planning authorities, Natural Resources Wales (NRW), Cadw and the third sector will be necessary to draw on a wide range of expertise and evidence. This means:

- ensuring Wales contributes to meeting international responsibilities and obligations for landscapes;
- ensuring statutorily designated sites are properly protected and managed;

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- ensuring that the value of all landscapes for their distinctive character and special qualities is protected; and
- ensuring the opportunities landscapes provide for tourism, outdoor recreation, local employment, renewable energy and physical and mental health and well-being are taken into account and multiple well-being benefits for people and communities secured.

6.3.4 Where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission

### Biodiversity and Ecological Networks

6.4.1 Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.

6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity and resilience of ecosystems duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals. The Nature Recovery Action Plan supports this legislative requirement to reverse the decline in biodiversity, address the underlying causes of biodiversity loss by putting nature at the heart of decision-making and increasing the resilience of ecosystems by taking specific action focused around the 6 objectives for habitats and species.

6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. Addressing the consequences of climate change should be a central part of any measures to conserve biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements and species records from Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- support the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- ensure statutorily and non-statutorily designated sites are properly protected and managed;
- safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
- secure enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

6.4.4 It is important that biodiversity and resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. Since these considerations are not confined by administrative boundaries they must be addressed strategically through consultation and collaboration with adjoining planning authorities and other bodies such as NRW and the third sector. All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on the environment cannot be avoided or mitigated, it will be necessary to refuse planning permission.

#### Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity. In doing so planning authorities must also take account of and promote the resilience of ecosystems, in particular the following aspects:

- diversity between and within ecosystems;
- the connections between and within ecosystems;
- the scale of ecosystems;
- the condition of ecosystems including their structure and functioning; and
- the adaptability of ecosystems.

6.4.6 In fulfilling this duty, planning authorities must have regard to:

- the list of habitats and species of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- the SoNaRR, published by NRW; and
- any Area Statement that covers all or part of the area in which the authority exercises its functions.

6.4.7 Planning Authorities should also refer to up to date ecological survey information (where appropriate).

6.4.8 A proactive approach towards facilitating the delivery of biodiversity and resilience outcomes should be taken by all those participating in the planning process. In particular, planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

#### Protection for Non-statutory Designations

6.4.20 Although non-statutory designations carry less weight than statutory designations, they can make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given adequate protection in development plans and the development management process. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the County Ecologist and third sector environmental organisations.

Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be conserved or enhanced, planning authorities should state in their development plans what features or characteristics require this extra protection and why, and explain how the policies will achieve this protection. Assessments should similarly consider the presence of protected and priority species including those on the Section 7 list and appropriate weight attached to their protection. Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated.

### Maintaining and Enhancing Biodiversity

6.4.21 Planning authorities must follow a stepwise approach to maintain and enhance biodiversity and build resilient ecological networks by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for; enhancement must be secured wherever possible.

1. The first priority for planning authorities is to avoid damage to biodiversity and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites that would result in less harm, no harm or gain have been fully considered

2. Planning authorities should ensure that features and elements of biodiversity or green infrastructure value are retained on site, and enhanced or created where ever possible, by adopting best practice site design and green infrastructure principles. The provision of up to date ecological survey information will assist in this process. Where necessary, planning authorities should seek to modify the development proposal through discussion with the applicant at the earliest possible stage. Biodiversity and green infrastructure modifications should draw on the issues and opportunities identified through the Green Infrastructure Assessment.

3. In some circumstances, it will be appropriate to attach planning conditions, obligations or advisory notes to a permission, to secure biodiversity outcomes. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects.

4. When all other options have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes, offsite compensation for unavoidable damage must be sought:

a. This should normally take the form of habitat creation, or the provision of long-term management arrangements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment before habitat creation or restoration starts.

b. The Green Infrastructure Assessment should be used to identify suitable locations for securing offsite compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation.



This exercise will determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional management located further away from the site would best support biodiversity and ecosystem resilience at a wider scale.

c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.

d. Any proposed compensation should take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), and the five key ecosystem resilience attributes that it outlines. It should also be accompanied by a long term management plan of agreed and appropriate mitigation and compensation measures.

5. Finally, where the adverse effect on the environment clearly outweighs other material considerations, the development should be refused.

#### Protected Species

6.4.22 The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained. Planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site, and potentially the surrounding area, concerned. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the development management process. It is considered best practice that screening to determine the presence of protected species should be carried out by a competent ecologist on the basis of data provided by the relevant Local Environmental Record Centre.

#### Trees, Woodlands and Hedgerows

6.4.24 Trees, woodlands, copses and hedgerows are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make a valuable wider contribution to landscape character, sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade and shelter, a sustainable energy source and building materials. The particular role, siting and design requirements of urban trees in providing health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking.

6.4.25 Planning authorities should protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial and identified green infrastructure function. Planning authorities should consider the importance of native woodland and valued trees, and should have regard, where appropriate, to local authority tree strategies or SPG.

Permanent removal of woodland should only be permitted where it would achieve significant and clearly defined public benefits. Where woodland or trees are removed as part of a proposed scheme, developers will be expected to provide compensatory planting.

6.4.26 Ancient woodland and semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits; this protection should prevent potentially damaging operations and their unnecessary loss. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory.

6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs). They should also be incorporated into Green Infrastructure Assessments and plans.

#### Sustainable Drainage Systems (SuDS) and Development

6.6.17 New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres also require approval from the SuDS Approval Body (SAB) before construction can commence. Adoption and management arrangements, including a funding mechanism for maintenance of SuDS infrastructure and all drainage elements are to be agreed by the SAB as part of this approval. This will ensure that SuDS infrastructure is properly maintained and functions effectively for its design life.

6.6.18 The provision of SuDS must be considered as an integral part of the design of new development and considered at the earliest possible stage when formulating proposals for new development. In guiding new development the planning system should at the very least ensure the incorporation of measures at an individual site scale, particularly in urban areas, in order to secure cumulative benefits over a wider area. A concerted effort of this nature will bring benefits over a whole catchment. At a development plan level, however, there will be considerable advantages associated with developing collaborative approaches which, drawing on evidence obtained through green infrastructure assessments, integrate SuDS as part of growth strategies for particular areas.

6.6.19 Development proposals should incorporate design for surface water management, based on principles which work with nature to facilitate the natural functioning of the water cycle, providing issues such as land contamination would not result in the mobilisation of contaminants which may have an impact over a wider area. Design for multiple benefits and green infrastructure should be secured wherever possible and as part of Green Infrastructure Assessments suitable approaches towards the provision of SuDS should be identified. It may, in some circumstances, be necessary for 'hard' infrastructure solutions to be preferred because of practical or archaeological considerations, but taking into account the role of water services in contributing to the quality of place, nature based solutions should be the preference.

Air Quality and Soundscape

6.7.3 Certain sounds, such as those created by trees, birds or water features, can contribute to a sense of tranquillity whilst others can be reassuring as a consequence of their association with the normality of everyday activities. Problematic forms of sound are generally experienced as noise pollution and can affect amenity and be prejudicial to health or a nuisance. Noise action plans drawn up by public bodies aim to prevent and reduce noise levels where necessary and preserve soundscape quality where it is good. Noise levels used to identify priority areas contained in noise action plans are usually set quite high in order to focus resources on the most polluted areas and noise must meet a number of tests before it qualifies as a statutory nuisance. Lower levels of noise, however, can still be annoying or disruptive and impact on amenity and as such should be protected through the planning process wherever necessary. The planning system must protect amenity and it is not acceptable to rely on statutory nuisance under the Environmental Protection Act 1990 to do so.

6.7.4 The planning system should maximise its contribution to achieving the well-being goals, and in particular a healthier Wales, by aiming to reduce average population exposure to air and noise pollution alongside action to tackle high pollution hotspots. In doing so, it should consider the long-term effects of current and predicted levels of air and noise pollution on individuals, society and the environment and identify and pursue any opportunities to reduce, or at least, minimise population exposure to air and noise pollution, and improve soundscapes, where it is practical and feasible to do so.

6.7.5 In taking forward these broad objectives the key planning policy principle is to consider the effects which proposed developments may have on air or soundscape quality and the effects which existing air or soundscape quality may have on proposed developments. Air Quality and soundscape influence choice of location and distribution of development and it will be important to consider the relationship of proposed development to existing development and its surrounding area and its potential to exacerbate or create poor air quality or inappropriate soundscapes. The agent of change principle says that a business or person responsible for introducing a change is responsible for managing that change. In practice, for example, this means a developer would have to ensure that solutions to address air quality or noise from nearby pre-existing infrastructure, businesses or venues can be found and implemented as part of ensuring development is acceptable.

6.7.6 In proposing new development, planning authorities and developers must, therefore:

- address any implication arising as a result of its association with, or location within, air quality management areas, noise action planning priority areas or areas where there are sensitive receptors.
- not create areas of poor air quality or inappropriate soundscape; and
- seek to incorporate measures which reduce overall exposure to air and noise pollution and create appropriate soundscapes.

6.7.7 To assist decision making it will be important that the most appropriate level of information is provided and it may be necessary for a technical air quality and noise assessment to be undertaken by a suitably qualified and competent person on behalf of the developer.

Understanding and Identifying the Sources of Airborne (Air and Noise) Pollution

6.7.11 Air and noise pollution are often, but not exclusively, emitted from the same sources, notably road transport, commercial and industrial activities. Consequently, areas of poor air quality often coincide or overlap with areas subject to high noise levels. Even where they do not, poor air quality at one location and high levels of noise at a neighbouring location may be related to one another, depending on the characteristics of the place in question, including the way in which people use and occupy places and the way in which traffic is managed in the wider area. Where air and noise pollution are generated from the same source they should be considered and addressed together and links should be made with active travel and other strategies for reducing vehicular use so as to reduce or minimise, pollution and to ensure an appropriate soundscape.

6.7.13 When developing strategies, proposing or assessing development proposals it will be essential to understand the implications of the transport demand associated with the proposal and the effect this may have now and in the foreseeable future. When proposing to introduce a development activity into an area the impacts which existing pollution sources (including roads, railways and industrial or commercial operations) have in terms of air and noise pollution should be carefully considered, particularly taking into account any increases in pollution levels which may be reasonably expected in the foreseeable future as a result of increased transport activity.

6.7.14 Proposed development should be designed wherever possible to prevent adverse effects to amenity, health and the environment but as a minimum to limit or constrain any effects that do occur. In circumstances where impacts are unacceptable, for example where adequate mitigation is unlikely to be sufficient to safeguard local amenity in terms of air quality and the acoustic environment it will be appropriate to refuse permission.

Location of Commercial, Industrial and other Potentially Polluting Development

6.7.15 For the purposes of this section, potentially polluting development includes commercial, industrial, energy and agricultural or transport infrastructure. Such development should be located in areas where there is low potential for public exposure, or where its impact can be minimised. Novel or new development types may potentially cause pollution and should be carefully considered, and where appropriate, decisions should be based on the precautionary principle.

6.7.16 Relevant considerations in making planning decisions for potentially polluting development are likely to include:

- location, including the reasons for selecting the chosen site itself;
- impact on health and amenity;
- effect of pollution on the natural and built environment and the enjoyment of areas of landscape and historic and cultural value;
- impact on groundwater and surface water quality;
- effect on biodiversity and ecosystem resilience, including where there may be cumulative impacts on air or water quality which may have adverse consequences for biodiversity and ecosystem resilience;

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- the risk and impact of potential pollution from the development, insofar as this might lead to the creation of, or worsen the situation in, an air quality management area, a noise action planning priority area or an area where there are sensitive receptors; and
- impact on the road and other transport networks, and in particular on traffic generation, particularly where the proposed development is not transport infrastructure itself.

6.7.17 The location of potentially polluting development adjacent to sensitive receptors will be unacceptable where health and amenity impacts cannot be minimised through appropriate design and mitigation measures. It is the overall expectation that levels of pollution should be reduced as far as possible and for this reason the location of potentially polluting development should be taken into account as part of overall strategies in development plans to ensure it can be appropriately located and maximum environmental benefits can be gained through measures such as green infrastructure.

6.7.18 Early consideration is required to ascertain whether the location and design of proposed development is acceptable where air pollution or noise generating development is likely to affect a protected species, or is proposed in an area likely to affect a statutorily designated site (such as Natura 2000 sites or SSSIs) or a tranquil urban green space (including but not limited to formally designated 'quiet areas') valued for the restorative respite and contact with nature that they offer to residents of busy towns and cities.

**Managing Potential Environmental Risk Arising through Construction Phases**

6.7.26 Planning authorities must consider the potential for temporary environmental risks, including airborne pollution and surface and subsurface risks, arising during the construction phases of development. Where appropriate planning authorities should require a construction management plan, covering pollution prevention, noisy plant, hours of operation, dust mitigation and details for keeping residents informed about temporary risks.

**Lighting**

6.8.4 Planning authorities can attach conditions to planning permissions for new developments that include the design and operation of lighting systems, for example, requiring energy-efficient design and to prevent light pollution.

**Technical Advice Notes (TANs)**

Technical Advice Note 5: Nature Conservation and Planning (2009)

Technical Advice Note 10: Tree Preservation Orders (1990)

Technical Advice Note 11: Noise (1997)

Technical Advice Note 12: Design (2016)

Technical Advice Note 15: Development and Flood Risk (2004)

Technical Advice Note 18: Transport (2007)

Technical Advice Note 23: Economic Development (2014)

Technical Advice Note 24: The Historic Environment (2017)

**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.

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.

