



Dinas a Sir Abertawe

Hysbysiad o Gyfarfod

Fe'ch gwahoddir i gyfarfod

Pwyllgor Cynllunio

Lleoliad: Siambr y Cyngor, Neuadd y Ddinas, Abertawe

Dyddiad: Dydd Mawrth, 1 Mai 2018

Amser: 2.00 pm

Cadeirydd: Cynghorydd Paul Lloyd

Aelodaeth:

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

Agenda

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb.**
- 2 Datgeliadau o fuddiannau personol a rhagfarnol.**
www.abertawe.gov.uk/DatgeliadauBuddiannau
- 3 Cofnodion.** **1 - 4**
Cymeradwyo a llofnodi cofnodion y cyfarfod(ydd) blaenorol fel cofnod cywir
- 4 Eitemau i'w gohirio/tynnu'n ôl.**
- 5 Protocol Coed a Warchodir.** **5 - 25**
- 6 Newidiadau arfaethedig i'r broses o greu gweithdrefn a chynllun dirprwyo ar gyfer Gorchmynion Cadw Coed (GCC).** **26 - 28**
- 7 Penderfynu ar Geisiadau Cynllunio o dan Ddeddf Cynllunio Gwlad a Thref 1990.** **29 - 190**
- 8 Apelio penderfyniad - Parc Ceirw, Chwarel Cwmrhydyceirw a'r tir cyfagos, Cwmrhydyceirw, Abertawe** **191 - 246**

Cyfarfod Nesaf: Dydd Mawrth, 5 Mehefin 2018 ar 2.00 pm

Huw Evans

Huw Evans
Pennaeth Gwasanaethau Democrataidd
Dydd Mawrth, 24 Ebrill 2018

Cyswllt: Gwasanaethau Democrataidd - 636923

Agenda Item 3



City and County of Swansea

Minutes of the **Planning Committee**

Council Chamber, Guildhall, Swansea

Tuesday, 3 April 2018 at 2.00 pm

Present: Councillor P Lloyd (Chair) Presided

Councillor(s)

C Anderson
M H Jones
A H Stevens
T M White

Councillor(s)

P M Black
M B Lewis
D W W Thomas

Councillor(s)

L S Gibbard
P B Smith
L J Tyler-Lloyd

Apologies for Absence

Councillor(s): R D Lewis

65 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City & County of Swansea, the following interests were declared:

Councillor P M Black – Personal & Prejudicial – Planning Application 2017/2441/RES (Item 1) – Developer donated money to my 2016 Assembly Election Campaign and left prior to discussion.

Councillor P Lloyd - Personal – Planning Application 2017/2441/RES (Item 1) – I know the applicants.

Councillor A H Stevens – Personal - Planning Application 2018/0358/S73 (Item 2) – I have been involved in the application on behalf of the residents.

Councillor A H Stevens - Personal & Prejudicial – Planning Application 2016/1478 (Item 6) – Previously involvement in application as a Community Councillor with Gorseinon Town Council and rented part of land for animals and left prior to discussion.

66 Minutes.

Resolved that the Minutes of the Planning Committee held on 6 March 2018 be approved as a correct record.

67 Items for Deferral/Withdrawal.

None.

68 Determination of Planning Applications under the Town & Country Planning Act 1990.

A series of planning applications were presented on behalf of The Head of Planning & City Regeneration.

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

Resolved

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

(Item 1) Planning Application 2017/2441/RES - Residential development of 45 dwellings (details of access, appearance, landscaping, layout and scale pursuant of planning permission 2006/1902 granted 6th July 2012 as varied by Section 73 application 2014/1189) at Land At Upper Bank , Pentrechwyth, Swansea

A visual presentation was provided.

(#)(Item 2) Planning Application 2018/0358/S73 - Residential development for the construction of 41 units, including access and all other associated works - variation of condition 2 (approved plans) of planning permission 2017/0775/FUL granted 8th August 2017 to allow for addition of substation and amendment to parking for plots 3-6 at Heol Pentre Bach, Gorseinon, Swansea

A visual presentation was provided.

Report updates as follows:

Late letter of no objection (subject to drainage conditions) from Welsh Water reported.

Application approved subject to the applicant entering into a Deed of Variation to the Section 106 Planning Obligation and the conditions outlined.

(Item 3) Planning Application 2017/2610/FUL - Construction of two/ three storey private hospital (Class C2) with undercroft and surface car parking, service yard and associated access, infrastructure and landscaping works at Plots A15 & A16 Langdon Road, SA1 Swansea Waterfront, Swansea

A visual presentation was provided.

Councillor C Lloyd (Local Member) addressed the Committee and spoke in support of the application.

(Item 4) Planning Application 2018/0413/S73 - Section 73 application to vary Condition 3 (to allow sale of food by two users up to 3,720 sqm in total (GEA), and Condition 2, 4, 5, 6, 7 & 21 (to refer to updated Site Plan - amalgamation of Units 5A & 5B) and Condition 9 (to amend external finishes to Units 5A / 5B) of

planning permission 2016/0662 granted 26/10/2016 at Unit 5A & 5B, Parc Tawe, City Centre, Swansea

Application approved subject to conditions and the applicant entering into a new Deed of Variation to the Section 106 Unilateral Undertaking.

(#) (Item 5) Planning Application 2017/2638/FUL - Construction of a 4,672m² factory (Class B2) with ancillary parking, 2 bicycle shelters, smoking shelter, switch room, service yard and landscaping at Plot H, Bruce Road, Fforestfach, Swansea

A visual presentation was provided.

Report updated as follows:

Late letter from Coal Authority reported which indicated that it wished to comment on the application, but would not be able to submit comments until 11 April 2018.

Application approved subject to the conditions outlined and subject to any conditions deemed necessary by the Coal Authority. (If the Coal Authority objects the matter will be reported back to Planning Committee)

(#) (Item 6) Planning Application 2016/1478 - Hybrid planning application (with all matters reserved apart from strategic access) for residential-led mixed use development, to be developed in phases, including: preparatory works as necessary including earthworks/regrading of site levels; up to 750 residential units (use Class C3, including affordable homes); provision of 1 no. Primary school; circa 280m² - 370m² of flexible A1-A3 / D1 floorspace; open space including parks; natural and semi natural green space; amenity green spaces; facilities for children and young people; outdoor sports provision including playing pitches; associated services, infrastructure and engineering works including new vehicular accesses, improvement works to the existing highway network, new roads, footpaths/cycleways; landscaping works (including sustainable drainage systems), ecological mitigation works and ancillary works at Land North Of Garden Village, Swansea

A visual presentation was provided.

Geraint John (agent) addressed the Committee.

Councillor W Evans (Local Member) addressed the Committee and spoke in support of the concerns/objections raised by local residents relating to the application, particularly in respect of the traffic problems, loss of green space and lack of future medical provision.

Report updated as follows:

One late letter of objection reported.

Application be referred to Welsh Government as a departure application with a recommendation of approval subject to conditions and the applicant entering into a Section 106 agreement as detailed in the report.

69 Approval of Draft Mumbles Conservation Area Review For Public And Stakeholder Consultation.

The Head of Planning and City Regeneration presented a report which provided an overview of the draft Mumbles Conservation Area Review and sought authorisation to undertake public and stakeholder consultation.

A visual presentation was provided outlining the main proposed amendments to the policy.

Resolved that

- 1) the draft Mumbles Conservation Area Review document be approved for public and stakeholder consultation;
- 2) a schedule of responses to the representations received be reported back to Planning Committee for consideration and final approval as Supplementary Planning Guidance.

The meeting ended at 3.25 pm

Chair

Agenda Item 5



Report of the Head of Planning and City Regeneration

Planning Committee – 1 May 2018

Adoption of a “Protected Tree Protocol”

To consider the ‘Protected Tree Protocol’ as a document that formalises the Council’s decision making process and implementation of legislative procedure related to protected trees.

Recommendation:

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

For Decision

1. Introduction

- 1.1 Following a report to Scrutiny Committee Working Group of 21st April 2016 resultant actions required the production of:
“A whole Council Tree Policy requires co-operation and approval of all Cabinet and affected Council Services. **Landscape Team to produce an interim policy covering protected trees to facilitate and make more transparent the decision making process.**”

2. Discussion

- 2.1 The overall aims of the Protected Tree Protocol are to ensure that important trees within the City and County of Swansea are preserved, thereby ensuring their contribution to amenity is maintained. These aims are translated into the following four areas: ‘New Tree Preservation Orders’, ‘Reviewing Existing Tree Preservation Orders’, ‘Work to Protected Trees’ and ‘Enforcement’.
- 2.2 The areas covered by the protocol are part of the Councils duties in respect of protected trees. At present there is no framework or guidance on these areas beyond general guidance found in “*Tree Preservation Orders A Guide to the Law and Good Practice*” published by the Department of the Environment in 2000. Consequently, the protocol seeks to formalise these duties into ‘policies’ that reflect current practice.

- 2.3 Under the provisions of section 197 of the Town and Country Planning Act 1990 (as amended), the Council has a duty to protect selected trees, groups of trees and woodlands in the interests of amenity. Making new tree preservation orders (TPOs) has a subjective element to it and 'Policy 1' outlines the structure of this process, making it fair and defensible.
- 2.4 It is a duty of the Council to review existing TPOs. Some of the TPOs held on file date back to 1955. Changes to the Regulations, most significantly in 1975, increased the level of protection afforded to trees. Orders made before this date do not have this level of protection unless varied after review. Old area orders also are problematic as they covered trees present at the time of serving the order and this is hard to establish when the TPO is in excess of fifty years old. 'Policy 2' gives a framework to guide officers on the priority that orders should be given when reviewing.
- 2.5 A TPO is a legal document that makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without permission. Applications to do work are assessed by the Council's Tree Officer, and while the decisions have an element of subjectivity to them 'Policy 3' looks to ensure the recommendations made are consistent and fair to Applicants.
- 2.6 To ensure trees are adequately protected by TPOs the Council must be in a position to take enforcement action. 'Policy 4' outlines steps that the Council can take after illegal work is carried out. This will allow the consequences of illegal tree work to be seen by the public, providing a deterrent to future occurrences and raising awareness of the Council's determination to take action against illegal work to protected trees.

3 Appraisal

- 3.1 The 'policies' included in the document formalise the approach taken by Officers when carrying out duties related to protected trees.
- 3.2 The protocol will reduce the level of subjectivity when dealing with matters regarding protected trees and ensure a consistent approach.

4. Recommendation

- 4.1 The "Protected Tree Protocol" be approved as the Council's decision making process in relation to protected tree issues.

Background Papers: None

Appendices: Protected Tree Protocol

Officer Contact: Alan Webster

Extension No: 635724



PROTECTED TREE PROTOCOL

2018

1.0 Introduction

1.1. Swansea's trees provide an enormous and valuable asset and make it one of the greenest urban areas in Wales. Beyond the City, trees form an important part of the diverse landscape character of the County. Approximately 18.8% of the County is covered by tree canopy compared to a national average of 16.8%. Tree canopy cover in the urban areas of Swansea is 19.8% (based on Natural Resources Wales (NRW) figures). In the surrounding towns and villages trees form important local landmarks and landscape features and add greatly to the setting of important buildings and in the creation of a sense of place.

1.2 Trees and woodlands make a significant contribution to the diverse landscape of the City and County by:

- Providing pleasant green settings in which to live and work
- Filtering noise
- Maintaining a link with the natural environment
- Providing a valuable habitat for wildlife
- Providing shelter from the sun, wind and rain
- Recycling the air that we breathe
- Removing harmful particulates from the air
- Helping to lock up carbon
- Softening the impact of development

1.3 This Protected Tree Protocol sets out how the Council will carry out its duties in respect of protected trees, i.e. those trees subject to a Tree Preservation Order or qualifying for protection in a Conservation Area. The legislative background to these duties is set out in Appendix A.

1.4 The contribution of trees is at the heart of the WFG Act sustainable development principle; they improve Swansea's economic, cultural and environmental well-being by contributing to the seven well-being goals. As well as the obvious and well documented benefits that trees provide they also contribute to many economic, social and environmental benefits that are often overlooked or not well publicised. These benefits are set out in Appendix B and will form the basis of future policy relating to ecosystem services.

2.0 Aims of the Protected Tree Protocol

2.1 The overall aims of the **Protected Tree Protocol** are to ensure the important trees within the City and County of Swansea are preserved, thereby ensuring their contribution to amenity is maintained. These aims are translated into the policies set out below that seek to:

- Assess trees as they come under threat and protect them as and when necessary in accordance with our statutory duty
- Ensure **Tree Preservation Orders** afford suitable protection as they are intended
- Deal with Tree Work Applications fairly and consistently
- Take enforcement action where necessary to act as a deterrent to prevent further unauthorised work

2.2 A **Tree Preservation Order** (TPO) makes it an offence to: cut down, top, lop, wilfully damage, or wilfully destroy a protected tree without the local planning authority's permission. The primary function of a TPO is to protect the amenity contribution that trees make to an area.

2.3 There are four types of TPO designation:

- **Individual:** each tree designated individually
- **Group:** specified number and species within a group of trees
- **Area:** all trees specified (could be all species) growing at the time of making the order
- **Woodland:** All trees (including saplings) growing in that area either before or after the order was made

2.4 Trees growing within a Conservation Area have similar protection to TPO trees. All trees with a trunk diameter of 75mm measured at 1.5m above ground level within Conservation Areas are protected under Section 211 of the Town and Country Planning Act 1990 (as amended). Any proposed works to such trees require a written notification to the Council six weeks prior to beginning those works. Maps of the 31 Conservation Areas in the City and County of Swansea can be viewed at <http://www.swansea.gov.uk/article/5206/Conservation-areas-index>

2.5 New Tree Preservation Orders

Policy 01

All sites and trees will be assessed according to the following criteria.

- a) The trees are of current or future public amenity value. Generally, this will be interpreted as meaning that they are visible from a public place and add value to the streetscene or local landscape. However, evidence of strong cultural, historical, wildlife or rarity value will also be considered;**
- b) The loss of the trees or damage to them would have a significant impact on the local environment and its enjoyment by the public and there is a significant risk of this happening if a tree preservation order is not made; and**
- c) The trees are in reasonable health and condition, have a reasonable life expectancy and are not known to be causing damage to buildings.**

2.5.1 Under the provisions of section 197 of the Town and Country Planning Act 1990 (as amended), the Council has a duty to protect selected trees and woodlands in the interests of amenity. As the Council is seeking to protect trees and woodlands on behalf of the public, the selected trees or woodlands should generally be of some public amenity benefit. While the primary consideration is the visual impact of trees and woodlands on their local surroundings, consideration may also be given to their ecological, historical or rarity value. Other selected trees are those that are required to be planted as a part of a planning permission in mitigation of trees that are lost in the development process or in the creation of Place.

2.5.2 A TPO is a legal document that makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without permission. Anyone deliberately destroying or cutting down a protected tree could be fined up to £20,000 (current amount in 2016) if convicted in a Magistrates' Court. Fines can also be imposed under **The Proceeds of Crime Act, 2002**. For example, a householder in Bournemouth was in total fined £125,000 to take into account the increase of value of his house after he organised the felling of one tree. The serving of a TPO does not mean that the Council becomes responsible for the trees; the duty of care continues to remain with the tree owner. Policy 04 sets out the Council's approach to TPO contravention.

2.5.3 Whilst the Council has a duty to protect selected trees and woodlands, there is also a need to balance the landscape value of the tree(s) against the species, size, growth potential and the relationship to adjacent buildings and gardens. It is important to ensure that TPOs are not used to perpetuate significant problems arising from the proximity of large trees to buildings. Policy 03 sets out the situations where the Council will consider the removal or pruning of protected trees.

2.5.4 The Council will take a strategic and pro-active approach towards making new TPOs, whereby those trees and woodlands that make the greatest contribution to local amenity are identified and where appropriate are protected.

2.5.5 Ad-hoc requests for new TPO's will continue to be considered in the light of current Government advice as set out in '*TPO's A Guide to the Law and Best Practice*'. To ensure that Council resources are used to the best effect, the level of risk to the tree(s), for example from felling, lopping or construction damage, will remain an important factor in considering whether to make a TPO. It is accepted that many landowners manage their trees in a responsible way and Government advice is that the use of TPOs would not be appropriate where trees and woodlands are being responsibly managed. The Council is considered to be a responsible tree owner in this respect.

2.5.6 Trees on potential development sites including Development Plan allocations, infill plots and pre-application sites will be considered for protection as any threat becomes apparent.

2.5.7 To aid the decision-making process, trees will be assessed where appropriate using the industry recognised **Tree Evaluation Method for Preservation Orders (TEMPO)**. A tree that does not meet the required standard as set out in the methodology will not be included in a preservation order unless it is part of a woodland, and being considered as part of a woodland TPO.

2.5.8 Following receipt of a 'Section 211 Notice of Intent' to remove or work on a qualifying tree growing in a Conservation Area the Council will normally only serve a TPO where the above criteria are met and particularly where the proposed work would have an adverse impact on the character of the Conservation Area.

2.5.9 The Council will not normally serve TPOs on trees that it is responsible for managing, unless the trees fulfil the above requirements and are at risk.

2.6 Reviewing Existing Tree Preservation Orders

Policy 02

The Council will continue to review its existing Tree Preservation Orders to ensure that they reflect the current legal, public amenity and land use aspects.

2.6.1 The Council periodically reviews its old TPOs which date back to 1956. A number of these orders contain 'area' or blanket designations that apply to all qualifying trees that were present on a specific parcel of land at the time that the order was made. Any trees that have been planted or have seeded naturally since the order was made are not protected. To ensure that all TPOs are appropriate, relevant, up to date and enforceable the Council will continue to prioritise the review process by concentrating on the following types of orders that contain:

- Inadequately protected trees when compared to updated Regulations (pre 1975);
- Area designations;
- Incorrect group definitions;
- Developed sites;
- Inaccuracies.

2.7 Work to Protected Trees

Policy 03

Permission to fell a protected tree will be granted where one or more of the following apply:

- a) There is strong evidence that the tree on the balance of probabilities would, or is likely to, contribute to damage of a building; or**
- b) Where the removal would be in the interests of good silvicultural⁽¹⁾ or arboricultural⁽²⁾ management and would benefit the long-term development of adjacent better quality trees; or**
- c) The tree has a short life expectancy due to ill-health; or**
- d) The tree is at risk of causing damage to people or property where the hazard cannot be reasonably remedied by pruning of the tree.**

Permission to prune a protected tree will be granted where one or more of the following apply:

- i) The work will improve the structure or longevity of the tree; or**
- ii) It is required to prevent damaging interference between the tree and surrounding infrastructure or buildings; or**
- iii) It will not affect local amenity and would not harm the long-term health of the tree.**

1. The growing and cultivation of trees as a crop.

2. The cultivation and management of amenity trees.

2.7.1. Whilst the Council recognises the need to conserve the present tree cover, there will be occasions where tree removal is justified. This policy sets out the situations where tree removal may be acceptable.