IO 1 Supporting Infrastructure - development must be supported by appropriate infrastructure, facilities and other requirements considered necessary as part of the proposal.

HC 1 Historic and Cultural Environment - Proposals must preserve and enhance the County's distinctive historic and cultural environment in compliance with policy principles.

HC 2 Preservation or Enhancement of Buildings and Features - Proposals must preserve or enhance the County's buildings and features of historic importance in compliance with Policy principles.

ER 2 Strategic Green Infrastructure Network - Green infrastructure will be provided through the protection and enhancement of existing green spaces that afford valuable ecosystem services. Development that compromises the integrity of such green spaces, and therefore that of the overall green infrastructure network, will not be permitted. Development will be required to take opportunities to maintain and enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network in accordance with the green infrastructure principles set out in the policy.

ER 5 Landscape Protection - Development will not be permitted that would have a significant adverse effect on the character and quality of the landscape of the County.

Priority will be given to protecting, enhancing and managing the character and quality of the 4 Special Landscape Areas (SLAs) (shown on the Proposals Map). Within SLAs development will only be permitted where there is no significant adverse impact, including cumulative impact, on the character and quality of the landscape, a landscape assessment may be required. Permitted development should aim to protect and enhance the features for which the SLA has been designated. In exceptional circumstances, where development that will have a significant impact on the landscape is necessary, a landscaping scheme will be required with appropriate mitigation and enhancement measures.

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.

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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 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.

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. 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.

T 1 Transport Measures and Infrastructure - Development must be supported by appropriate transport measures and infrastructure and dependant the nature, scale and siting of the proposal, meet specified requirements. Development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.

T 5 Design Principles for Transport Measures and Infrastructure - provides design criteria that the design of the new development, including supporting transport measures/infrastructure must adhere to.

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.

T 7 Public Rights of Way and Recreational Routes - development that significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW) will only be permitted where an acceptable alternative route is identified and provided. Linkages, and where appropriate extensions, to the existing PROW network will be expected from all new developments, which must have regard to the existing character of the PROW and the aspiration to improve access for all.

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EU 1 Renewable and Local Carbon Energy Developments - proposals for renewable or low carbon energy development will be permitted subject to compliance with specific criteria

EU 2 Renewable and Low Carbon Energy Technology in New Development - development will be required to maximise the contribution of renewable or low carbon energy technology to meet the energy demands of the proposal, particularly for Significant Energy Consuming Developments. Larger schemes, as specified in the policy, will be required to submit a comprehensive Energy Assessment to determine the feasibility of incorporating low carbon or renewable energy installations into the scheme and/or connect to renewable or low carbon energy technology and district heating networks.

EU4 Public Utilities and New Development - development will be permitted where the utility infrastructure is adequate to meet the needs of the development.

RP 1 Safeguarding and Public Health and Natural Resources - development that would result in significant risk to life; human health and wellbeing; property; controlled waters; or the historic and natural environment, especially European designated sites, will not be permitted, particularly in respect of the specified potential risks.

RP 2 Noise Pollution - Where development could lead to exposure to a source of noise pollution it must be demonstrated that appropriate mitigation measures will be implemented, and incorporated into the design of the development to minimise the effects on existing and future occupants. Noise sensitive development will not be permitted unless effective mitigation will prevent exposure to existing noise generating uses. Development that would lead to an increase in environmental noise at a NAPP or would have an unacceptable impact on a Quiet Area will not be permitted.

RP 3 Air and Light Pollution - Where development could lead to exposure to a source of air or light pollution it must be demonstrated that appropriate mitigation measures will be implemented, and incorporated into the design of the development to minimise the effects on existing and future occupants.

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.

RP6 Land Contamination - development proposals on land where there is a risk from actual or potential contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any significant risk to life, human health, property, controlled waters, or the natural and historic environment.



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**Supplementary Planning Guidance (SPG):**

- The Protection of Trees on Development Sites (adopted 2016)
- City and County of Swansea Parking Standards (adopted 2012)
- Biodiversity and Development (adopted 2021)
- Planning Obligations (2010)

The above SPG provide information and guidance to clarify the policy aims of the relevant LDP Policies as set out above. These documents, where relevant, are referenced in the amplification text of these Policies. These SPG have been formally adopted by the Council following public consultation and stakeholder engagement that informed the content of the documents. Some of the SPG documents were adopted by the Council prior to the LDP being formally adopted, and in due course the SPG documents will be subject to an updated public consultation and a re-adoption process. Notwithstanding this, it is considered appropriate to have regard to the content of the SPG given: they are fundamentally aligned to (and referenced as a supporting document within) the relevant LDP Policies and are considered to be consistent with national guidance and the overarching principles of Placemaking set out within PPW and the relevant TANs. Ultimately the SPG documents provide useful guidance to confirm how the Council considers the relevant LDP Policy aims and objectives should be interpreted.

**Consultations:**

The application was advertised on site, in the press, and one neighbouring property was consulted by letter. The application has been advertised in accordance with the statutory requirements set out within the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended).

**Llangyfelach Community Council:**

No response received to date.

**Mawr Community Council:**

No response received to date.

**Local Highway Authority:**

"The Transport Statement (TS) 107203 (December 2022) that has been submitted alongside the S73 application was reviewed. Within the report it was acknowledged that the Condition 7 relates to highways.

The TS sets out the scale of changes that are the subject of this application. It is confirmed that the key change is a layout change to accommodate four synchronous condensers, over the previous layout which contain two condensers.

It has been advised that the operational phase of the proposed development will not experience any additional traffic impact as a consequence of these changes. There will be a change in construction traffic to accommodate the concrete foundations, some changes in materials and works and a change in Abnormal Load Deliveries.

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This increase in construction activity has been quantified in detail and can be summarised as an overall increase of 104 vehicle movements, 52 in and 52 out, comprising 12 Car or LGV vehicles and 92 HGVs, 4 of which are abnormal loads.

This increase is forecast to occur in weeks 20 to 30 of the construction programme, assumed a 10 week period which is outside of the forecast peak construction activity period. This increase, considered over such a period and a 6 day working week, has been reported as being equivalent to an increase of around 2 vehicles per day.

The Highway Authority has considered this information, and cross referenced this with that provided previously. It is concluded, that subject to the retention of the CTMP Condition 7, there would be no objection raised to the changes in the proposals".

### **Pollution Control:**

I agree with the comments from the consultants and the updated Noise Impact Assessment. I am satisfied the condition is still robust enough and should remain unchanged. I note the consultants comments regarding Abergelli New Build being further from the Farm and therefore if levels meet the requirements at the Farm then by default they should also meet the requirements at the new build, however, I believe for the protection of the new build it remains included within the condition.

### **Landscaping (Trees):**

"No objection".

### **Ecology:**

"1. Re the Dec 2022 Wardell Armstrong PEA, section 5.1.2 and 5.1.3, we require all of the enhancements recommended to be provided. Section 5.1.3 only suggests what could be provided. However, we need exact details of what will be provided, the location and an implementation time table.

2. Proposed native wildflower species are missing, together with exact species of native bulbs.

3. If the work is not started within 12 months, we will require the ecological surveys/PEA to be updated and submitted.

4. Wording of ecological conditions needs amending to reflect the new information submitted".

### **Drainage:**

"Your development proposal has been identified as requiring SuDS Approval Body consent irrespective of any other permissions given".

### **Countryside Access:**

Time extension granted. No response received to date.

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**Natural Resources Wales:**

"We have no objection to the variation of the above conditions as submitted and provide the following advice.

Variation of Conditions 1, 2 and 17.

We note the variation of conditions 1, 2 and 17 to allow for changes to the proposed equipment and site layout within the existing red line boundary. We have reviewed the updated documentation submitted in support of the above application and advise we have no objection to the variation of these conditions".

**National Grid**

No objection.

**Neighbour comments:**

One letter of objection has been received on behalf of Swansea Ramblers expressing the following concerns:

- LC34 and LC117 are affected by the development.
- We wish to ensure the footpath and bridleway network remain open and usable in the area.
- Existing infrastructure has impacted upon these paths.
- Would like the paths re-opened and upgraded so the public may enjoy the area unhindered.

One letter of comment has also been received requesting noise details for the proposed plant/equipment. The case officer responded to this query.

**APPRAISAL**

**Main Issues**

Section 73 of the 1990 Act provides that an application may be made for planning permission without complying with conditions applied to a previous permission. It is stated that local authorities may decide whether to grant permission subject to differing conditions, remove the conditions altogether or refuse to alter conditions. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions". However, in terms of decision making a S73 application should be treated just like any other application, and due regard paid to the development plan and other material considerations.

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.

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The original planning application was considered against LDP policies. There have been no changes to local planning policies since the previous application was considered, the LDP remains the adopted Development Plan for the area. Moreover, since the original application was approved, there have been no material changes to national planning policies in respect of the proposed development. Therefore, the overall planning policy position remains the same as when the original application was considered.

The original planning permission is still extant, therefore, the main issue for consideration is whether the proposed minor material amendments to the development would conflict with LDP Policies and whether there are any other material planning considerations that are relevant to the consideration of this application. There are considered to be no additional issues arising from the provisions of the Human Rights Act.

### **Landscape and Visual Impacts**

The main portion of the application site where the storage facility would be located is currently an agricultural field located to the east of the National Grid substation and gas compressor station, and to the west of the access track associated with Abergelli Farm. The consented APP would be located some 80m to the north east of the proposed development. The access to the development would utilise the existing access to the National Grid substation before diverting south of the substation to follow and share the alignment of the proposed access track for the APP.

The site is generally open with a mix of boundary treatments including agricultural fencing, ditches, embankments and scattered trees. The wider landscape is predominantly low lying countryside with notable man made features including overhead power lines. Further afield the topography rises to the south towards the urban areas of Murrison and Llangyfelach. There is a public right of way (PROW) that passes to the west of the site that would be crossed by the proposed access track.

When the original application was considered the Committee Report included the following summary of the Landscape and Visual Impact of the Development:

"Taking into consideration the information presented within the Landscape Visual Assessment (LVA), and specifically having regard to the context of the site described above, which includes significant existing infrastructure as well as natural screening vegetation, while accepting that the site is currently open countryside and farmland, it is considered that the overall visual impact of the development would not be so significant as to recommend refusal of the application. The site is not located within a protected landscape area and is within a Local Search Area (LSA) for renewable solar development, as such this is not a highly sensitive landscape area and, amongst other things, the site selection process undertaken by the applicant has taken this into account. In accordance with Policy EU1, mitigation is proposed that, in time, would serve to ameliorate the visual impact of the development within the local landscape.

Overall, therefore, the landscape and visual impact of the proposal, including the cumulative impacts with other developments, are considered to be acceptable".

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This S73 application has been supported by an updated Landscape and Visual Appraisal. The LVA concludes that, with the decrease in the height of the buildings, the proposed development would now have less of an impact in visual and landscape terms than the original scheme. These conclusions are accepted given that the footprint of the development remains broadly as approved, with the two tallest elements of the approved scheme (other than the transformers), those being the fire wall and EMS buildings at 10m height, being deleted and reduced in height respectively. It is considered the proposed increase in the hardsurface area of the HV yard would have little discernible visual impact from surrounding views. Similarly, while the introduction of palisade fencing around the high voltage compound is not ideal in visual terms, the vast majority of the wider compound would be enclosed by a weldmesh fence (as previously approved) and is considered to be acceptable on this basis, having regard to the specific operational requirements of National Grid. The proposed 3.4m high electric pulse fence would be similar in terms of its height and design to that at the adjacent gas compressor station. The slender posts and wired nature of the fence would not result in any significant visual impacts, however, there is currently a lack of detail in relation to the exact location of the fence relative to the boundary fencing and it is recommended this detail is secured by a planning condition.

Overall, therefore, it is considered the proposed changes to the development would be minor in nature and would have an acceptable landscape and visual impact.

### **Residential Amenity**

With the proposed changes, it remains the case that the development would be sited a significant distance from existing residential properties such that the development would not result in any material overbearing, overshadowing or overlooking impacts upon nearby residential properties.

This S73 application has been supported by an updated Noise Impact Assessment, which takes into account the proposed changes to the scheme.

The information within the noise assessment demonstrates that the predicted noise levels of the development would be compliant with the noise levels previously agreed with the Council's Pollution Control division for both the day time and night time periods. Therefore, provided the development operates within the limits specified within the noise assessment, it is considered the proposed development would not result in any significant noise impact upon any nearby residential properties.

The Council's Pollution Control division have offered no objection to the proposed development. As such condition 18 on the original permission requiring that the rating level of noise from the development shall not exceed the specified levels at the nearest residential receptors, shall be re-imposed, should planning permission be granted, to protect the nearest residential receptors from excessive noise pollution.

### **Access and Highway Safety**

The proposed development would include an access along the same alignment as the corridor for the access road to the APP. Initial comments from the LHA during the original application expressed concerns regarding the interface between the already consented DCO held by Abergelli Power Ltd and the proposed development.

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Following the submission further information at the time, the LHA raised no objections to the proposed development subject to the submission of a detailed Construction Traffic Management Plan which was secured via condition 7 on the original permission.

This current S73 application has been accompanied by a Transport Statement which sets out the traffic impacts resulting from the proposed changes. The document confirms the operational phase of the proposed development will not experience any additional traffic impact. There will be a change in construction traffic to accommodate the concrete foundations, some changes in materials and works and a change in Abnormal Load Deliveries.

The increase in construction activity has been quantified in detail and can be summarised as an overall increase of 104 vehicle movements, 52 in and 52 out, comprising 12 Car or LGV vehicles and 92 HGVs, 4 of which are abnormal loads.

The LHA has reviewed the information within the Transport Statement and has raised no objection to the proposed amendments or their associated traffic impacts, which are considered to be minor within the context of the overall levels of construction traffic associated with the development. On this basis, having regard to the comments of the LHA, the proposed amendments to the scheme would not result in any significant highway safety impacts, subject to the re-imposition of condition 7.

### **Ecology and Green Infrastructure**

In view of the scale of the development and its sensitive location in proximity to the Afon Llan, the original application was accompanied by several ecological reports in order to fully assess the potential ecological impact of the development. NRW and the Council's Planning Ecologist were consulted on the original application and, subject to conditions in relation to ecological mitigation measures and enhancements, it was considered that the development would not result in any significant ecological impacts that could not be mitigated.

The site is located adjacent to the Llety Morfil SINC and a stream within the site along its western boundary connects to the Afon Llan which eventually drains to into the Carmarthen Bay and Estuaries Special Area of Conservation (SAC), Burry Inlet Special Protection Area (SPA) and Ramsar site. In view of the hydrological link there is a requirement to assess any potential impacts under the Conservation of Habitats and Species Regulations 2017. Regulation 63 of the Regulations requires the Local Authority, as the competent authority, to undertake a test of the likely significant effects of the proposal on the designated sites. The assessment was undertaken for the original application and concluded that the proposed development would be a sufficient distance from the site to ensure there would be no significant effect. The conclusions of the test of likely significant effects are still considered to be valid as such it is not considered necessary for a further test to be undertaken.

Both NRW and the Council's Tree Officer have reviewed the application and have offered no objection. The Council's Planning Ecologist has raised several queries in relation to the provision of further information regarding mitigation and enhancement measures. These matters would be agreed through planning conditions in relation to lighting, a Landscape Ecological Management Plan, Construction Environmental Management Plan, landscaping details and mitigation measures, as per the original application.

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While the Planning Ecologist has requested that updated ecological surveys should be submitted if work has not commenced within 12 months, this is not considered to be reasonable as planning decisions must be made on the basis of the information provided at the point of decision.

Therefore, subject to the re-imposition of conditions in relation to ecology and landscaping, with amended wording where necessary in relation to condition 17 (mitigation measures), the proposed development is considered to be acceptable in terms of its impacts upon ecology and green infrastructure.

**Drainage**

The application has been accompanied by a Flooding Consequences Assessment Addendum, which confirms the findings of the report within the original application that the risk of flooding from fluvial, surface water, ground water and sewer sources is very low or low. Reference to TAN 15 Development and Flood Risk Development Advice Map shows that all the proposed new infrastructure at the Site is located in Flood Zone A, which is categorised as being the lowest flood risk and comprises land assessed as having a less than 1:1,000 (0.1 %) annual probability of river or sea flooding in any year.

NRW's Flood Map for Planning is the most up to date source of flood information available for planning purposes, however, the Chief Planning officer's letter of 15<sup>th</sup> December 2021 in respect of TAN 15 clarifies that the Flood Map for Planning holds no formal weight as it is not yet national policy, but may be regarded as a material consideration in decision making as it is the best available information.

Reference to the Flood Maps for Planning indicates that the site is within Zone 1 for fluvial flooding which means that there is less than a 1 in 1000 chance the site would flood in a given year. In relation to surface water flooding a small section of land at a low risk of surface water flooding extends partially into the site. This is within flood Zone 2 which means there is less than a 1 in 100 but greater than 1 in 1000 chance of flooding in a given year. The FCA notes that this area does not pose a risk of flooding to the wider site. A small part of the new site access would also potentially be affected by surface water flooding from a local watercourse within Zone 2 and Zone 3 (greater than 1 in 100 chance of flooding in a given year), however, given that the site would not be manned, it is considered the consequences of part of the site access flooding would not be significant and would be acceptable in flood risk terms recognising also that the access route would be as consented for the previous scheme and as consented for the APP.

As the proposed development will change the surface water drainage regime at the site the Council's drainage officer has advised that the proposals will require separate SuDS Approval Body (SAB) consent.

As with the original application, no foul water connection is proposed to the mains system, and this is considered to be acceptable on the basis that a mains connection is not available and it would not be reasonable to provide a connection given that the site would not be manned. A condition will be re-imposed requiring details of the proposed cess pit.

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As per the original planning permission a condition in relation to a scheme for the protection of the water mains crossing the site access will be re-imposed in line with the comments and recommendations of Dwr Cymru Welsh Water on the original application.

### Land Contamination

In view of the potential hydrological connection to designated conservation sites it is considered, following a precautionary approach, that a condition should be re-imposed in relation to the unsuspected contamination at the site.

### Impact upon Heritage Assets

The nearest listed buildings are the grade II listed Cefnforest Fawr farmhouse (1.8km to the south west) and the grade II\* listed Church of St David and St Cyfleach (1.8km to the south). The nearest SAM is Earthwork 1080m NNW of Fforest Newydd located approximately 1.4km to the west of the site.

In view of the fact that the height of the buildings would be reduced under the current proposals, it is not considered the development would result in any material adverse impacts upon any heritage assets within the vicinity of the site.

Following Glamorgan Gwent Archaeological Trust's advice on the original application, which indicated the site is within an area of archaeological potential, a condition will be re-imposed requiring the submission of an archaeological watching brief.

### Interaction with Abergelli Power Project

APP was granted a Development Consent Order on 19th September 2019 and the order came into force on 10th October 2019. There is a requirement for the development to commence within 5 years.

The previous Committee Report set out how the proposed development may interact with the APP. At the time the original application was considered, initial discussions had been held with APP and it was clear that the applicant was open to a collaborative approach that sought to deliver the proposed development without compromising Abergelli Power Limited's (APL) ability to deliver the APP.

Since the original application was determined, there have been no planning submissions to the LPA to discharge the requirements of the DCO.

Given the minor nature of the proposed amendments, it is not considered the approval of this application would compromise the delivery of the APP.

### Other Matters

Concerns have been raised on behalf of Swansea Ramblers in relation to the impact the development may have on existing public footpaths, namely LC34 which crosses the existing access to the gas compressor site and LC117 which crosses the proposed access.



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This matter was fully considered under the original application and there are no further changes proposed to existing footpaths under this Section 73 application.

There are no changes proposed to LC34 as a result of the proposed development. The proposed access track for the proposed development and the APP would cross public footpath LC117. The Transport Statement with the original application noted access to the public right of way would be maintained throughout the construction and operational phases of the development with appropriate signage and any other pedestrian management measures considered necessary to maintain safe access during the construction and operation phase.

Having regard to the above, it is proposed to re-impose condition 14 in relation to the requirement for a permanent crossing to be provided for public footpath LC117.

### **Conclusion**

This is a Section 73 application for minor amendments to the approved development for a grid balancing and battery storage facility adjacent to the National Grid substation and gas compressor station at Felindre. The proposed alterations relate to the layout and design of the buildings and the associated landscaping for the development. The proposed amendments are considered to be minor in nature, having regard to the overall scale and nature of the scheme. The proposed amendments would not conflict with national planning policies or policies with the adopted Swansea LDP. There are considered to be no other material planning considerations that would weigh against the approval of this minor amendment application.

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

### **RECOMMENDATION**

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

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.  
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents:  
  
STA003-SD-01 Rev 01 (Comms House)  
STA003-SD-02 Rev 01 (Offices)  
STA003-SD-03 Rev 01 (Energy Management Building)  
STA003-SD-04 Rev 01 (Genset)

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STA003-SD-05 Rev 01 (Cooler)  
STA003-SD-06 Rev 01 (Stores)  
STA003-SD-07 Rev 01 (Aux Transformers)  
STA003-SD-08 Rev 01 (Inverter)  
STA003-SD-11 Rev 01 (HV Yard with GCB & Transformer)  
STA003-SD-12 Rev 01 (CCTV Post), received 22<sup>nd</sup> December 2022

ST19905-001 Rev A (MMA Planting Plan)  
STA003-PL-02 Rev 04 (Site Layout)  
STA003-SD-09 Rev 02 (Battery)  
STA003-SD-10 Rev 01 (Palisade Fence & Security Gate)  
STA003-SD-13 Rev 01 (Weldmesh Fence), received 21<sup>st</sup> March 2023

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

3 No development including site clearance, shall commence until a site wide Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Identify any surrounding watercourses, including intermittent drainage from highways, that could run across the site. Clarify what measures, if any, could be implemented to ensure that water could be prevented from running across the site, so that it could carry on its journey without becoming contaminated from the construction activities.
- Propose measures to ensure how any water that could not be prevented from running across the site, would be protected from becoming contaminated with sediment
- Propose how to manage water arising from the site, such as rainfall, in such a way that it does not become contaminated with sediment.
- Propose measures which ensure how any water contaminated with sediment will be prevented from leaving the site before it is clean.
- Propose how any drains that have been laid are going to be protected from sediment laden water entering them.
- Biodiversity Management: details of tree and hedgerow protection; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.
- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Control of Nuisances: details of restrictions to be applied during construction including timing, duration and frequency of works; details of dust control measures.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use.
- Traffic Management: plant on site, wheel wash facilities.

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- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Reason: To ensure the site is developed in a sensitive manner that respects the surrounding environment with regards to pollution, contamination, water resources and ecology.

- 4 Prior to the commencement of development a written scheme for the management and mitigation of artificial light emissions for both the construction phase and operational phase shall be submitted to and approved in writing by the local planning authority. The approved scheme for the management and mitigation of artificial light emissions shall be implemented at all times in accordance with the approved details for the respective construction and operational phases.

Reason: To ensure dark corridors and habitats are retained across the site to protect bats, badgers, and other nocturnal species and to protect nearby habitats.

- 5 Prior to the commencement of development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall cover a minimum ten year period and shall include:

- 1) Measures for the establishment, enhancement and management of all habitats (existing and proposed) within the site, including planting schedules and details of ongoing management.
- 2) A programme and timetable for the implementation of the works and for subsequent management activities as well as a monitoring schedule for habitats and species, post completion. All measures and works shall be completed in accordance with the approved details and programme.
- 3) Full details of ecological enhancements including, but not limited to, bat and bird boxes, hedgehog friendly fencing and timings for their implementation.

The LEMP shall thereafter be implemented in strict accordance with the approved details and timetables.

Reason: In the interests of providing, managing and maintaining the landscape and ecological features of the site in an appropriate manner.

- 6 Notwithstanding the details indicated on the approved drawings, a full landscaping scheme for the development shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The approved scheme shall be implemented within the first planting season following the completion of the development or the first beneficial use of the development commencing, whichever is the sooner. The landscaping shall thereafter be managed and maintained in accordance with the approved Landscape and Ecological Management Plan under condition 5.

Reason: To ensure the satisfactory long term landscaping, screening and biodiversity benefits for the development.

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7 Prior to the commencement of any development hereby approved, a construction traffic management plan shall be submitted to and approved in writing by the local planning authority. The construction traffic management plan shall include:

- Routeing of excavation and construction vehicles.
- Access arrangements to the site inclusive, of the management of pedestrians and other road users as to cause minimal disruption to the highway network.
- Estimated number and type of vehicles per day/week inclusive of swept path analysis.
- Details of the vehicle holding area.
- Details of the vehicle call up procedure
- Estimates for the number and type of parking suspensions that will be required.
- Details of any diversion, disruption or other abnormal use of the public highway during excavation and construction works.
- Strategy for coordinating the connection / diversion of services on site with any programmed work to utilities upon adjacent land / highway.
- Work programme and/or timescale for each phase of the excavation and construction works.
- Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.
- Traffic Signs Manual Chapter 8 traffic safety measures and signage proposals including durations.
- Scaled engineering drawings overlaid on the adopted highway network.
- Copy of Public Liability Insurance.
- Key personnel contact details and site organisation.
- Pre-commencement highway condition survey and annotated plan.
- Construction, specification, plans and details.
- Diversion of Statutory Undertaker apparatus inclusive of Street Lighting etc.
- Swept Path Analysis and any mitigation measures required.
- Pre-commencement highway condition survey and annotated plan.
- Proposals for management of any affected public rights of way during construction of the authorised development.

The construction traffic management plan shall be implemented as approved for the entire duration of the construction period for the development hereby approved.

Reason: In the interests of highway safety and pedestrian safety.

8 No development shall take place until a written scheme of Historic Environment Mitigation has been submitted to and approved in writing by the local planning authority. Thereafter, the programme of work shall be fully carried out in accordance with the requirements and standards of the written scheme. A detailed report on the archaeological work shall be submitted to and approved in writing by the local planning authority within six months of the completion of the archaeological fieldwork.