2.7.2. The principal situations where the removal of a tree may be justified include:

- where there is strong evidence that a tree is causing damage to a building
- its removal would benefit the long-term development of adjacent trees
- the tree has a limited life expectancy; or
- is at risk of causing damage to people or property that cannot be remedied by pruning.

Protected trees that are dead, dying or dangerous do not require a formal application to be made, although 5 days written notice is required except in the most

urgent situations. In these situations the tree owner has to be able to show that the tree is in the condition claimed. Where a dead, dying or dangerous tree is removed, there is a duty on the landowner to plant a replacement tree.

2.7.3. Permission will not normally be given to remove trees because of leaf fall, fruit fall, bird droppings, honeydew from aphids, or interference with TV signals/solar panels. When reaching a decision, the Council will take into account public amenity value; species; size; age and condition; density of the canopy; proximity to the building; and the aspect of the property and garden in relation to the tree.

2.7.4 For the purpose of this policy, a protected tree is one that is subject to a TPO or qualifying tree growing in a Conservation Area.

2.7.5 Pruning may sometimes be granted for other reasons, but only if it is within the tree's ability to tolerate the work without unduly impacting on its health, longevity or its value in the landscape. Factors that will be considered include public amenity value; species, size; age; and condition.

2.7.6 The Council will not normally support the pruning of protected trees that do not fulfil the above criteria, for example, those perceived to be a problem because of leaf, twig, or fruit fall, bird droppings, honey dew, interference with TV signals or to facilitate the installation of solar panels.

2.7.7 Ash die back caused by *Hymenoscyphus fraxineus* is expected to infect most ash trees in the landscape. To prevent 'immune' trees from being removed under the dying exemption of the TPO regulations the Council's position will be precautionary. Resistant trees are expected to show signs of the disease but their retention is most important. As ash trees declining due to ash die back have residual value, action will be taken in line with current Government guidance.

2.7.8 Where there is a requirement to plant a replacement tree it should be of a suitable size and species, with location agreed prior to removal.

2.8 Enforcement

Policy 04

Where there is sufficient evidence of a contravention involving a protected tree (one subject to a Tree Preservation Order or a qualifying tree growing in a Conservation Area), provided that it is in the public interest to do so, the Council will initiate criminal prosecution proceedings.

Where prosecution is not a suitable course of action the Council will consider enforcing the planting of replacement trees and/or remedial work under planning powers.

2.8.1 This policy explains how and when the Council will enforce against: unauthorised works carried out upon, and damage to or felling of trees that are protected by TPOs; unauthorised works carried out upon, and damage to or felling of trees that are situated within Conservation Areas; and, any breach of planning conditions relating to tree retention and protection.

2.8.2 Trees are protected when they are made the subject of TPOs or when trees are situated within Conservation Areas (subject to certain exemptions). In general, it is an offence to cut down, uproot, lop, top, wilfully damage or wilfully destroy a protected tree without the consent of the Council as Local Planning Authority.

2.8.3 In the case of trees protected by a TPO, the consent of the Council is generally required for any works on the trees following submission of a formal application. Any consent may be subject to conditions, and there is a right of appeal to the Planning Inspectorate <http://gov.wales/topics/planning/appeals/appeal-guidance-and-information/planning-appeals/?skip=1&lang=en> against a refusal of consent or to the terms of a condition.

2.8.4 Where trees are in a Conservation Area, six week's notice must be given to the Council of any proposal to carry out works on the trees. During this six week period, the Council may either raise no objection to the works or make a TPO to prevent those works being carried out. If the Council takes no action within six weeks, the works may go ahead as notified.

2.8.5 Two offences apply to trees protected by TPOs and those within Conservation Areas:

i) Anyone who cuts down, uproots or wilfully destroys a tree, or who lops, tops or wilfully damages it in such a way that is likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £20,000 or to an unlimited fine in the Crown Court. The Courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.

ii) Anyone who carries out works on a tree which is not likely to destroy it, is liable if convicted in the Magistrates Court to a fine of up to £2,500.

2.8.6 In addition to directly carrying out unauthorised works on protected trees, it is an offence to cause or permit such works.

2.8.7 If it is claimed that works are exempt from the usual requirements of the legislation, it is for the defendant to prove that the exemption applies.

2.8.8 Whenever a tree has been removed in contravention of the legislation, or because it is dead, dying or dangerous, there is an automatic duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon

as reasonably possible (unless that requirement is waived by the Council). The replacement tree is then subject to the same protection as the tree that was lost. If the landowner fails to comply with this requirement, the Council may serve a Tree Replacement Notice within a period of four years to ensure compliance. A Tree Replacement Notice can be appealed to the Planning Inspectorate.

Appendix A: Legislative Background

A.1 The Council has a legal duty to consider trees under the following legislation:

A.2 Town and Country Planning Act, 1990 (as amended) Section 197 and 198

A.2.1 For the preservation of trees and woodlands and making sure that trees are fully considered when planning for new development. The Council has a duty to consider all trees in the planning process and to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and to protect trees with Tree Preservation Orders where other threats are identified.

A.3 Well-being of Future Generations (Wales) Act, 2015 (the WFG Act)

A.3.1 The Council must be able to demonstrate how it considers the sustainable development principle and its contribution of the seven well-being goals (especially a resilient Wales) in relation to the retention and removal of trees.

A.4 Environment (Wales) Act, 2016

A.4.1 In March 2016 the Environment (Wales) Act came in to force. Its purpose is to introduce legislation to help Wales to secure healthy, resilient and productive ecosystems in Wales for the future, while still meeting the challenges of creating jobs, housing and infrastructure. Of particular relevance are the following Parts:

a) Part 1 Sustainable Management of Natural Resources: Central to the Act is the need to adopt a more integrated approach to managing our natural resources in order to achieve long-term sustainability. It provides a framework to ensure that managing our natural resources in a sustainable manner will be a core consideration in decision making.

It sets out responsibilities for Welsh Government, NRW, Local Authorities and all public authorities, including a new Biodiversity Duty to help reverse the decline and secure the long term resilience of biodiversity in Wales. This duty links to and is further underpinned by the Resilience goal of the Well Being of Future Generations Act. The Biodiversity Duty requires Local Authorities “*to seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing, promote the resilience of ecosystems so far as consistent with the proper exercise of those functions*”. The Act also requires the Council to report to Welsh Government on what it has done to comply with the new Duty every three years with the first report due at the end of 2019.

b) Part 2 Climate Change: Provides the Welsh Ministers with powers to put in place statutory emission reduction targets, including at least an 80% reduction in emissions by 2050 and carbon budgeting to support their delivery. This sets a clear pathway for decarbonisation and provides certainty and clarity for business and investment. Consideration of tree retention and planting will help meet the requirements of this part of the Act.

A.5 National Policy: Planning Policy Wales Edition 10, 2018 (Consultation Draft)

A.5.1 In relation to trees, woodlands and hedgerows Planning Policy Wales states:

5.61 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, air quality, recreation and local climate moderation. They also play a vital role in tackling climate change by locking up carbon, and can provide a sustainable energy source and building materials.

5.62 Planning authorities should protect trees, hedgerows, groups of trees/shrubs and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial 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 supplementary planning guidance.

5.63 Ancient and semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and often have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded additional levels of protection and every effort should be made to prevent potentially damaging operations and their unnecessary loss. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consult with NRW. Planning authorities should also have regard to the Ancient Tree Inventory.

5.64 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific 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.

A.5.2 Green Infrastructure, as referred to above, is the network of multifunctional green (and blue/water) spaces, corridors and environmental features which surround, thread through, shape and help form the County's settlements and wider countryside. Green infrastructure should be regarded as a single resource to be safeguarded, enhanced and managed to deliver a wide range of environmental, economic and quality of life benefits for the community.

A.5.3 A forthcoming Swansea Green Infrastructure Strategy will be adopted as Supplementary Planning Guidance to the Swansea Local Development Plan and provide a strategic framework for the protection, accessibility and improvement of existing open spaces and to increase the provision where there is currently a deficiency

A.6 Swansea Local Development Plan (LDP) 2010-2025 (Deposit Version)

A.6.1 Council's general policy in relation to the protection of trees from development is set out in the LDP which states:

ER 11: 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.

Ancient Woodland, Ancient Woodland Sites, Ancient and Veteran trees merit specific protection and development will not normally be permitted that would result in:

- i. Fragmentation or loss of Ancient Woodland;
- ii. The loss of an Ancient or Veteran tree;
- iii. Ground damage, loss of understorey or ground disturbance to an area of Ancient Woodland or Ancient or Veteran Tree's root protection area;
- iv. A reduction in the area of other semi natural habitats adjoining Ancient Woodland;
- v. Significant alteration to the land use adjoining the Ancient Woodland;
- vi. An increase in the likely exposure of Ancient Woodland, Ancient or Veteran Tree to air, water or light pollution from the surrounding area;
- vii. Alteration of the hydrology in a way that might impact on Ancient Woodland, Ancient or Veteran Trees;
- viii. Destruction of important connecting habitats relating to Ancient Woodland;
- ix. Degradation of important archaeological or historical features within Ancient Woodland or associated with Ancient or Veteran trees;
- x. Destruction of Plantations on Ancient Woodland Sites (PAWS); and/or
- xi. Development within 15m of Ancient Woodland

2.9.72 Throughout the County it is estimated that over 50,000 trees are protected by individual/group orders, area orders or woodland orders. This is in addition to trees in Conservation Areas whilst hedgerows are protected by separate legislation.

2.9.71 In recognition of the importance of trees to the County, the Plan seeks to ensure that suitable trees, whether they are protected by legislation or not, are retained and protected on any development site. Where appropriate planning conditions or Tree Preservation Orders will be used to protect important trees and woodlands.

2.9.72 Development proposals on sites containing or adjacent to trees will be required to provide a tree survey and arboricultural impact assessment in support of a planning application. Where necessary an arboricultural method statement and tree protection plan will also be required. These documents must be in accordance with the current British Standard BS5837 'Trees in relation to design, demolition and construction – Recommendations', and

have regard to the long term impact of the proposed development on the trees as they grow and wherever possible seek to avoid future conflict, such as that caused by over-hanging branches, shading and dominance.

2.9.73 Planning Permission will normally only be granted where the trees on the site are fully protected in the long term, or appropriate replacement trees will be planted when the removal of a tree or trees is unavoidable. The removal of trees would only be acceptable where there is no other alternative location for the development; and the need for and benefits from the development, outweighs the importance of the tree or trees.

2.9.74 A scheme for tree replacement, including details of planting and aftercare, must be agreed prior to the commencement of development. Replacement trees will be planted in accordance with British Standard BS8545 'Trees: from nursery to independence in the landscape - Recommendations. Tree Preservation Orders (TPOs) will normally be placed on the replacement trees.

2.9.75 Planning Conditions, Article 4 Directions and/or Planning Obligations will be used to secure any necessary mitigation/compensation/enhancement measures in relation to trees and development proposals.

2.9.76 New tree or mitigation planting will be designed to achieve maturity and to ensure that there is an ongoing contribution to amenity with negligible negative impacts. New landscape schemes will follow the principles set out in "Trees in the Townscape: A Guide for Decision Makers and be delivered using guidance in "Trees in Hard Landscapes: A Guide for Delivery".

2.9.77 Ancient Woodland is located on land that has had a continuous woodland cover since at least 1600 AD. It is a valuable and irreplaceable resource. Having been present in the landscape over many centuries Ancient Woodland is rich in wildlife and more likely to support protected and priority species and to contain special features of importance for biodiversity. It is also more likely to contain features of historical and archaeological importance. Their rarity and importance means that these areas should be protected. Where possible opportunities should be taken to restore plantations on Ancient Woodland sites to native tree cover.

2.9.78 All areas of Ancient Woodland known at the time of the Plan's preparation are shown on the Constraints Map. However this is only a provisional list and all development sites that support woodland will need to be assessed for Ancient Woodland status. NRW will be consulted on any proposals that may give rise to potentially damaging operations.

2.9.79 An Ancient Tree is one that has passed beyond maturity and is old or aged. A Veteran Tree may not be old but because of its environment or life experiences has developed the valuable features of an ancient tree. Ancient and Veteran Trees are of prime importance because of their rarity and

function within an ecosystem. Individual Ancient and Veteran trees often have local or national significance, due to their age, size or condition. They are also of importance to sustain a range of nationally and internationally protected species.

2.9.80 There is currently no comprehensive inventory of Ancient and Veteran Trees within Wales. The required tree survey in support of development proposals will detail whether a site contains or is adjacent to any trees which could be considered to be Ancient or Veteran.

2.9.81 Invasive Non-Native Species are alien animals, plants or other organisms that have the ability to spread, causing damage to the environment, the economy, our health and the way we live. They are addressed by existing legislation. If invasive non-native species are present in and around a development site appropriate action should be taken to control or remove them prior to the commencement of any approved development. Where planning permission is granted it will be subject to appropriate planning conditions and obligations to secure suitable protection, monitoring, mitigation, compensation and management.

Appendix B: Benefits of Trees

B.1 Economic Benefits:

- Increase property values by 5-18% and this growth increases proportionately with the tree growth
- Within mature landscapes, make development sites worth more
- Create a positive perception of 'place' for potential property buyers be it home owners or commercial investors
- Contribute to retail areas performing better - people are more productive, with job satisfaction increased. Customers are prepared to pay more for parking and goods (9-12% for some products) in landscaped shopping areas
- Improve the environmental performance of buildings by reducing heating and cooling costs, thereby cutting bills
- Provide a cost-effective and sustainable alternative to 'grey' infrastructure provision in tackling storm-water run-off
- Reduce, through shading, the degradation of tarmac surfacing and frequency of replacement
- Reduce green space maintenance costs
- Add to tourism and recreational revenue
- Improve the health and well-being of local populations, so reducing healthcare costs
- Can enhance the prospect of securing planning permission if existing trees are protected and the new tree-planting design is imaginative
- Offer valuable by-products e.g. timber, firewood/woodchip, renewable fuel via coppicing, fruits (e.g. community orchards) and compost/leaf litter mulch.

B.2 Social/ Cultural Benefits:

- Create a sense of place and local identity
- Provide focal points and landmarks
- Benefit communities by increasing pride and social cohesion in the local area
- Have a positive impact on crime reduction
- Promote spiritual well-being, due to their stature, strength, and endurance, e.g. putting people in touch with nature and reducing depression and anxiety
- Provide a source of recreation, entertainment and quiet enjoyment, offering opportunities to unwind and de-stress, and provide families with a pleasant environment within which to spend quality time together
- Have a positive impact on people's physical and mental health e.g. less asthma and skin cancer and improve patient recovery times. Studies show that children living in areas with more street trees have lower prevalence of asthma.
- Encourage exercise that can counteract heart disease and Type 2 diabetes
- Offer a rich outdoor learning classroom for all, especially when part of a natural wooded environment.
- Helps children concentrate at school if trees can be seen from the classroom.
- Give a link to heritage

B.3 Environmental Benefits:

- Remove carbon dioxide to create a carbon sink, i.e. help tackle climate change by trapping carbon
- Transpire, reflect sunlight and provide shade, in combination to reduce the 'urban heat-island effect'
- Remove dust and particulates from the air
- Reduce traffic noise by absorbing and deflecting sound
- Reduce wind speeds
- Provide food and shelter for wildlife thus helping to increase biodiversity
- Create new habitat links across towns and to the countryside, and strengthen existing wildlife corridors
- Create attractive greener landscapes
- Hide eyesores
- Reduce the effects of flash flooding by slowing the rate at which rainfall reaches the ground
- Help to improve soil quality when planted on despoiled and degraded ground
- Create organic matter on the soil surface from their leaf litter and, with their roots increasing soil permeability that results in:
 - Reduced surface water run-off from storms. "Every 5% increase in tree cover reduces water run off by 2%".
 - Reduced rainwater soil erosion and sedimentation of streams
 - Increased ground water re-entry that is otherwise significantly reduced by paving
 - Lesser amounts of chemicals transported to streams
 - Reduced wind erosion of soil

B.4 Local Benefits

B.4.1 Although Swansea is one of the greener cities in Wales, in the i-Tree Eco, Tawe Catchment study area¹ it was found to have a low proportion of large trees compared to previous studies conducted in the UK, and would benefit from more medium and large sized trees. More trees could be planted, as there is up to 24% of urban space available to plant trees or shrubs.

B.4.2 The 530,000 trees in the Tawe Catchment Study (2014) area alone are estimated to be worth £1.72 million per annum to the local economy, as they:

- intercept an estimated 252 million litres of water every year, equivalent to an estimated **£333,900** in sewerage charges avoided
- remove an estimated 136 tonnes of airborne pollutants each year, worth more than **£715,500** in damage costs
- remove an estimated 3,000 tonnes of carbon from the atmosphere each year, this amount of carbon is estimated to be worth **£671,000** and store an estimated 102,000 tonnes of carbon estimated to be worth **£23.1 million**
- have a replacement value of **£234 million**
- have an asset value of **£816 million** - an evaluation based on public amenity

1

Appendix C: References

1. City and County of Swansea Local Development Plan (2010-2025) Deposit Version. <http://swansea.gov.uk/ldp>
2. City and County of Swansea, The Protection of Trees on Development Sites October 2016. <https://www.swansea.gov.uk/treesondevelopmentsites>
3. The Town and Country Planning Act 1990 (as amended) <http://www.legislation.gov.uk/ukpga/1990/8/contents>
4. The Town and Country Planning (Trees) Regulations 1999 <http://www.legislation.gov.uk/uksi/1999/1892>
5. 'TPO's A Guide to the Law and Best Practice'
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/14956/tpoguide.pdf
6. Planning Guidance (Wales). Technical Advice Note (Wales) 10. Tree Preservation Orders.
<http://gov.wales/topics/planning/policy/tans/tan10/?lang=en>
7. Protected trees - a guide to tree preservation procedures.
<http://gov.wales/topics/planning/policy/guidanceandleaflets/tpoguide/?lang=en>
8. Tree Evaluation Method for Preservation Orders (TEMPO).
<http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf>
9. Natural Resources Wales: Tree Cover in Wales' Towns and Cities, 2016
10. Trees and Design Action Group (TDAG):
 - No Trees No Future (2010)
 - The Canopy (2011)
 - Trees in the Townscape (2012)
 - Trees in the Hard Landscape (2014)
11. Forestry Commission England: The Case for Trees in Development and the Urban Environment (2010)
12. CIRIA: The Benefits of Large Species Trees in Urban Landscapes (2012)
13. Manchester University: Adaptation Strategies for Climate Change in the Urban Environment ASSCUE project (2010)