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

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- 9 No development shall commence until full details of the materials and colours to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such for the lifetime of the development.  
Reason: To ensure a proper standard of development and appearance in the interests of ensuring appropriate materials and colours in this countryside location.
- 10 By no later than 24 months from the development ceasing to be used for the purposes of the storage and distribution of electricity a decommissioning and site restoration scheme with a proposed implementation timetable shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) community liaison;
  - b) complaints procedures;
  - c) nuisance management (including measures to avoid or minimise the impacts of a. decommissioning works (covering dust, noise, vibration and lighting));
  - d) dust management measures;
  - e) site waste and materials management measures;
  - f) environmental protection and pollution control measures;
  - g) security measures and use of artificial lighting;
  - h) landscape restoration scheme; and,
  - i) a list of additional consents required for decommissioning activities and a programme for the intended submission of relevant consent applications.

The development shall be decommissioned in accordance with the approved scheme and timetable.

Reason: To ensure the development is removed after its lifetime in the interests of visual amenity and to ensure the decommissioning of the development would not result in any harmful environmental impacts and highway safety impacts.

- 11 No development shall commence until a scheme for the structural protection of the strategic watermains crossing the site has been submitted to and approved in writing by the local planning authority. The scheme shall include the precise location of the water mains in relation to the development, method statements and risk assessments for the protection of the structural condition of the watermains. The approved scheme and any required protection measures shall be implemented in full before any other development hereby permitted has commenced, and shall be retained at all times for the duration of the approved operations including any restoration works.  
Reason: To ensure that the proposed development does not affect the integrity of the public water supply system in the interests of public health and safety.

- 12 The boundary treatments and electric fencing for the development shall be implemented in accordance with details (height/design/location) which shall first be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments and electric fencing shall be provided prior to the first beneficial use of the development commencing and shall thereafter be retained as such for the lifetime of the development.  
Reason: To protect the visual amenity of the area and in the interests of protecting the ecology of the area.

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- 13 Notwithstanding the details indicated on the approved drawings, prior to the commencement of development, full details of the levels for the development including the provision of existing and proposed cross sections through the compound and any associated cutting and embankment works shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be retained as such for the lifetime of the development.

Reason: To ensure the final levels for the development would not result in any harmful landscape and visual impacts.

- 14 Prior the commencement of development details shall be submitted to and approved in writing by the local planning authority for a scheme to provide a permanent crossing for public footpath LC117 where it crosses the proposed access route. The scheme shall be implemented as approved prior to the first beneficial use of the development commencing.

Reason: In the interests of pedestrian safety and to encourage active travel.

- 15 If, during the course of development, contamination not previously identified is found to be present at the site no further development, unless previously agreed in writing with the Local Planning Authority, shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for, a detailed strategy for dealing with said contamination. The development shall thereafter be implemented in accordance with the approved strategy.

Reason: In the interests of health and safety and to protect the environment.

- 16 Prior to the installation of any welfare/office unit at the site, full details of the proposed cesspit to be fitted with a level warning device shall be submitted to and approved in writing by the local planning authority. The details shall include:

- manufacturers details of the proposed system;
- its capacity;
- method of installation and;
- maintenance and management details.

The foul water drainage system shall be installed in accordance with the approved details prior to the first beneficial use of the development commencing and shall thereafter be retained, maintained and managed in accordance with the approved details for the lifetime of the development.

Reason: To ensure the foul water system would not result in any detrimental environmental impacts.

- 17 The development shall be implemented in accordance with the mitigation measures, methodologies, timetables and details contained within the following documents:

- Preliminary Ecological Appraisal dated December 2022
- Hazel Dormouse Non-Licensed Method Statement dated January 2021.
- Reptile Report dated January 2021
- Reptile Method Statement dated January 2021

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Reason: To ensure the development is implemented having regard to the potential presence of protected species on or near to the site.

- 18 When assessed in accordance with BS 4142:2014+A1:2019, the Rating level of noise due to the Development when measured in the amenity areas of nearby dwellings, shall not exceed the levels specified in the table below:

Receptor Name	Approximate grid reference	BS 4142 Rating Level, dB	
		Daytime (0700-2300)	Night-time (2300-0700)
Abergelli Farm	265112, 201632	40	37
Abergelli (new build)	264949, 201486	42	41
Lletty'r Morfil Farm	264754, 201074	43	38
Maes-eglwys	265455, 200708	40	40

Reason: To protect the residential amenity of the occupiers of nearby properties in the interests of the health and well-being.

### 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 1 - Where Wales Will Grow

Policy 2 - Shaping urban growth and regeneration - Strategic Placemaking

Policy 9 - Resilient ecological networks and Green Infrastructure

Policy 17 - Renewable and Low Carbon Energy and Associated Infrastructure

Policy 28 - National Growth Area - Swansea Bay and Llanelli

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, IO1, HC1, HC2, ER2, ER5, ER6, ER8, ER9, ER11, T1, T5, T6, T7, EU1, EU2, EU4, RP1, RP2, RP3, RP4, RP5 and RP6.

- 2 Dormice may be present. Dormice 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 dormice is encountered e.g. live or dead animals or nests, work must cease immediately and the advice of Natural Resources Wales sought (01792 634960 or 0300 065 3000 or contact the species team by email on [trwyddedrhwyogaeth@cyfoethnaturiolcymru.gov.uk](mailto:trwyddedrhwyogaeth@cyfoethnaturiolcymru.gov.uk))

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- 3 There is the potential for hedgehogs to be present in the area. Hedgehogs are protected under Schedule 6 of the Wildlife and Countryside Act (WCA) 1981, which prohibits killing and trapping by certain methods. They are also a UK Priority species under the NERC Act (SEC.41) 2006. The species is therefore considered one of the UK's target species to avoid further population decline.
- 4 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 shall 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.
- 5 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 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 whether a bat is present at the time or not. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (0300 065 3000).

- 6 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.

- 7 Badgers are protected under the Protection of Badgers Act 1992. It is an offence to wilfully kill, injure or take a badger; to interfere with a sett by damaging or obstructing it or by disturbing a badger when it is occupying a badger sett, with intent or recklessly. If any evidence of badger use is encountered e.g. possible setts (these can be a single hole) work must stop immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634960 or 0300 065 3000 or contact the species team by email on [trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk](mailto:trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk))



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- 8 Reptiles may be present. All British reptiles are protected under Schedule 5 of the Wildlife and Countryside Act 1981 as amended. This makes it an offence to intentionally kill or injure adder, grass snake, 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 or 0300 065 3000 or contact the species team by email on [trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk](mailto:trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk))
  - 9 Otters may be present. Otters are protected under Schedule 5 of the Wildlife and 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, spraints or resting places) during the work, work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634960 or 0300 065 3000 or contact the species team by email on [trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk](mailto:trwyddedrhywogaeth@cyfoethnaturiolcymru.gov.uk))
  - 10 Water voles may be present. Water voles are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) making it an offence to damage or destroy the breeding site or resting place. It is also an offence to recklessly / intentionally to disturb such an animal. If evidence of water vole use is encountered (e.g. live water voles, droppings, holes or resting places) during the work, work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634960).
  - 11 The Developer must contact the Highway Management Group , The City and County of Swansea , Guildhall Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please e-mail [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk)
  - 12 Pre-construction checks for protected species including bats, badger and nesting birds shall be undertaken by a suitably qualified ecologist. Additionally, preconstruction checks of aquatic habitat within 10 metres of the development shall be undertaken for otter and water vole, by a suitably qualified ecologist. If evidence of any of these species is located, all works must stop and NRW contacted for advice.
  - 13 National Grid have requested to be consulted throughout the development process and have advised an earthing report must also be made available for review and agreed by National Grid prior to works commencing.
-

## Planning Committee – 9<sup>th</sup> May 2023

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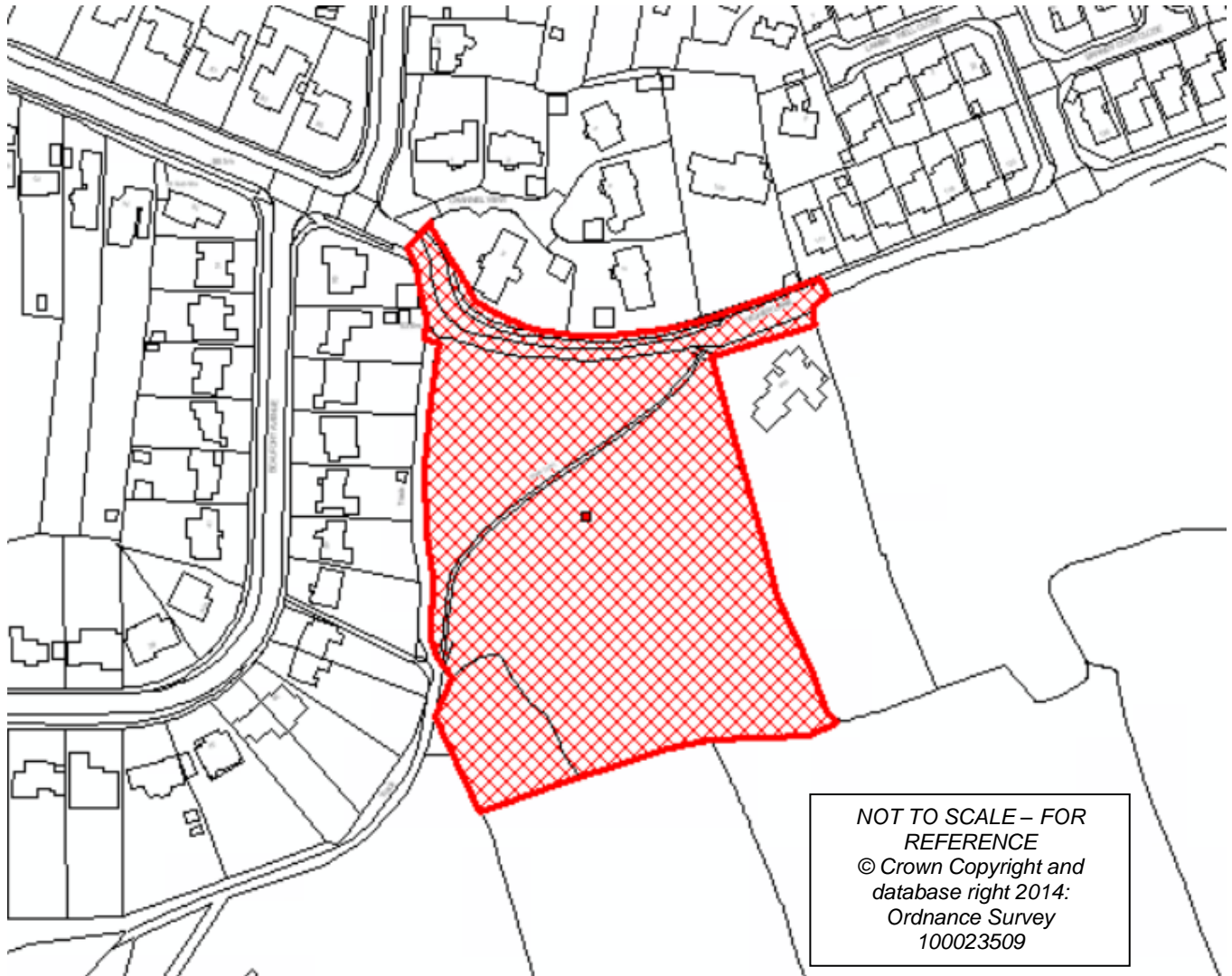
Ward:

Mumbles - Area 2

Location: Land Off Higher Lane, Langland, Swansea,

Proposal: Residential development (31 dwellings) with associated road infrastructure, drainage provision and landscaping (Variation/removal of Conditions 2, 14, 19, 20, 24, 28 and 34 of planning permission 2018/2634/FUL granted 18/11/2021 - minor alterations to the external appearance and internal layout of a number of dwellings, (with no change in the proposed unit scale mix, overall site layout), the substitution of a number of car ports with garages and the provision of additional information requested as part of the existing consent prior to the commencement of development)

Applicant: Edenstone Homes Ltd Coastal Housing Group



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### Background

**This application is being reported to the Planning Committee as it is the variation of an application previously determined at Committee. It is also noted that since the application was submitted the developer has begun work on site.**

Full planning consent was granted for the residential development (31 dwellings) of the site with associated road infrastructure, drainage provision and landscaping (Ref: 2018/2634/FUL) by the Council on the 18th November 2021. This consent was granted subject to a S106 agreement which was subsequently agreed and entered into by the applicant.

An application to discharge Conditions 14 (Residential Travel Plan), 19 (Landscape Management Plan), 20 (Tree Pit Details), 24 (External Materials) 28 (Ecological Enhancement Measures) of planning permission 2018/2634/FUL, was approved on 23th September 2022 (Ref 2022/0473/DOC).

An application to discharge Conditions 26 (Site Waste Management Plan) and 31 (Scheme for the Comprehensive and Integrated Drainage) of planning permission 2018/2634/FUL, was approved on 21st December 2022 (Ref 2022/1401/DOC).

An application to discharge Conditions 9 (Construction Method Statement) and 15 (Stage 1 Road Safety Audit) of planning permission 2018/2634/FUL, was approved on the 9th November 2022 (Ref 2022/1401/DOC).