14. Lancaster University: Using trees to improve air quality in cities (2005)
15. Trees for Cities: Trees Matter (2005)
16. Forest Research and Treeconomics (i-Tree Eco studies):
 - Torbay's Urban Forest (2011)
 - Green Benefits in Victoria Business Improvement District, London (2012)
 - Valuing Wrexham's Urban Forest (2014)
 - Valuing Urban Trees in Glasgow (2015)
 - Valuing London's Urban Forest (2015)
 - Valuing Urban Trees in the Tawe Catchment (2015)
 - Valuing the Urban Trees of Bridgend County Borough (2015)
17. The Woodland Trust:
 - Greening the Concrete Jungle (2010)
 - Trees or Turf (2011)
 - Urban Air Quality (2012)
 - Trees in Our Towns – their role in managing water quality and quantity (2013)
 - Healthy Trees, Healthy Places (2013)

Appendix D: Useful Contacts

The County and City of Swansea Council	http://www.swansea.gov.uk/tpo
CCOS Tree Officer	01792 635724 protectedtrees@swansea.gov.uk
Welsh Government	http://gov.wales/topics/planning/policy/?lang=en
The Planning Inspectorate	http://planninginspectorate.gov.wales/splash?orig=/
Planning Portal Wales	https://www.planningportal.co.uk/wales_en/
Natural Resources Wales	https://naturalresources.wales/splash?orig=/
Ancient Tree Forum	www.woodland-trust.org.uk/ancient-tree-forum
The Arboricultural Association (AA)	www.trees.org.uk
Royal Forestry Society (RFS)	www.rfs.org.uk
Royal Horticultural Society (RHS)	www.rhs.org.uk
Tree Advice Trust	http://www.treehelp.info/
The Tree Council	www.treecouncil.org.uk
The Woodland Trust	http://www.woodlandtrust.org.uk/en/Pages/default.aspx



Report of the Head of Planning & City Regeneration

Planning Committee - 1 May 2018

Proposed Changes To The Creation Of Tree Preservation Order (TPO) Procedure And Scheme Of Delegation.

This report sets out the current signing and sealing procedure for making new TPOs and suggests alterations to the procedure, to allow TPOs to be made more quickly ensuring that trees that are under immediate threat can be protected. The proposed changes will also achieve officer time savings in accordance with Commissioning Review recommendations

1. Introduction

- 1.1 Section 198 of the Town and Country Planning Act give local authorities power to make tree preservation orders: *“(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.”*
- 1.2 Trees that are known to be under threat from removal can only be protected by the formation of a new TPO.

2 Current procedure

- 2.1 The current procedure is that a draft order is made by the Tree Officer and passed to the Strategic Planning and Natural Environment Manager with a report for approval.
- 2.2 Once approved the draft order, report and authority for signing and sealing under delegated powers A37 is passed to the Head of Planning & City Regeneration (HoP&CR) for signing.
- 2.3 The signed report and authority for sealing under delegated power A37 is then taken to the Legal department for sealing and then signing by a Solicitor.
- 2.4 When the Order is signed and sealed it is then served on people with interest in the land affected.

3 Appraisal of current procedure

- 3.1 The current process allows a new TPO to be made in two to three days, depending on availability of officers. This period is often extended due to officer absence during periods of illness or leave. Even the shorter time scale for making a new TPO does not allow a tree to be protected that is under an immediate threat.
- 3.2 There are two steps in the current procedure that could be removed:
- Legal / Solicitor signing and sealing the Order.
 - HoP&CR signing the report and authority for signing and sealing.

Sealing of Orders

- 3.3 There is no requirement in the Town and Country Planning Act 1990 or the Town and Country Planning (Trees) Regulations 1999 for the sealing of TPO's. This is confirmed in *Tree Preservation Orders: A Guide to the Law and Good Practice* (the 'Blue Book'): "*It is up to each LPA to decide whether or not their TPOs should be sealed; the TPO legislation does not require the sealing of TPOs*".
- 3.4 The Council's Constitution in Part 4: Rules of Procedure, page 25 allows for the TPO document to be signed by HoP&CR where other provisions allow it: "33. *Signature of Documents*
Where it is proper that any document be signed on behalf of the Council, it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings be signed by the Head of Legal, Democratic Services & Business Intelligence (sic) the Solicitor to the Council or Chief Executive where relevant."
- 3.5 Delegated powers A37 is the document whereby the Council has given the authority to some other person via the Scheme of Delegation, permitting the HoP&CR to sign TPOs.: "*A37 Powers relating to the preservation of trees. Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892) PC / HoP&CR*"

Signing of Orders

- 3.6 As discussed in 3.3 – 3.5 there is no reason for sealing of the document or signing by a solicitor. The Scheme of Delegation permits execution of the document by the HoP&CR.
- 3.7 To enable orders to be made in an even shorter time frame provision of an alternative signatory is required other than the HoP&CR. Immediate signing of orders in the absence of the HoP&CR is suggested in the Blue Book: " 3.6 *Because TPOs are often made at a time when trees may soon be cut down or destroyed, many LPAs find it convenient to delegate the function of making a TPO to an officer or officers of the Council, and to put in place arrangements to act at short notice during and outside normal office hours.*"
- 3.8 The Council's constitution states in the Scheme of Delegation at paragraph 1.6.3.3: "*Subject to any limitations imposed by the Leader, all Responsible Officers may authorise another Officer to exercise their delegated functions provided that the Responsible Officer has line management responsibility for that Officer. In those circumstances it is expected that a written*

“chain of authority” will be maintained”. This would allow the HoP&CR to authorise suitable officers below them in the structure of the service to sign a new order without a change in the scheme of delegation.

- 3.9 TPO’s are served as a ‘Provisional Order’ and as such require confirmation. Confirmation where no objections to the order are received is completed by the HoP&CR signing the order.

If objections are received to the order being confirmed, the decision to confirm the order is taken by the Planning Committee and is subsequently signed and dated by the HoP&CR. As such, the process of confirmation ensures that there is objectivity to the process and does not only rely on one Officer serving the order.

4 Conclusion

- 4.1 Legally and constitutionally the HoP&CR is able to execute new TPOs. This would allow the process to be made quicker and reduce officer time involved with the process.
- 4.2 At times TPOs need to be made as quickly as possible to prevent trees being removed, damaging the amenity of the local area. With the current procedure this cannot always be achieved. If authority is given to relevant officers to sign the TPO’s the procedure could be carried out considerably quicker when the HoP&CR is unavailable.

5. Recommendation

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

Background Papers:

Anon. 2006. Tree Preservation Orders: A Guide to the Law and Good Practice (The Blue Book)

Town and Country Planning Act 1990

Town and Country Planning (Trees) Regulations 1999

Appendices: None

Contact Officer: Alan Webster

Extension No: 563724

Agenda Item 7

City and County of Swansea
Dinas a Sir Abertawe

Report of the Head of Planning & City Regeneration
to Chair and Members of Planning Committee

DATE: 1st May 2018

Bay Area Team Leader Liam Jones - 635735	Area 1 Team Leader: Ian Davies - 635714	Area 2 Team Leader: Chris Healey - 637424
Castle Mayals Oystermouth St Thomas Sketty Uplands West Cross	Bonymaen Clydach Cwmbwrla Gorseinon Landore Llangyfelach Llansamlet Mawr Morryston Mynyddbach Penderry Penllergaer Penyrheol Pontarddulais Townhill	Bishopston Cockett Dunvant Fairwood Gower Gowerton Killay North Killay South Kingsbridge Lower Loughor Newton Penclawdd Pennard Upper Loughor

Members are asked to contact the relevant team leader for the ward in which the application site is located, should they wish to have submitted plans and other images of any of the applications on this agenda displayed at the Committee meeting.

Phil Holmes
BS(Hons), MSc, Dip Econ
Head of Planning & City Regeneration



Two Stage Voting

Where Members vote against officer recommendation, a two stage vote will apply. This is to ensure clarity and probity in decision making and to make decisions less vulnerable to legal challenge or awards of costs against the Council.

The first vote is taken on the officer recommendation.

Where the officer recommendation is for “approval” and Members resolve not to accept this recommendation, reasons for refusal should then be formulated and confirmed by means of a second vote.

The application will not be deemed to be refused unless and until reasons for refusal have been recorded and approved by Members. The reason(s) have to be lawful in planning terms. Officers will advise specifically on the lawfulness or otherwise of reasons and also the implications for the Council for possible costs against the Council in the event of an appeal and will recommend deferral in the event that there is a danger that the Council would be acting unreasonably in refusing the application.

Where the officer recommendation is for “refusal” and Members resolve not to accept this recommendation, appropriate conditions should then be debated and confirmed by means of a second vote. For reasons of probity, Member should also confirm reasons for approval which should also be lawful in planning terms. Officers will advise accordingly but will recommend deferral if more time is required to consider what conditions/obligations are required or if he/she considers a site visit should be held. If the application departs from the adopted development plan it (other than a number of policies listed on pages 77 and 78 of the Constitution) will need to be reported to Council and this report will include any appropriate conditions/obligations.