An application to discharge Conditions 7 (Engineering, Street Lighting and Construction Details of the Internal Road Layout and Footways), 27 (Sensitive Lighting Strategy) and 29 (Construction Environmental Management Plan) of planning permission 2018/2634/FUL, was approved on 13th December 2022 (Ref 2022/1401/DOC).

### Site Location

The application site is positioned in the open countryside on a 'greenfield' site. The site forms part of the local ward of Mumbles and the given site address is 'Land Off Higher Lane, Langland, Swansea'.

### Description of Development

This is an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) - it relates to planning permission 2018/2634/FUL (granted on the 18th November 2021. The parent consent granted planning permission for the construction of 31 dwellings with associated road infrastructure, drainage provision and landscaping.

This S73 application seeks to remove/vary Conditions 2, 14, 19, 20, 24, 28 and 34 of planning permission 2018/2634/FUL. The variation of Condition 2 (plans condition) seeks a series of minor alterations to the external appearance and internal layout of a number of dwellings, (with no change in the proposed unit scale mix, overall site layout) and the substitution of a number of car ports with garages.

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The proposed amendments to the proposed buildings are described in more detail below:

- Plots 1-4 - Front path amended to provide greater level of access for all users.
- Plots 9 and 10 - Alterations to roof alignments in response to detailed engineering requirements.
- Plots 12-15 - Plots moved slightly North and redesigned, including slight increase in ground floor to facilitate increase in passive solar gain and formal external amenity space.
- Plots 8, 19 and 22 - Obscure side windows added to increase internal natural light levels.
- Plot 25 - Substitution of utility door with window in response to detailed engineering requirements.
- Plots 29 and 31 - Re-positioning of car parking spaces for greater legibility

The applicant has also submitted information originally required by some of the conditions forming part of the parent consent and has requested that this information be considered as part of this S73 application. Consequently, details relating to a submitted Residential Travel Plan, Landscape Management Plan, Tree Pit Details, External Materials and Ecological Enhancement Measures will be considered as part of this application. These relate to Conditions 14, 19, 20, 24 and 28 of the parent consent. Condition 34 of the parent consent will need to be varied in the event that the revised scheme is acceptable, so that it references the amended set of approved drawings.

### 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

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

PPW sets out the land use planning policies of Welsh Government and is supplemented by a range of Technical Advice Notes (TANs), Welsh Government Circulars and Policy clarification letters, which together with PWW provide the national Planning policy framework for Wales.

#### Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act places a duty on Local Planning Authority's (including Welsh Ministers) that they must carry out sustainable development.

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The Planning (Wales) Act 2015 introduces a statutory requirement for the planning system in Wales for statutory bodies carrying out a planning function to exercise those functions in accordance with the principles of sustainable development as set out in the Well-being of Future Generations (Act) Wales 2015. Paragraph 4.2.2. states that the planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision-maker in taking decisions on individual planning applications.

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Paragraph 4.2.4 states that a plan-led approach is the most effective way to secure sustainable development through the planning system and states there is presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise.

### Technical Advice Notes

#### *Technical Advice Note 2: Planning and Affordable Housing (2006)*

This TAN provides advice and guidance in relation to the provision of affordable housing. The guidance requires local planning authorities to:

- Include an affordable housing target in the development plan which is based on the housing need identified in the local housing market assessment.
- Indicate how the target will be achieved using identified policy approaches.
- Monitor the provision of affordable housing against the target (via the Local Development Plan Annual Monitoring Report) and where necessary take action to ensure that the target is met.

#### *Technical Advice Note 5: Nature Conservation and Planning (2009)*

This Technical Advice Note provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation. This TAN brings together advice on sources of legislation relevant to various nature conservation topics which may be encountered by local planning authorities.

#### *Technical Advice Note 10: Tree Preservation Orders (1990)*

This TAN provides guidance on where local planning authorities are to make adequate provision for the preservation and planting of trees when granting planning permission through the process of making Tree Preservation Orders (TPOs).

#### *Technical Advice Note 12: Design (2016)*

The purpose of this TAN is to equip all those involved in the design of development with advice on how 'Promoting sustainability through good design' and 'planning for sustainable building' may be facilitated through the planning system.

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This TAN defines good design and stresses the importance of good design. Specifically in relation to Residential Development it states that achieving more sustainable residential environments is dependent on linking development to public transport and other uses and services, providing access to local services, and securing the most efficient use of land. For a successful residential area, the design of housing should establish a sense of place and community, with the movement network used to enhance these qualities, and to incorporate features of environmental sustainability. This TAN gives detail advice on good design and states that development proposals, in relation to housing design should aim to:

- create places with the needs of people in mind, which are distinctive and respect local character
- promote layouts and design features which encourage community safety and accessibility
- focus on the quality of the places and living environments for pedestrians rather than the movement and parking of vehicles
- avoid inflexible planning standards and encourage layouts which manage vehicle speeds through the geometry of the road and building
- promote environmental sustainability features, such as energy efficiency, in new housing and make clear specific commitments to carbon reductions and/or sustainable building standards
- secure the most efficient use of land including appropriate densities
- consider and balance potential conflicts between these criteria.

### *Technical Advice Note 15: Development and Flood Risk (2004)*

This TAN sets out the advice and guidance in relation to development and flood risk. It sets out the way in which the risk of a development flooding and its consequences is to be assessed.

### *Technical Advice Note 18: Transport (2007)*

This TAN provide advice and guidance on transport issues including the design and location of the development, parking requirements, walking and cycling, public transport, assessing impacts and managing implementation.

### *Technical Advice Note 24: The Historic Environment (2017)*

The purpose of this TAN is to provide guidance on how the planning system considers the historic environment during development plan preparation and decision making on planning and Listed Building (LBC) applications. This TAN provides specific guidance on how the following aspects of the historic environment should be considered:

- World Heritage Sites
- Scheduled monuments
- Archaeological remains
- Listed buildings
- Conservation areas
- Historic parks and gardens

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- Historic landscapes
- Historic assets of special local interest.

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

The Swansea Local Development Plan ('LDP') was Adopted in February 2019 and the relevant policies in connection with the proposed development are as follows:

PS1: Sustainable Places - the delivery of new homes, jobs, infrastructure and community facilities must comply with the plan's sustainable settlement strategy.

PS2: Placemaking and Place Management - development must enhance the quality of places and spaces and shall accord with relevant placemaking principles.

PS3: Sustainable Housing Strategy - land is identified for the development of 17,106 homes to promote the creation and enhancement of sustainable communities.

IO1: Supporting Infrastructure - development must be supported by appropriate infrastructure, facilities and other requirements considered necessary as part of the proposal.

H2: Affordable Housing Strategy - provision will be made to deliver a minimum 3,420 affordable housing units over the Plan period.

H5: Affordable Housing - Sites are allocated for local needs housing to meet an identified social and/or economic need.

SI1: Health and Wellbeing - health inequalities will be reduced and healthy lifestyles encouraged by complying with set criteria.

SI3: Education Facilities - where residential development generates a requirement for school places developers will be required to either: provide land and/ or premises for new schools or make financial contributions towards providing additional school facilities.

SI6: Provision of New Open Space - open space provision will be sought for all residential development proposals with capacity for 10 or more units. This will include the creation of new on site facilities, or the improvement of existing local provision off site, along with appropriate maintenance contributions.

SI8: Community Safety - development must be designed to promote safe and secure communities and minimise the opportunity for crime.

ER1: Climate Change - Development proposals will be expected to take account of the effects of climate change, adapt to its impacts, and to ensure resilience.

ER2: Strategic Green Infrastructure Network - development will be required to maintain or enhance the extent, quality and connectivity of the County's multi-functional green infrastructure network.

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ER4: Gower Area of Outstanding Natural Beauty (AONB) - Within the AONB, development must have regard to the designation to conserve and enhance the natural beauty of the area.

ER8: Habitats and Species - development proposals should not have a significant adverse effect on the continued viability of habitats and species, including those identified as priorities in the UK or Swansea Local Biodiversity Action Plan unless it meets specific criteria.

ER9: 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 which enables the dispersal and functioning of protected and priority species.

ER11: Trees 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.

T1: Transport Measures and Infrastructure - development must be supported by appropriate transport measures and infrastructure, and development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.

T2: Active Travel - Development must enhance walking and cycling access either by incorporation within the site, and/or making financial contributions towards the delivery offsite of specific measures.

T5: Design Principles for Transport Measures and Infrastructure - provides design criteria that all transport measures/ infrastructure must adhere to.

T6: 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 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.

T7: Public Rights of Way and Recreational Routes - development that significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW) will only be permitted where an acceptable alternative route is identified and provided. Linkages, and where appropriate extensions, to the existing PROW network will be expected from all new developments, which must have regard to the existing character of the PROW and the aspiration to improve access for all.

EU4: Public Utilities and New Development - development will be permitted where the utility infrastructure is adequate to meet the needs of the development.

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.



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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.

RP10: Sustainable Waste Management for New Development - development will be required to incorporate, as appropriate, adequate and effective provision for the storage, recycling and other sustainable management of waste, and allow for appropriate access arrangements for recycling and refuse collection vehicles and personnel.

The three key LDP policies that are directly applicable to this application are listed in full below:

## H 5: LOCAL NEEDS HOUSING EXCEPTION SITES

Sites are allocated at the following locations for local needs housing to meet an identified social and/or economic need:

- H 5.1: Land at Monksland Road, Scurlage
- H 5.2: Land to the east of Gowerton Road, Three Crosses
- H 5.3: Land adjoining Tirmynydd Road, Three Crosses
- H 5.4: Land adjoining Pennard Drive, Pennard
- H 5.5: Land at Summerland Lane, Newton
- H 5.6: Land at Higher Lane, Llangland

Development proposals for the six allocated Exception Sites must provide:

- A minimum of 51% (the majority proportion) Affordable Housing for Local Needs; and
- A maximum of 49% (the minority proportion) enabling Local Needs Market Housing that meets an identified housing need within the Locality by providing an appropriate range of dwelling sizes, types and design specifications having regard to evidence of financial viability.

The occupancy of the Local Needs Market Housing will be restricted to "persons with a local connection" to be used as "their only or principal home" and will be formally tied to planning consent by means of legal agreements and/or conditions.

Proposals that do not provide an appropriate number and range of dwellings to meet the identified social and/or economic needs of "persons with a local connection" within the Locality will not be permitted.

## PS 2: PLACEMAKING AND PLACE MANAGEMENT

Development should enhance the quality of places and spaces, and respond positively to aspects of local context and character that contribute towards a sense of place. The design, layout and orientation of proposed buildings, and the spaces between them, should provide for an attractive, legible, healthy, accessible and safe environment. All proposals should ensure that no significant adverse impacts would be caused to people's amenity. Depending on the nature, scale and siting of the proposal, development should also:

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- i. Have regard to important elements of local heritage, culture, landscape, townscape, views and vistas;
- ii. Ensure neighbourhoods benefit from an appropriate diversity of land uses, community facilities and mix of densities that in combination are capable of sustaining vibrancy;
- iii. Create or enhance opportunities for Active Travel and greater use of public transport;
- iv. Integrate effectively with the County's network of multi-functional open spaces and enhance the County's green infrastructure network;
- v. Enhance public realm quality, incorporating public art where appropriate;
- vi. Provide for a hierarchy of interconnected streets and spaces;
- vii. Ensure active frontages onto streets and spaces to provide natural surveillance and character;
- viii. Provide an accessible environment for all;
- ix. Provide appropriate parking and circulation areas for cars, cycles, motor bikes and service vehicles;
- x. Deliver new, and/or enhance existing, connections to essential social infrastructure and community facilities;
- xi. Maximise opportunities for sustainable construction, resource efficiency and contributions towards increased renewable or low carbon energy generation;
- xii. Avoid the loss of land and/or premises that should be retained for its existing use or as an area of open space;
- xiii. Avoid unacceptable juxtaposition and/or conflict between residential and non-residential uses;
- xiv. Ensure no significant adverse impact on natural heritage and built heritage assets;
- xv. Ensure resilience is not undermined and does not result in significant risk to human health, well-being or quality of life; and
- xvi. Ensure that commercial proposals, including change of use proposals:
  - a. incorporate active frontages and shopfront designs that make a positive contribution to the streetscene,
  - b. provide appropriate enclosure,
  - c. relate well to the character of the host building,
  - d. do not compromise the ability to deliver priority regeneration schemes.
- xvii. Have regard to the implications for infrastructure and services.

### ER4: GOWER AREA OF OUTSTANDING NATURAL BEAUTY (AONB)

Within the AONB, development must have regard to the purposes of the designation to conserve and enhance the natural beauty of the area. In assessing the likely impact of development proposals on the natural beauty of the AONB, cumulative impact will also be taken into consideration.

Development must:

- i. Not have a significant adverse impact on the natural assets of the AONB or the resources and ecosystem services on which the local economy and well-being of the area depends;
- ii. Contribute to the social and economic well-being of the local community;
- iii. Be of a scale, form, design, density and intensity of use that is compatible with the character of the AONB;

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- iv. Be designed to an appropriately high standard in order to integrate with the existing landscape and where feasible enhance the landscape quality; and
- v. Demonstrate how it contributes to the conservation and enhancement of the natural beauty of the AONB.

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.

### Supplementary Planning Guidance

The following Supplementary Guidance Notes ('SPG') are also relevant to the determination of this application.