The application will not be deemed to be approved unless and until suitable conditions have been recorded and confirmed by means of a second vote.

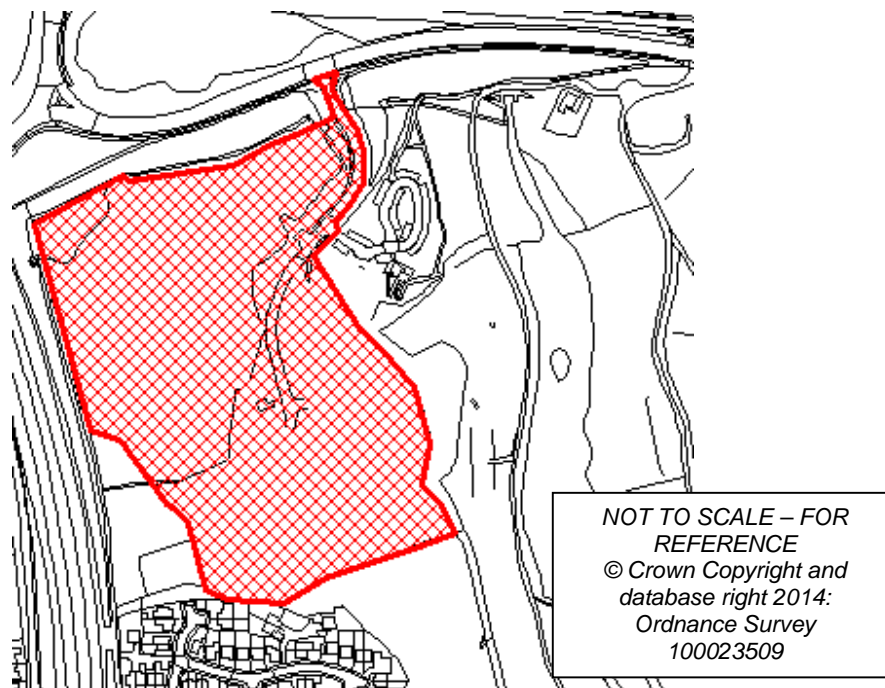
Where Members are unable to reach agreement on reasons for refusal or appropriate conditions as detailed above, Members should resolve to defer the application for further consultation and receipt of appropriate planning and legal advice.

Contents

Item	App. No.	Site Location	Officer Rec.
1	2017/0986/FUL	Former Civic Centre, Penllergaer, Swansea, SA4 9GH Construction of 80 no. residential units with associated access and landscaping	Approve
2	2017/2677/FUL	Land At Heol Ddu Farm , Birchgrove Road, Birchgrove, Swansea, SA7 9NS Mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works	Approve
3	2017/2693/FUL	Robin Hood, 37 Fleet Street, Sandfields, Swansea, SA1 3US Change of use from public house (Class A3) to 11 bedroom HMO for 11 people with associated fenestration alterations	Approve
4	2018/0268/FUL	12-14 College Street, Swansea, SA1 5AE Mixed use development consisting of change of use of ground floor (6 No. units) from mixed use commercial to retail (Class A1), professional services (Class A2) or food & drink (Class A3), and change of use of 1st, 2nd and 3rd floor from commercial with construction of extended 2nd floor & 3rd floors, and addition of 4th floor to provide 28 residential units, together with external alterations including new shop fronts and ancillary works	Approve
5	2018/0285/FUL	34 Westbury Street, Swansea, SA1 4JW Change of use from residential (Class C3) to 3 bed HMO for 3 people (Class C4)	Approve
6	2018/0322/FUL	14 Gwydr Crescent, Uplands, Swansea, SA2 0AB Change of use from residential dwelling (Class C3) to a 7 person HMO with a replacement single storey rear extension and associated car parking	Approve
7	2018/0674/FUL	25 Bay Street, Port Tennant, Swansea, SA1 8LB Change of use from residential (Class C3) to 4 bed HMO for 4 occupants (Class C4)	Approve

Planning Committee – 1st May 2018

Item 1	Application Number:	2017/0986/FUL
	Ward:	Penllergaer - Area 1
Location:	Former Civic Centre, Penllergaer, Swansea, SA4 9GH,	
Proposal:	Construction of 80 no. residential units with associated access and landscaping	
Applicant:	Enzo Developments Limited Enzo Developments Limited	



Background Information

Policies

UDP - EV1 - Design

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

UDP - EV2 - Siting

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

UDP - EV3 - Accessibility

Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV11 - Historic Parks, Gardens and Landscapes

Development will not be permitted that would harm the character or setting of a registered Historic Park or Garden or the character of an Historic Landscape. (City & County of Swansea Unitary Development Plan 2008)

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

UDP - EV33 - Sewage Disposal

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

UDP - EV34 - Protection of Controlled Waters

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

UDP - EV35 - Surface Water Run-Off

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

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

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

UDP - HC2 - Urban Infill Housing

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

UDP - HC3 - Affordable Housing

Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC17 - Planning Obligations

The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)

UDP - AS1 - New Development Proposals

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

UDP - AS2 - Design and Layout

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

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

UDP - AS5 - Walking and Cycling

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

UDP - AS6 - Parking/Accessibility

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

UDP - EV30 - Trees, Woodland and Hedgerow Protection

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

UDP - EV20 - New Dwellings in the Countryside

In the countryside new dwellings will only be permitted where justification is proved in terms of agriculture, forestry or the rural economy; there is no alternative existing dwelling in nearby settlements; and the proposed dwelling is located close to existing farm buildings etc. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV22 - Countryside General Policy

The countryside throughout the County will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural environment and agricultural and recreational value through:

- i) The control of development, and
- ii) Practical management and improvement measures.

(City & County of Swansea Unitary Development Plan 2008)

UDP - EV28 - Sites of Local Importance

Within locally designated areas the natural heritage will be preserved and enhanced wherever possible. (City & County of Swansea Unitary Development Plan 2008)

UDP - AS10 - Traffic Management and Highway Safety

Accessibility - Incorporation of appropriate traffic management measures in new developments. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV6 - Ancient Monuments & Protection of Archaeological Sites

Scheduled ancient monuments, their setting and other sites within the County Sites and Monuments Record will be protected, preserved and enhanced. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV40 - Air, Noise and Light Pollution

Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Site History

App Number

2017/0986/FUL

Proposal

Construction of 80 no. residential units with associated access and landscaping

Status

PDE

Decision Date

2016/1747

Demolition of former Civic Centre and ancillary buildings (application for the Prior Notification of Proposed Demolition)

PARE

Q

30.09.2016

BACKGROUND

This application is being reported to Planning Committee as it is a departure from the Unitary Development Plan currently in force and exceeds the threshold for applications to be reported to committee.

The City and County of Swansea UDP (adopted 2008) was 'time expired' on the 31st December 2016. The UDP however remains the extant development plan for the Council. However, the LDP is currently under examination and it is anticipated that it will be adopted in Autumn 2018.

This site is allocated for residential development for approximately 80 dwellings in the LDP.

The Welsh Ministers have received a 'call in' request on this application which is currently under consideration.

RESPONSE TO CONSULTATIONS

The application has been advertised by way of FOUR site notices (located at the site entrance, Oak Way, Elm Crescent and at the visitor centre of the Penllergaer Trust car park) and by a press notice as a "departure application" on 12th June 2017.

FORTY-ONE letters have been received supporting the scheme.

TEN OBJECTION LETTERS has been received. The concerns raised are summarised below:

- * Our property is directly adjacent to the site separated by a wooden fence. New build work so close to our property will affect an already barely adequate drainage system;
- * Any access pathway for residents through Oak Way into Parc Penllergaer would be unacceptable as a direct connection to Penllergaer amenities and public transport;
- * Development of a pedestrian route into Parc Penllergaer will increase noise pollution within the cul de sacs of the Parc Penllergaer estate, potentially leading to increased crime levels and congestion;
- * The proposed development is to be on a Grade II listed site. Building houses will lead to unnecessary destruction of mature woodland rather than to utilise the space for less intensive development;

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

- * This area should be used for recreational purposes and be incorporated into and compliment the Penllergare Valley Woods project. This in turn would boost tourism in the North Swansea area as a UK wide historic site with easy access from the M4;
- * There has never been any housing on this site and enough housing projects are being processed in this area already, therefore another would further add a burden to the already stretched local services i.e. water, waste, sewerage etc.;
- * There is nothing in the Transport Statement accompanying the application about meeting the requirements of the Active Travel (Wales) Act. This places obligations on local authorities and developers to consider routes for pedestrians and cyclists;
- * The Active Travel Guidelines cover a number of specific topics which suggest that a pedestrian link from the development site, along the A48, across the A483 and continuing along the A48 into Penllergaer does not meet the criteria for an Active Travel Route;
- * The only safe route from the development site to the centre of Penllergaer would be via Parc Penllergaer, across the A483 at the existing controlled crossing and down Swansea Road. That said the A48 route is bound to be regarded as the logical and direct route to Penllergaer (particularly teenagers wanting access to the Village Sports field and young adults wanting a night out at the Old Inn);
- * A pedestrian controlled light at the existing uncontrolled A483 crossing would not be feasible as halting the traffic for pedestrians to cross would impact on the entire gyratory roundabout and feeder roads, with substantial impacts on traffic flow, queuing and driver/vehicle safety;
- * For this reason alone, the entire development site is totally unsuitable for houses, but would make an ideal location for a hotel, sports club/leisure centre, private hospital, residential/old people's care home or surprise surprise a headquarters type office block;
- * With local authorities likely to be required to work more collaboratively and pool resources a local government office serving Neath/Port Talbot, Swansea and Llanelli would be highly suitable in that location because of its central location and easy access to the motorway. Why on earth was the modern office block demolished so hastily?;
- * In addition to the above a separate objection has been submitted in respect of suggested errors in the Transport Statement and that the Transport Statement should not be used to justify the housing development as many of its statements are factually incorrect and do not support the report's conclusions. No case has been made to support housing at this location and the application should be refused.