Placemaking Guidance for Residential Development (2021),  
Trees, Hedgerows and Woodlands on Development Sites (2021),  
Placemaking Guidance for the Gower AONB (2021),  
Car Parking Standards (Adopted March 2012),  
Planning Obligations (Adopted March 2010),  
Planning for Community Safety (Adopted December 2012),

### Responses to Consultation

Placemaking and Strategic Planning Team -

Residential development (31 dwellings) was granted planning consent on 18th November 2021. The applicant is proposing minor alterations to the external appearance and internal layout of a number of dwellings (with no change in the proposed unit scale mix, overall site layout), and the substitution of a number of car ports with garages.

### Principle of Development

The site has planning consent for residential development of a majority affordable homes for local needs. This s73 application does not propose to change the housing unit numbers or tenure mix or location of the affordable homes. The proposed alterations are relating to the external appearance and internal layout of a number of dwellings, the substitution of a number of car ports with garages. Also, the application provides additional information requested as part of the existing consent prior to the commencement of development (Residential Interim Travel Plan, Landscape Management Plan, Tree Pit Details, details of external finishes and the position of external meters, the location and form of bat and bird boxes to be erected through the site). Given the nature of the application, and having regard to the extant consent, there are no elements of principle that require consideration.

### 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:

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Future Wales Policy 2 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, and
- 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, and that
  - 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

The following SPG provide important guidance on how key placemaking objectives and policy requirements that are set out in the development plan and national policy should be integrated into proposals:

Placemaking guidance for residential development

Extracts from the SPG are provided in Annex B of this response.

The following amendments are proposed to the consented plans for the site:

- Plots 1-4 - Front path amended to provide greater level of access for all users.
- Plots 9 and 10 - Alterations to roof alignments in response to detailed engineering requirements.
- Plots 12-15 - Plots moved slightly North and redesigned, including slight increase in ground floor to facilitate increase in passive solar gain and formal external amenity space.
- Plots 8, 19 and 22 - Obscure side windows added to increase internal natural light levels.
- Plot 25 - Substitution of utility door with window in response to detailed engineering requirements.
- Plots 29 and 31 - Re-positioning of car parking spaces for greater legibility.

The changes above are all minor amendments and do not create any new placemaking issues for consideration.

The application proposes that the previously proposed car ports are replaced with garages to better reflect local design context. This is fine in principle but it is not clear why the garages are proposed with flat roofs which may be incongruous. It is considered more appropriate that the garages have pitched roofs with grey tiles to match the houses

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There are also a number of changes proposed to condition triggers - these do not raise any placemaking issues.

All affordable housing should be DQR compliant.

### Biodiversity Enhancement

Complementary to the need to align with placemaking requirements, developments are required to take opportunities to enhance biodiversity and integrate nature-based solutions to the design process wherever possible, in line with Development Plan policy and having regard to Council adopted SPG on Biodiversity and Development. This reflects the Council's duty under Section 6 of the Environment (Wales) Act 2016 ('the S6 duty').

Future Wales Policy 9 and PPW require that:

- all applications demonstrate the actions that have been taken where possible to maintain and enhance biodiversity and ecosystem resilience, as well as relevant GI assets.
- a clear and proportionate approach is taken to considering biodiversity and securing overall enhancement.

Extracts from the Council's Biodiversity and Development SPG are provided in Annex B of this response. These relate to how the requirement for biodiversity can be addressed, as well as details of specific measures that could be provided to enhance biodiversity and ecosystem resilience.

### Final Comments

Due to the nature of the changes proposed, there are no elements of principle that require consideration. The changes proposed to the consented plans are all minor amendments and generally do not create any placemaking issues. However it is not clear why the proposal to replace the previously proposed car ports with garages (which is fine in principle) includes flat roofs. There is concern that these may be incongruous and it is considered more appropriate that the garages have pitched roofs with grey tiles to match the houses.

*Following discussions with the applicant the Council's Placemaking Lead withdrew his objection to the proposal (relating to the design of the garage roof) and advised the original conditions not yet discharged should be applied to any consent.*

Drainage Officer -

We note the proposed alterations and highlight that any change in construction area as part of a S73 application can trigger the requirement for SuDS Approval which will radically alter the density and layout of the development able to be achieved. This is because a S73 creates a new planning permission and as this is submitted after the introduction of Schedule 3 of the Flood and Water Management Act 2010 the SAB requirements are triggered.

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This Authority takes the pragmatic view that any change in construction area of 100sqm or more as part of a S73 application triggers the SuDS requirements, this will then invalidate any previously agreed drainage strategy and in effect send the development proposals back to the beginning in design terms.

The applicant is required to demonstrate that the changes proposed are not 100sqm or more, a colour coded plan showing changes from car ports to garages is required illustrating existing and proposed construction areas.

Housing Enabling Team -

In response to the planning application 2022/0677/S73 Land Off Higher Lane Llangland, I have no further comments to add following my previous response which stated the Housing Service agrees with the proposal in accordance with Policy H5 of the LDP, over 51% of the proposed dwellings to be affordable housing, designed to DQR standards.

I agree with the siting of the affordable housing and the affordable tenure and house types will meet housing need within the area.

NRW -

Thank you for consulting Natural Resources Wales on the above application. We did not request conditions 2,14,19,20,24,28 and 34 of planning permission 2018/2634/FUL and therefore have no comments to make on their discharge.

Trees Officer - No objection. The amendments appear to be minor and have no impact on trees.

Head of Transportation and Engineering -

The areas of review for the Highway Authority have been the Travel Plan and the proposed garages.

Travel Plan:

The planning condition relating to the provision of a Travel Plan 14 states:

Prior to the first beneficial occupation of any of the approved dwellings, a site-wide Residential Travel Plan for the residential properties within the development shall be submitted to and approved in writing by the Local Planning Authority. The Residential Travel Plan shall include provision for encouraging and incentivising use of public transport and cycling and include full details of an ongoing review mechanism until all of the phases have been developed and for 5 years of monitoring. The approved Travel Plan shall be implemented upon the first occupation/use of any of the buildings hereby approved.

Reason: In the interests of promoting sustainable modes of movement to the residential properties.

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The covering statement suggests that the applicant wishes to remove the need for condition 14 and instead include it within condition 2, based on their perception of this condition being a prior to commencement condition.

The condition requires the Travel plan to be approved prior to occupation, therefore the need to change it is not clear or understood.

Notwithstanding the above, the submitted Interim Travel Plan was reviewed and it is confirmed that it does not comply with the 5 year monitoring requirements as specifically set out.

The Travel Plan also sets out that the applicant fund improvements at the Worcester Drive and Cambridge Road bus stop facilities, this will include bus shelters and timetabling information. In addition to this measures offered include potential funding or contributions towards safe routes to schools. The implementation and delivery strategy for these should be set out for consideration.

Replacement of Car Ports with Garages:

The principle of this is considered acceptable subject to appropriate demonstration that it meets with SPG standard which set out:

Garages may only be counted as parking spaces if they have clear internal dimensions, as suggested by Manual for Streets, for a single garage of 6m x 3m. If access for a disabled person is required, these dimensions must be increased to 6m x 3.8m. All properties with a garage must also have a 6m long driveway which has a width of not less than 3.6m.<sup>1</sup>/<sub>2</sub>

The submitted plans and elevations are noted, although we would request that the above dimensions and requirements are considered and clarified on plan for review.

The Highway Authority does not yet have the necessary information to consider the application. It would not support the requested changes, and at present any recommendation would be one for refusal.

*Following the submission of amended plans and documents the Head of Transportation and Engineering confirmed that there were no objections to the proposals.*

Ecology Officer -

Bat boxes should be placed on southerly elevations and bird boxes on northerly. Can the plan be amended to reflect this. In either case, east or west will be acceptable as well.

The landscape management plan, currently being considered as part of 2022/0473/DOC, still requires amendments as per my colleagues comments.

*Following the confirmation that work had commenced on site without full compliance with Condition 30 of the parent consent (relating to reptiles), the Ecologist made the following comments:*

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As we cannot be sure that no reptiles have been affected, I am of the opinion that a scheme of works to create suitable reptile habitat to mitigate for the loss or decline in suitability of any suitable reptile habitat resulting from the construction and operation of the site/associated infrastructure should be provided and conditioned. The following condition could be applied - suggested wording eg:

### Reptiles Condition

No construction shall take place until a scheme for the establishment of reptile habitat (e.g. refuge/brush piles, artificial hibernacula), its location in areas within the site unaffected by the works, and timing of provisions has been submitted to and approved in writing by the LPA. The scheme shall thereafter be implemented as approved.

*The Developer, once notified of the above suggested condition, provided a scheme of reptile enhancement measures as part of this application. These were agreed as acceptable by the Ecologist and therefore any consent will therefore be conditioned to ensure this scheme is provided*

### Publicity

The development was advertised by means of a Site Notice dated 7th April 2022. 14 residents on Beaufort Avenue, Channel View and Higher Lane were also consulted on 28th March 2022.

4 letters of objection have been received. The points of objection/concerns contained within these letters are summarised as follows:

- Drainage concerns.
- Impact on protected species, such as badgers.
- Negative impact on AONB
- Negative impact on right of way and tourism
- Better sites for the development in Swansea
- Loss of view impacting house value
- Congestion and highway safety issues
- Complaint that the public do not know what this application is for
- Queries about redirection of traffic during construction

## APPRAISAL

### 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-

- 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



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- 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.

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 within five years of the date of the last decision.

### Principle

The principle of the residential development of the site has already been established by the granting of the 2018/2634/FUL planning permission. The previous permission was considered under the current Swansea LDP and it is not considered that there have been any changes to local or national policy which would impact the consideration of the principle of development. The 2018/2634/FUL permission is still extant and the principle of the development is again considered acceptable. Furthermore it is not considered that there are any objections in principle to the proposed amendments to the proposed scheme or the proposed removal/variation of the previously imposed planning conditions.

### Visual Amenity

The visual impact of the development as a whole has been considered acceptable and approved under the 2018/2634/FUL permission. The proposed changes that form part of this Section 73 application do however need to be considered.

In summary, the proposed amendments to the buildings are relatively minor in nature, which would not significantly impact the visual character of the buildings. The buildings would remain in a fairly traditional form and it is not considered that the alterations to the approved development would have any significant visual impact. Furthermore the proposed garages (in lieu of the previously approved car ports) are considered to be visually acceptable. The minor layout revisions are also considered to be inconsequential.

On that basis the proposed development is considered to have an acceptable impact on the visual character of the local area, wider Gower AONB and is compliant with relevant LDP Policies.

Any consent will be conditioned to ensure the external finishes are carried out in full accordance with the details previously agreed as part of application: 2022/0473/DOC.

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### **Residential Amenity**

In terms of residential amenity impacts, it is not considered that the proposed amendments would result in any harm in excess of the originally approved scheme. The proposed alterations to the buildings are relatively minor and sited away from the shared boundaries with existing neighbours. It is also not considered that the proposed extended footprints or roof alterations would have any unacceptable overbearance or overshadowing impacts on neighbours. In terms of overlooking impacts, the proposed side elevation windows are to be obscurely glazed and would therefore not allow unacceptable overlooking of existing or future private amenity areas. On that basis the proposal is considered to have an acceptable impact on residential amenity.

### **Parking and Highway Safety**

The proposals do not propose any changes to the proposed access or number of parking spaces, with only small alterations to the layout of a number of parking spaces and a pedestrian path.

This S73 application also seeks the removal/variation of Condition 14 of the original consent (which required the submission of a travel plan prior to the commencement of development). A Travel Plan has been submitted as part of this S73 application which has previously approved as part of application 2022/0473/DOC.

It is also noted that Condition 15 of the parent consent required amelioration measures. However the Stage 1 Road Safety Audit submitted and approved by application 2022/1401/DOC dated 09/11/22, demonstrated that these measures were not required. Therefore this condition does not need to be reapplied.

Consequently, the proposal is considered to have an acceptable impact upon highway safety. The submitted Travel Plan is again considered acceptable and so the original Condition 14 can be replaced with a condition that requires adherence to the submitted Travel Plan.

### **Ecology**

It is noted that work has commenced on site since the submission of this S73 application, without first discharging condition 30 of the original application. For clarity condition 30 states:

*No earlier than 3 months prior to the commencement of any pre-construction/enabling works at the site, including vegetation clearance, a site walkover must be conducted by a suitably qualified ecologist, to determine whether there are any reptiles present at the site at that time. The results of the site walkover shall be submitted to and approved in writing by the Local Planning Authority for approval prior to the commencement or any pre-construction/enabling works. Should any reptiles be found on the site, then the applicant shall submit a reptile mitigation strategy to be approved in writing by the Local Planning Authority. The recommendations contained within the approved reptile mitigation strategy shall be implemented thereafter.*

*Reason: In the interests of bio-diversity and in order to minimise the impacts of the scheme on any reptiles.*

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It is clear that Condition 30 cannot be complied with and therefore cannot be applied to this S73 consent. The developer has indicated that the lack of compliance with this condition is due to an oversight on their part following delayed negotiations with the Authority's Highway Team to temporarily close the highway. They add that the required reptile checks were undertaken in March and April 2022, with no reptiles being observed.