Penllergare Trust - Raise concern with regards to the inclusion of a number of pathways linking the development to the Valley Woods in terms of on-going maintenance, impact on trees and access to the woods. Concerns are also raised with regards to the boundary and proximity the large Monkey Puzzle tree in the SW corner of the site and the proximity of plot 58.

Penllergaer Gardening Club - Object to the application as the site is very important (RHP&G, SAM and LB) and it would be totally destroyed. Such landscapes should be preserved for future generations. Garden is an example of the Romantic Landscape movement in the 19th century and is unusual in that there are numerous contemporary photographs which are guiding the restoration work. Concern that John Dillwyn Llewelyn's legacy will be lost. Penllergare Valley Woods is 7th on Trip Advisor of things to do when visiting Swansea which shows the importance of this visitor attraction and tourism potential. A balance can be struck between appropriate development which can enhance an area and its historical setting - this proposal does not do that and should be refused.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Cllr Wendy Fitzgerald (Ward Member) - I wish to register my objections to the proposed housing development of this site which is part of a Grade II Listed Landscape, Park and Garden and contains a Grade II* Listed Building which is also a Scheduled Ancient Monument:

- Development is contrary to extant planning policies;
- Failure to comply with Active Travel Plan Guidance; The site is remote from the centre of Penllergaer and a substantial safe walking distance from community facilities such as the primary school, sports field, corner shop, village hall, pub and church. The site will be car dependent for all essential journeys and will increase pressure on J47 and the Penllergaer roundabout both of which are operating over-capacity at peak morning periods;
- Inaccuracies in Design and Access Statement in respect of bus services;
- The footpath link through Parc Penllergaer is indicated to facilitate connectivity between sites and the wider area but the distances involved will ensure the site remains primarily car dependent and therefore non-compliant in respect of an Active Travel Plan;
- Impact on Heritage Landscape: The landscape setting, which still contained visible remnants of the old mansion gardens before demolition of the Civic offices, is going to be largely destroyed, with 80 dwellings surrounding the Equatorial Observatory, replacing a single building;
- The Observatory, constructed in the mid-19th century, is of exceptional significance as a very rare example of this building type and as the scientific achievement of one man. The intention is to gift the land surrounding the Observatory to the Trust. However, it is repeatedly described as a 'Village Green'. In no way should this area be regarded as a recreational space for children's ball games;
- There is little consideration as to the negative impact the housing development will have on the wider landscape of Valley Woods. A solid boundary of mature trees should thus be retained between the development site and Valley Woods but there is no evidence that this is the case. The green belt of mature trees that separates the site from Parc Penllergaer to the south will be lost; impacting on wildlife and turning a green, semi-rural landscape into a suburban one;
- Parking spaces are laid out so cars are parked one behind another. This will inevitably lead to a situation where roads are littered with parked cars. This has happened at Parc Penderri. The most recent development in Penllergaer and will be detrimental to the landscape generally and in particular to the access road itself which also provides access to the car park for Valley Woods;
- Some houses will not be on the mains system and will remain private in terms of sewerage disposal. It is not clear why this is the case and what guarantees are in place to ensure that there are no contaminated flows into Valley Woods;
- Any increase in surface water flows could negatively impact on the lakes and waterways in Valley Woods.

In conclusion development on this site is contrary to extant policy and will have a significant and irreversible detrimental impact on the Grade 2 Listed Landscape, Park and Garden and the SAM Equatorial Observatory. The site is unsustainable in respect of an Active Travel Plan and will be car dependent. The application should be refused.

Penllergaer Community Council - The Council is opposed to this development which is on the site of a Grade II listed landscaped park and garden and includes the observatory which is also a Grade II listed building. The site is of great importance to the heritage of Penllergaer which will be destroyed following the construction of this proposed development. It is clear from the plans that there is no pedestrian access to the village of Penllergaer and therefore residents will be car dependent adding congestion to the already gridlocked Junction 47.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Welsh Historic Gardens Trust - The West Glamorgan Branch of the WHGT wish to offer the following observations and objections.

- The rare Equatorial Observatory will have an enhanced setting and become a focal point of the new development, a great improvement on its current setting. The Observatory will in effect act as a sort of roundabout and old photographs show a curving drive around the building and the new roads reflect this;
- Traffic impact could damage the roots of mature trees and an appropriate Tree Protection Plan should be used not only near the Observatory but elsewhere within the site;
- The green area should not be used for boisterous ball games. There should be an agreement between the developer and the Penllergare Trust regarding the management of this area which should be fenced or new perimeter planting considered;
- We welcome the proposal that the Observatory and surrounding land be "Gifted" to the Trust and there should be a legally binding agreement to preserve the right of way as we believe that connectivity between the Observatory and Valley Woods is essential;
- Contradiction in reports in respect of archaeological potential throughout the site. Archaeological potential is highest around the Observatory with the remains of estate fencing and embankment nearby. Archaeological investigations should be carried out in this area. Should the fencing be removed for any reason it must be recorded and photographed first.
- No reference to monkey puzzle trees in the Arboricultural Report. Heritage Report references three monkey puzzle trees which are important and should be retained;
- The proposal will encroach upon previously undeveloped areas of the registered park and garden. A reduction in the number of houses, as proposed in The Heritage Report would ensure keeping within the previously developed site and allow more historic planting to be retained, particularly in the triangular area in the south where the mansion was situated. This would have a mitigating effect on the visual impact on the historic parkland below.
- Additional planting of a sympathetic nature would further reduce the visual impact of the development from Valley Woods.
- We accept the site needs a new future and if the number of houses is reduced and heritage planting retained and protected, plus other concerns outlined above met with, it should be possible to ensure the physical and visual impacts on the Registered Park and Garden at Penllergare should be kept to a minimum.

Natural Resources (Wales) -

Ecology:

NRW initially raised concerns with regards to insufficient survey information to address the possible impact on dormice and Bats, European Protected Species, owing to the development encroaching north into Penbwl Woods. With respect to Bats, and following the submission of a bat report which concluded that bats were not using the trees on site which were previously identified as having bat roost potential, NRW has offered no further adverse comments and welcome the best practice procedures outlined within the 'Recommendation and Mitigation' and 'Method Statement' sections within the report.

The most recent comments are received in light of further information submitted and state: We recommend that you should only grant planning permission if you attach the following condition. This condition would address significant concerns that we have identified regarding Dormouse a European Protected Species and we would not object provided you attach them to the planning permission.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Our comments are provided on the following:
Dormouse Method statement (February 2018)
Dormouse EPS Licence application

Presence has been assumed, and we are satisfied that the dormouse mitigation strategy has sufficiently demonstrated that there is suitable, and a sufficient amount of habitat being maintained/provided, which is connected to habitats off site and which will be appropriately managed.

In this respect we request that the enhancement, mitigation and compensation detailed within the above report is captured in a suitably worded condition, applied to any permission granted.

[N.B. The Mitigation Strategy has subsequently been amended and NRW re-consulted on this aspect again as clarified later on in the report. Any additional comments will be reported verbally at Planning Committee]

Foul & Surface Water Drainage

In respect of drainage NRW welcome the submission of the updated drainage strategy and note that it has confirmed that infiltration methods will not be feasible on site and that it is intended to dispose of foul water to the main sewerage system.

To accord with the terms and content of the MOU, foul connections should only be allowed when compensatory surface water removal or suitable improvement scheme has been implemented within the same catchment. NRW recommend that applications such as this are discussed with the Technical Advisors Group. The relevant details must then be recorded on your Authority's register of compensatory surface water disposal.

Protection of the water environment is a material planning consideration and your Authority must be satisfied that the proposed method of foul and surface water drainage from the proposal will not cause any detriment to water quality.

With regard to surface water disposal, it is imperative that no surface water is allowed to enter the sewerage infrastructure. This is in order to avoid hydraulic overloading of the sewerage system. To fulfil the requirements of Section 8.5 of Technical Advice Note 15 Development and Flood Risk, surface water run-off should be dealt with by way of a sustainable drainage system, to attenuate flows and prevent an increased risk of flooding in the catchment.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Dwr Cymru / Welsh Water (DCWW) - This proposed development is located in an area which has the potential to discharge into national and international designated waters. The Loughor Estuary forms part of the Carmarthen Bay & Estuaries European Marine Site which is the collective name for three European 'Natura 2000' designated areas, namely Carmarthen Bay & Estuaries Special Area of Conservation, Carmarthen Bay Special Protection Area and Burry Inlet Special Protection Area.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

A key fundamental issue associated with any proposed development(s) located on both the Carmarthenshire and Swansea side of the Estuary is the potential impact any revised or additional water discharges, either foul or surface water, will have on the local drainage systems and ultimately the designated waters. Dwr Cymru Welsh Water is contributing towards improving the water quality in the Estuary by undertaking key infrastructure improvements at its Northumberland Avenue and Llanant Waste Water Treatment Works which are designed to improve arrangements for dealing with surface water, provide ultra violet treatment and phosphate removal.