Furthermore additional site visits were carried out by qualified Ecologists in July 2022 - the Ecologists did not observe any reptiles in July 2022 and considered conditions on site to be of limited suitability for them. Finally the developer's Ecologists were also present on site in December 2022 and considered that circumstances were the same as previously observed, prior to the commencement of work in February 2023. The developer also argues that condition was technically complied with, insofar that was completed within 3 months of some vegetative clearance on site in 2022.

In summary, it is not considered that this condition has been complied with, as the previous vegetative clearance was agreed with the developer to not constitute work that would require the discharge of any conditions, given the nature of the work. It is also noted that the Council's Ecologist has advised that the site visits conducted by the developer's Ecologists in July and December would not have been sufficient to comply with the condition. Furthermore in December any reptiles that may have been present on site would have been hibernating and therefore could not have been observed. On that basis, whilst reptiles may not have been present on site in April 2022, there is no way of knowing with any certainty that they were not on site when construction began in February 2023.

It was noted during a site visit in February 2023 that significant works had been undertaken, both in terms of earth works and site clearance works. It is clear that if any reptiles were present on site, there would not be any now, nor can the site be returned to how it was before works commenced. Consequently, given the current circumstances, a reptile compensatory condition is proposed in accordance with the advice provided by the Council's Ecologist.

This application also seeks the removal/variation of Condition 28 (which required a scheme of ecological enhancement measures). A scheme of ecological enhancement measures (including the provision of bat and bird boxes) has been provided as part of this application, which are deemed acceptable by the Council's Ecology Officer (these details have also been previously agreed as part of application: 2022/0473/DOC).

The proposal is therefore considered to have an acceptable impact on ecology, subject to conditions.

### **Trees**

The Council's Tree Officer has not raised any objections to the proposals.

The landscaping management plan and tree pit details submitted part of this S73 application (previously required by Conditions 19 and 20) are therefore considered acceptable (these details have also been previously agreed as part of application: 2022/0473/DOC). Revised conditions will be used to ensure adherence with the submitted details.

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### **Drainage**

The Council's Drainage Officer raised no objection to the proposal. However they advise that if the proposed building extensions exceed 100sqm then this would require compliance with SuDS regulations. The original application did not need to meet SuDS standards. Whilst SuDS/SAB requirements are not necessarily planning matters, the developer has provided a plan showing that the total additional floor area would measure 48.9sqm and therefore would not require SAB compliance. On that basis the proposal is considered to have an acceptable impact upon drainage.

### **Other Matters**

Section 73 applications are essentially a new consent and therefore all relevant conditions from the previous approvals should form part of this consent. This application relates to the removal/variation of a number of conditions as explained in the above sections of this report.

Condition 2 is the 'plans condition' and therefore this S73 consent will replace the original condition 2 with an updated one reflect the plans which show the proposed revisions etc.

Condition 34 ensures that certain dwellings are constructed under the lifetime homes standard; this condition will also be replaced with a revised condition to make reference to the amended plans.

All other conditions not under consideration in this S73 application will be re-applied to this consent, with the exception of those already discharged under approved DOC applications. Those approved will, where appropriate, be replaced with conditions requiring adherence to the details agreed. Condition 15 will not however be re-imposed, as it is no longer necessary, for the reasons explained in the 'Parking and Highway Safety' section of this report.

A minor change is made to Condition 3, where reference is made to the definition of the Council's administrative wards that define the 'locality'. The newly created Mumbles ward is referred to in lieu of the previously referred to Oystermouth and Newton wards.

The parent planning consent is subject to a Section 106 Planning Obligation which requires the provision of 16 Affordable housing units (51.6%) on the site comprising 8 social rent units (50%) DQR compliant, and 8 intermediate affordable housing (50%) DQR compliant, management and maintenance plans for trees, hedges LAPS, open space and SuDS, a highway contribution of £20,400, a countryside contribution of £25,000, and a contribution of £30,350 to mitigate against coastal erosion.

Recent case law has indicated that all new planning permissions should have obligations secured by S106 agreement attached to that individual permission for the avoidance of any doubt as to what obligations are relevant to the permission.

It is therefore proposed that a new Section 106 Planning Obligation or Deed of Variation be entered into linking this planning application to the obligations contained within the original S106 agreement.

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## **Conclusion**

Having regard to all material planning considerations, including the provisions of the Human Rights Act, it is considered on balance of all material planning considerations that the scheme is an acceptable form of development that will deliver a high proportion of affordable housing and local needs housing to the area. In line with the principle strategy for housing set out in the Local Development Plan and providing a good level of green infrastructure on site the development will form an acceptable relationship with the surrounding land context and will not harm the character and appearance of the surrounding Gower AONB. Subject to a range of planning conditions as well as Section 106 Agreement to deal with specific planning impacts arising as a result of the development it has been concluded that the proposed development is acceptable and accords with the provisions of Policies: PS1, PS2, PS3, IO1, H2, H5, SI1, SI3, SI6, SI8, ER1, ER2, ER4, ER8, ER9, ER11, T1, T2, T5, T6, T7, EU4, RP4 and RP10 of the Swansea Local Development Plan 2010-2025 (LDP), and the following Supplementary Planning Guidance Notes (SPG) - Places to Live - Residential Design Guide, Parking Standards, Planning Obligations, Planning for Community Safety, The Protection of Trees on Development Sites, Gower AONB Design Guide, and Lighting Scheme Guidance for Gower AONB.

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

## **RECOMMENDATION**

**APPROVE subject to the conditions indicated below and subject to the applicant entering into a Section 106 Planning Obligation / Deed of Variation to include the following requirements:**

- **16 Affordable housing units (51.6%) on the site comprising 8 social rent units (50%) DQR compliant, and 8 intermediate affordable housing (50%) DQR compliant. The specification of the AH units shall be of equivalent to those used in the local needs open market units. The AH shall be dispersed across the site in accordance with the layout shown on the approved plan: 105 Rev O Affordable Housing Layout, received 21st March 2022.**
- **Maintenance and Management Plans for the retained trees, new trees and planting, existing hedgerows, LAPS, opens spaces, and sustainable urban drainage system (SUDS) (including soakaways/infiltration trenches) to be submitted and implemented prior to the occupation of the 1st residential unit (unless these areas are to be adopted/maintained by the Council).**

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- **Highways: A contribution of £20,400 to deliver crossing improvements at Worcester Drive and bus travel infrastructure. The contribution shall be paid prior to the occupation of the 1st residential unit.**
- **Countryside: A contribution of £25,000 to deliver improvement works on the coast path MU2. The contribution shall be paid prior to the occupation of the 1st residential unit.**
- **Coastal Erosion: A contribution of £30,350 to deliver mitigation and maintenance against coastal erosion of the coastal path, exacerbated by the proposed development. The contribution shall be paid prior to the occupation of the 1st residential unit.**
- **Section 106 Management and Monitoring Fee: Costs incurred against the management of the obligations based on 2% of the value of the obligations = £1,515**

### Conditions

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

101 Rev C Site Location Plan, 112 Proposed Boundary Images, 108 Rev C Site Section, 110 Rev A Route of Proposed New Footpath, 200 Rev C Plots 1-4 Floor Plans, 201 Rev C Plots 1-4 Elevations, 202 Rev D Plots 5-6 Floor Plans, 203 Rev E Plots 5-6 Elevations,

206 Rev C Plots 9, 10, 17, 18, 23 & 24 Plans,

209 Rev F Plots 11 & 16 plans, 210 Rev F Plots 11 & 16 elevations, 223 Rev B Foul Pumping Station Enclosure Plans and Elevations and 302 Rev PL03 Public Open Space Layout, received 23rd January 2020.

183885\_A01 Rev H proposed site access and associated highway improvements off Higher Lane, 183885\_A02 Rev A proposed access - visibility splay Southern turning head and plot 22-23 manoeuvres, 183885\_AT\_B01 Rev D proposed site access swept path analysis, 183885\_AT\_B02 Rev D proposed site access swept path analysis, 183885\_AT\_B03 Rev D proposed turning head swept path analysis and 183885\_AT\_B04 Rev B proposed site swept path analysis fire tender and badger survey, received 6th April 2020.

103 Rev M Materials Layout, 104 Rev N Storey Heights Layout, 105 Rev O Affordable Housing Layout, 106 Rev M Parking Arrangements Layout, 107 Rev G Proposed Street Scenes, 109 Rev A Boundary Sections, 111 Rev F Public Open Space Management Layout, 204 Rev F Plots 7 - 8 Floor Plans, 205 Rev F Plots 7-8 Elevations, 208-1 Plots 17, 18, 23, 24 Elevations, 208-2 Plots 9 and 10 Elevations, 211 Rev G Plots 12-15 Floor Plans, 212-1 Plots 12 and 14 Elevations, 212-2 Plot 13 Elevations, 212-3 Plot 15 Elevations, 213 Rev E Plot 25 Floor Plans, 214 Rev F Plot 25 Elevations, 215 Rev D Plots 19-22 Floor Plans,

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216 Rev D Plots 19-22 Elevations, 217 Rev D Plots 26-27 Floor Plans, 218 Rev E Plots 26-27 Elevations, 219 Rev D Plots 28-31 Floor Plans, 219-1 F Plots 28-31 Elevations and 301 Rev P18 Soft Landscape Plan, received 21st March 2022.

Design and Access Statement Rev E, received 30th March 2022.

224 single garage - floor plan and elevations and 225 twin garage - floor plans and elevations, received 12th April 2022.

1873203-SBC-00-XX-DR-L-401 Rev PL01 Tree Pit Details, 1873203-SBC-00-XX-DR-L-402 Rev PL03 Highways Verge Tree Pit Detail, E21107101/DR01 Rev D Bat & Bird Box Plan and Cd 24-1 External Meter Box Locations, received 31st January 2023.

Cd 24-2 Rev B material sample board sheet 1 of 5, Cd 24-2 Rev B material sample board sheet 2 of 5, Cd 24-2 Rev B material sample board sheet 3 of 5, Cd 24-2 Rev B material sample board sheet 4 of 5, Cd 24-2 Rev B material sample board sheet 5 of 5, received 13th February 2023.

E21107101/DR03 Rev A Reptile Mitigation Plan, received 19th April 2023.

100 Rev W Proposed Site Layout, 102 Rev T External Works Layout, 100-1 Rev F Engineering Layout Sheet 1 of 2 and 100-2 Rev F Engineering Layout Sheet 2 of 2, received 27th April 2023.

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

- 2 The dwelling-houses identified as "local needs housing" shall not be occupied otherwise than by a person with a local connection, or the widow or widower of such a person and any dependents of such a person living with him or her, unless the property has been marketed for sale for a period of at least 16 weeks at market value price, as detailed in informative 1 below, and at the end of the 16 week period a person with a local connection has not been identified as a purchaser.

This process must be repeated for every successor in title (repeat sale) to each individual dwelling.

In this condition the following definitions apply:

'Person with a Local Connection' means an individual who before taking up occupation of the dwelling satisfies one of the following conditions:

(1) The person has been in continuous employment in the Locality defined for at least the last 9 months and for a minimum of 16 hours per week immediately prior to occupation; or

(2) The person needs to live in the Locality defined because they need substantial care from a relative who lives in the Locality defined, or because they need to provide substantial care to a relative who lives in the Locality defined. Substantial care means a level of care that is identified as being of a 'substantial' nature by an appropriate medical doctor or relevant statutory support agency; or

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(3) The person has been continuously resident in the Locality defined for three years immediately prior to the occupation of the dwelling and is in need of another dwelling resulting from changes to their household as detailed in informative 1 below:

- The 'Locality' is defined as the Council's administrative wards of Bishopston, Fairwood, Gower, Mayals, Mumbles, Pennard, Penclawdd and West Cross

The obligations contained in this condition shall not be binding or enforceable against any mortgagee or chargee or any receiver appointed by such a mortgagee or chargee or any person deriving title through such a mortgagee, chargee or receiver provided always that a successor in title of such a person will be bound by the obligations contained in this condition.

### Informative 1

The marketing of the property of sale for at least 16 weeks requires the dwelling to be advertised by an estate agent in the Locality and on a well-used property agency website. Only where the Local Planning Authority is satisfied that there have been no appropriate offers of purchase from a person with a local connection, can the property may be marketed to, and subsequently purchased by, a person that does not meet the local need criteria. The 16 week marketing period can only begin from the time at which the sale prices of the properties are publically available and a show home/sales office has been established for interested purchasers to visit to inform their decision to buy the property.

Circumstances where a person is 'in need of another dwelling resulting from changes to their household' include (but is not limited to), getting married, divorced, having children, requiring more space for a growing family, downsizing to a more manageable home or adult children forming new households and purchasing a property for the first time, or where a person is returning to the Locality defined within 12 months of the completion of undertaking full-time postsecondary education or skills training.

Reason: To ensure that the proposed market housing (dwellings not defined as affordable homes) meet an identified local social or economic need.

- 3 The dwelling-houses identified as "local needs housing" shall only be occupied by a person as his or her Only or Principal Home. The Occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request so to do) such information as the Authority may reasonably require in order to determine whether this condition is being observed.

In this condition, the following definition applies:

An 'Only or Principal Home' is a dwelling house that is occupied continuously for a minimum period of six months in every twelve month period. For the avoidance of doubt the dwelling shall not be occupied as a holiday home, second home or for short term let accommodation.

Reason: To ensure that the proposed market housing (dwellings not defined as affordable homes) is used as the occupier(s) only or principal home.



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- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or amending that order), Classes A, D and E of Part 1 of Schedule 2 shall not apply.  
Reason: To protect the integrity of the chosen surface water management system from additional impermeable areas that the surface water system is not designed to accommodate.
- 5 The development shall be implemented in full compliance with the submitted Arboricultural Impact Assessment and Arboricultural Impact Assessment and Arboricultural Method Statement, received 21st May 2020.  
Reason: In the interests of safeguarding trees.
- 6 The roads and footways shall be constructed in accordance with the details previously approved under Discharge of Condition application 2022/1880/DOC on 13th November 2022, namely;  
  
100-1 Rev F Engineering Layout Sheet 1 of 2, 100-2 Rev F Engineering Layout Sheet 1 of 2 and 103 Rev C Typical Highway Details (all received 5th August 2022); and  
  
S38-02 Rev C Proposed Highway Layout, 14.66.358\_S278 Street Lighting Design, 14.66.358\_S38 Street Lighting Design and Street Lighting Specification and General Conditions Rev E (received 5th September 2022).  
  
Reason: In the interests of highway and pedestrian safety.
- 7 Prior to the first beneficial use of any of the buildings within each phase 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 in writing 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: To ensure that the development is provided with satisfactorily maintained and managed streets.
- 8 The construction phase of the development shall be carried out in accordance with the Construction Method Statement Plan, Environmental - Dust and Dirt Control document and Waste Management document, received 28th July 2022 (previously approved under Discharge of Condition application 2022/1819/DOC on 7th November 2022).  
Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 9 No dwelling shall be occupied until the access, turning area and parking works, that serve that dwelling, have been completed and made ready for use, these will be required to be provided in accordance with the City and County of Swansea Parking Standards and with the approved drawings hereby. The parking areas shall be made available for vehicular parking at all times thereafter.  
Reason: In the interests of highway safety and general amenity.

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- 10 Prior to any of the dwellings hereby approved being brought into beneficial use, the proposed footway along the site frontage to Higher Lane, at 2.0 metre width, shall be extended to and connected to the existing footway to the west of the site, and crossing and connection made to the footway to the north of the site, in accordance with details to be submitted to and approved in writing with the Local Planning Authority.  
Reason: In the interests of highway safety.
- 11 Prior to each dwelling being brought into use, the proposed driveways and garages that serve the said dwelling shall be completed in accordance with the approved plans and Transport Statement.  
Reason: In the interests of highway safety and general amenity.
- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), (or any order revoking or amending that order), all garages shall be kept available for the parking of motor vehicles at all times and shall not be used as or converted to domestic living accommodation.  
Reason: To ensure adequate on site car parking provision in the interests of highway safety, and residential and visual amenity.
- 13 The measures contained within the Residential Travel Plan received on the 13th May 2022 shall be implemented upon the first occupation/use of any of the buildings hereby approved.  
Reason: In the interests of promoting sustainable modes of movement to the residential properties.
- 14 All boundary treatments forward of the principle building line and/ or immediately adjacent to a parking area, with the exception of those on the approved plans, space shall be kept at a maximum height of 1m.  
Reason: In the interests of highway safety to ensure adequate visibility splays are provided for all plots and the interests of visual amenity to ensure the landscaping is maintained across the site.
- 15 Prior to the beneficial occupation of any dwelling that has access from the Public Right of Way MU5, all works to the part of the MU5 that relates to said dwelling shall be completed, with all works to MU5 completed prior to the beneficial occupation of the final dwelling to be completed that is served by said Right of Way.  
Reason: In the interests of highway safety and general amenity.
- 16 No retained trees shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. If any retained trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at the same location and that tree shall be of a size, species as specified in writing by the Local Planning Authority.  
Reason: To ensure the protection of the retained trees during construction works.

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- 17 The approved landscaping scheme shall be managed and maintained in perpetuity in full accordance with the details contained within the Landscape Maintenance and Management Plan (received 21st March 2022) and the Report and Management Plan for Control & Eradication of Invasive Species (received 13th February 2023). Any replacement planting shall be approved in writing by the Local Planning Authority.  
Reason: To ensure that the landscaped areas are adequately maintained and trees and shrubs and those trees within hedgerows under such management retained in the interests of visual amenity.
- 18 The tree pits and associated protection measures shown in drawing numbers 1873203-SBC-00-XX-DR-L-401 Rev PL01 Tree Pit Details and 1873203-SBC-00-XX-DR-L-402 Rev PL03 Highways Verge Tree Pit Detail (received 31st January 2023), shall be constructed within the development hereby approved. Planting shall take place thereafter in accordance with these approved details.  
Reason: To ensure that the proposed tree planting in hard paved areas has been suitably detailed to ensure the long term viability of trees to maturity in the interest of visual amenity and in the Creation of Place.
- 19 Any trees, shrubs or plant material planted in properties not otherwise managed by the Landscape management plan, which die, become seriously damaged or diseased within 5 years of planting shall be replaced by trees and shrubs of a similar size and species to these already planted, unless otherwise agreed by the Local Planning Authority. Within this period all trees described in private ownership that have been planted as part of the approved landscape plan in mitigation of loss of other trees and or in the creation of Place will subsequently be protected by Tree Preservation Order(s).  
Reason To ensure the protection of those trees, shrubs and plants planted as part of the approved landscape plan in perpetuity, in the interests of visual amenity and in the creation of Place.
- 20 If during the course of development, any unexpected land instability issues are found which were not identified in the submitted site investigation, additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall thereafter be implemented as part of the proposed development.  
Reason: To ensure that any unexpected abnormal ground conditions are identified, and addressed (if required).
- 21 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.  
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.
- 22 Before each dwelling hereby approved is occupied, the means of enclosing the boundaries of the individual curtilage of that dwelling shall be completed in accordance with the approved plans.  
Reason: In the interests of visual amenity and the amenities of future and neighbouring occupiers.

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- 23 The construction phase of the development shall be carried out in accordance with the details/measures contained within the approved Site Waste Management Plan received 9th June 2022, that were previously approved under Discharge of Condition application 2022/1401/DOC on 14th December 2022.  
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.
- 24 Only the external lighting (and associated mitigation measures) shown within the drawings/documents that formed the Sensitive Lighting Strategy previously approved under Discharge of Condition application 2022/1880/DOC on 13th November 2022, namely;  
  
14.66.358\_S278 Street Lighting Design, 14.66.358\_S38 Street Lighting Design and Street Lighting Specification and General Conditions Rev E (received 5th September 2022);  
Outdoor Lighting Report (received 31st October 2022); and  
Environmental Management Plan (received 31st October 2022),  
  
shall be used during the construction and operational phases of the development.  
  
Reason: In the interest of bats, other nocturnal species and the Gower AONB.
- 25 The scheme of Ecological Enhancement Measures, as show on drawing number E21107101/DR01 Rev D Bat & Bird Box Plan (received 31st January 2023), shall be fully provided no later than 6 months from the completion of the development and shall be retained as such in perpetuity.  
Reason: In the interests of ecology and biodiversity enhancement.
- 26 The development shall be implemented in full accordance with the Environmental Management Plan received 31st October 2022 (approved as part of application 2022/1880/DOC) and drawing number CEMP-001 Rev B Construction Environmental Management Plan received 7th February 2023  
Reason: Prevention of pollution to controlled waters and the wider environment.
- 27 The drainage scheme shown in the drawings/documents listed below (that were previously approved under Discharge of Condition application 2022/1401/DOC on 14th December 2022) shall be provided prior to any of the dwellings hereby approved being brought into beneficial use. The drainage scheme shall be retained as such at all times during the lifetime of the development.  
  
101 Rev B Road and Drainage Longitudinal Sections, C102 Rev C Offsite Drainage, 104-1 Rev A Typical Drainage Details - sheet 1, 104-2 Rev A Typical Drainage Details - sheet 2, 104-3 Typical Drainage Details - sheet 3, 105 Rev C Manhole Schedules, 112 1 in 30 Year Flood Event Longitudinal Sections, 113 1 in 100 Year Flood Event Longitudinal Sections, 115 Pond Sections, 116 Exceedance Flow Routes and 117 Lateral Schedules, received 9th June 2022.

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100-1 Rev F Engineering Layout sheet 1 of 2, 100-2 Rev F Engineering Layout sheet 2 of 2 and Storm Sewer Design calculations, received 1st August 2022.

S104 Rev F S104 Plan, received 7th December 2022.

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

28 The development shall not discharge to the watercourse network at any rate greater than 2.7l/s as detailed in the Drainage Strategy reference 18051/D100 REV H received 24th September 2020.

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

29 Prior to the completion of construction, full details of the public open space area including play equipment shall be submitted to and agreed in writing with the Local Planning Authority. The public open space shall be completed in full accordance with the agreed details prior to the beneficial occupation of the final dwelling to be completed.

Reason: To ensure that the greenspace area is completed to a satisfactory standard and in the interests of visual amenity.

30 House Type H shall be constructed in accordance with the 'Lifetimes Homes' standards as per the Design and Access Statement Rev E received 30th March 2022 and drawing number 211 Rev G Plots 12 - 15 Floor Plans received 21st March 2022.

Reason: To ensure that the dwellings are adapted for all potential occupants needs and meet the identified house type need within the local area.

31 The proposed reptile habitat compensation measures as shown on drawing number E21107101/DR03 Rev A Reptile Mitigation Plan (received on 19th April 2023), shall be provided before any of the dwellings hereby approved are occupied. These compensation measures such be retained as such at all times during the lifespan of the development.

Reason: To mitigate any harm to reptile habitats during the construction phase of the development.

### Informatives

1 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 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 PS1, PS2, PS3, IO1, H2, H5, SI1, SI3, SI6, SI8, ER1, ER2, ER4, ER8, ER9 ER11, T1, T2, T5, T6, EU4, RP4 and RP10

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- 2 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 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 whether a bat is present at the time or not. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (0300 065 3000).

- 3 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest 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.

- 4 The developer must contact the Highway Management Group, The City and County of Swansea, Guildhall, Swansea SA1 4PE before carrying out any work. Please email [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk) or telephone 01792 636091.

- 5 Slow worm, adder and common lizard are likely to be recorded on the site, and are known from within 500m. Therefore, please be aware 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 (01792634 960).

Pre-construction checks are required. Any vegetation clearance must be undertaken avoiding the main hibernation period (October-March).

To mitigate for loss of reptile habitats, new habitats can be created within buffer strips. These linear features can provide corridors to link other patches of reptile habitat together. Management of field corners could also provide valuable reptile habitat. Reptiles hibernate over winter and are active from February/March to October. During the active period they require vegetation cover so, for management of grassland and scrub, it is best to extend the 'non-cutting season' to coincide with this time.

- 6 Significant change to drainage requirements will impact new developments from January 2019. From 7 January 2019, all new developments of more than 1 house or where the construction area is of 100m<sup>2</sup> or more will require sustainable drainage to manage on-site surface water.

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Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh ministers. These systems must be approved by the local authority acting in its SuDS Approving Body (SAB) role before construction work begins in accordance with Schedule 3 of the Flood and Water Management Act (FWMA) 2010. The SAB will have a duty to adopt compliant systems so long as it is built and functions in accordance with the approved proposals, including any SAB conditions of approval

- 7 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)
- 8 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.
- 9 Protected species may be present. Many species are protected under the Wildlife & Countryside Act 1981 (as amended) or are listed in the Conservation of Habitats and Species Regulations 2010 (this legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal).
- 10 To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand. Any trenches on site should be covered at night or be fitted with mammal ramps to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120 mm must be covered at the end of each work day to prevent animals entering/becoming trapped. It is also possible to provide enhancements for hedgehogs (and other wildlife), by making small holes within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site.
- 11 Badgers are protected under the Protection of Badgers Act 1992. It is an offence to wilfully kill, injure or take a badger; to interfere with a sett by damaging or obstructing it or by disturbing a badger when it is occupying a badger sett, with intent or recklessly. If any evidence of badger use is encountered e.g. possible setts (these can be a single hole) work must stop immediately and the advice of Natural Resources Wales sought before continuing with any work (01792 634960).

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- 12 Where development is taking place in the general vicinity of an active sett and there is a risk of accidental damage or disturbance occurring, it is good practice to take the appropriate measures to protect the sett during the construction phase and, in some cases, thereafter. The boundary of a protection zone should be at least 30 metres from the nearest sett entrance. Before any work starts on site, the protection zone should be clearly demarcated by using coloured tape or some other form of obvious visible marking. Scrub and vegetation should not be cleared from the sett area. Furthermore, the creation of a 'buffer zone' of undeveloped land between the nearest gardens and the periphery of the protection zone will further enhance the security afforded to the badgers.
  - 13 Prior to construction commencing an NRW licence is required to cover proposed construction work for the access road leading to the southern part of the site.
  - 14 All access works would be subject to an agreement under Section 278 of the Highways Act 1980. The design and detail required as part of a Section 278 Agreement will be prepared by the City and County of Swansea. In certain circumstances there may be an option for the developer to prepare the scheme design and detail, for approval by the City and County of Swansea. However, this will be the exception rather than the rule. All design and implementation will be at the expense of the developer.
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