Equally developers too, can also play a significant part in mitigation measures by incorporating sustainable drainage facilities within their proposals. It is essential therefore, that as a prerequisite of any development being considered for approval that such matters are effectively controlled through planning conditions.

Therefore, we seek your Authority's co-operation in imposing the following condition to any grant of planning

Sewerage:

Condition:

No development shall take place until full details of a scheme for the foul and surface water sewerage disposal (incorporating sustainable drainage principles) of the whole site has been submitted to and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details. Surface water shall not be connected to the foul sewerage system.

Reason: To ensure the integrity of the public sewerage system [and designated waters] is protected through the implementation of sustainable practices.

Advisory Notes:

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

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

We would like to make the developer aware that the proposed development is within close proximity to a public foul sewerage pumping station. We would like to advise the developer that no habitable buildings should be constructed within a 15 m vicinity of the pumping station as to minimise any effects of noise and odour nuisance.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Sewage Treatment:

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

Water Supply:

The proposed development is crossed by a 20 inch and a 160mm trunk watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be recharged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

CADW - We consider that there are inconsistencies in the supporting documentation accompanying the application (monkey puzzle trees, boundary treatment and archaeological potential). We also have concerns that the introduction of 80 dwellings, additional roads, associated street furniture and services into the historic park and garden is at odds with its historic design, layout and function and encroach onto previously undeveloped areas. A reduction in the number of proposed dwellings would mitigate these concerns.

Further Comments:

We have received and note the amended plans for this application, which appear to relate to house types and slight alteration to the layout. The more specific concerns that we raised in our previous comments do not appear to have been addressed: consideration to the reduction in the number of dwellings to mitigate the impact on the registered park and garden; the inconsistencies in the supporting documentation with regards to the registered park and garden; and a commitment to the management and maintenance of the public spaces in the long term to enhance the historic character of the registered park and garden and setting of the scheduled observatory.

Glamorgan Gwent Archaeological Trust - Have been consulted on this application but no comments have been received to date.

South Wales Police Design Out Crime Officer - Having reviewed the amended plans I am pleased that many of my observations have been acted upon. The only concerns I now have is in relation to the footpath that runs between plots 43 and 44 and the rear parking bays for plots 69-71. In respect of the footpath I would ask for it to be designed out if it is not needed. If it remain it is at least be overlooked by plot 44.

In relation to the rear parking bays for plots 69-71 if they are to remain I would ask that this area be totally secure and the private driveway be protected by electronic gates at least 1.8m (ideally 2m) and walls/fencing or railings of the same height.

Council's Conservation & Design Manager - Originally expressed concern at the outset in terms of the number of units proposed which has been a significant challenge in terms of the heritage constraints of the site. However, the layout has been subsequently reviewed following extensive negotiations to address concerns and offers no objection to the scheme.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The current layout only works because development has been extended to the north into the young woodland. The outward facing aspects of some plots and the perimeter path are key elements of the place making approach to integrate into the visual context of the designated historic park and garden. The amended layout provides significant improvements in terms of the relationship of the observatory to adjacent Valley Woods in visual terms and in terms of increased connectivity. It is considered this adequately addresses previous concerns about visual severance. Revisions to focal elevations include the incorporation of natural stone to articulate key features of the dwellings that front on to the Observatory and the plots intended to replicate the mansion house.

Council's Head of Highways and Engineering - The application is for the construction of 80 units on the site that was formerly occupied by the Penllergaer Civic Centre and associated grounds. The site is allocated in the forthcoming Swansea LDP as a housing site. The site is located to the southeast of the M4 Junction 47. Access to the site is off an existing priority junction off the A48, and this arrangement is to be retained.

When the Penllergaer civic centre was operational the buses used to enter the site to pick up passengers. It is assumed that this arrangement will be re-commenced to serve the residential site if planning is granted and the site built out. Since the building was demolished buses continued to run along the A48 but no longer entered the site.

A pre-application enquiry was submitted in 2016/0978 regarding the development of the site and highways comments were made at that time. A Transport Statement has been submitted with the application to quantify the expected movements generated by the proposed development.

Using the TRICS database for comparable B1 (office use) then it was shown that in the a.m. peak (0800-0900) the movements were 117. In the p.m. peak (1700-1800) the flows were 107. The daily flows were 895.

For the proposed residential use of 80 units the figures were 36 in the a.m. peak with 42 in the p.m. peak and total daily flows of 345. It is therefore seen that the car trips are significantly lower with the proposed residential use than the existing office use. On that basis there is no justification to ask for any contribution towards the mitigation works being required for the junctions as identified as part of the Swansea Strategic Transport model.

In terms of non-car modes there will be a requirement to provide a sum of money to enhance the walking route from the site through to Parc Penllergaer for pedestrian/cycle usage and to enable safe access to Parc Penllergaer and the bus routes that run along the A483. The monies will also be put towards the upgrading of the crossing across the road on the A483 linking to the Swansea Road residential development and the facilities and school at Penllergaer. There is sufficient space within the existing infrastructure on the land at Oak Way to allow for a 4m combined cycle/pedestrian route to be installed at the applicants expense and this will need to be lit and drained in accordance with details to be submitted to the LPA for approval. There will also be the requirement to change the existing pedestrian crossing on the junction of Parc Penllergaer with the A483 to a toucan, the cost of this will be minor as the majority of the infrastructure is already in place. The cost of this is in the region of £3,000. The pedestrian link directly through from the proposed site to Parc Penllergaer will need careful consideration as currently it is shown as an indicative link only. An appropriately worded condition can be secured to that effect.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Given that the flows are significantly greater with the current office use than with the proposed residential use there is no justification to request any financial contributions to any works related to vehicular traffic, however as highlighted previously there are a number of items which will be required to be provided in order to encourage walking/cycling in the area.

In terms of site layout there is intermittent footway provision which may render parts of the site unsuitable for adoption. It is not clear as to whether or not the site will be offered up for adoption, but an appropriate condition can be added to cover this if a private management company is the preferred option.

In terms of parking the scheme broadly follows the adopted parking standards, as such the parking should be self-contained within the site with no overspill arising.

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

1. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

2. The upgrade of the footway/verge along one side of Oak Way to a shared use path to encourage walking/cycling in the area in accordance with details to be submitted for approval to the LPA, and works shall be undertaken under a Section 278 Agreement with the Highways Authority. Works to be in place prior to beneficial occupation of any of the units.

3. The payment of a sum of £3,000 to enable the existing crossing at the Parc Penllergaer/A483 Junction to be upgraded to a toucan crossing under a Section 106 Agreement. Payment to be made prior to beneficial occupation of any of the units.

4. Details to be submitted for approval regarding the maintenance of the visibility splays onto the A48 to ensure that adequate visibility is maintained for egressing vehicles, prior to any works commencing on site.

5. The details of the proposed pedestrian link to the South of the site shall be laid out and maintained as such in perpetuity, in accordance with details to be submitted for approval to the LPA, prior to beneficial occupation of any of the units.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

6. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established].

Council's Drainage Officer - Based on the updated Drainage Strategy Version 2 recommend the inclusion of the following conditions.

Condition 1: No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how surface water, and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include the following:

- * Details of a sustainable drainage system (SUDS) for surface water drainage and/or details of any connections to a surface water drainage network.

- * Details on ownership, long-term adoption, access, management/maintenance scheme(s) and monitoring arrangements/responsibilities for the SW scheme and onsite culvert including easements.

- * Supporting calculations for performance of the system up to and including the 1 in 100-year critical storm including a 30% allowance for climate change.

The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved unless otherwise agreed in writing by the Local Planning Authority.

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

Condition 2: The development shall not discharge to the watercourse network at any rate greater than 103l/s as detailed in the Drainage Strategy Report Version 2, dated October 2017.

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

Condition 3: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or amending that order), Classes A, B, C, D and E of Schedule 2, part 1 shall not apply.

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

Informatives:

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

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

We have no issues with the indicated route of the diverted culvert, however where the route will run through back gardens/private land those owners will become the riparian owner/s of the system and responsible for the management and monitoring of the structure in perpetuity, an easement must be clearly marked showing where no development can take place i.e. extensions, sheds, decking, planting etc. to allow for future access/maintenance/replacement. This must be included in the deeds of those properties.

Council's Tree Officer - The site is heavily wooded with trees falling into three distinct categories:

- o Surrounding woodland;
- o Heritage trees linked to the original estate; and
- o Amenity planting probably planted when the site was developed.

The woodland can be further divided into two distinct areas, mature woodland which was part of the original estate and younger trees that have colonised after the construction of the Civic Centre. The woodland to the east of the site is protected by a woodland TPO (484) and some significant trees along the southern boundary are protected by individual TPOs (491). None of the trees within the site are protected by TPOs as the site was in Council ownership.

Following the receipt of amended plans these have on the whole not addressed my initial concerns, in respect of:

- no-dig design and impact on retained heritage trees in the amenity area including impact of alteration to culvert (within root protection area of a retained tree) needs further consideration.
- further information on levels needed to ensure important trees will not be affected and that no-dig design is feasible;
- concerns in respect of shading of units 19-25.

Further Comments on receipt of Amended Dormice Mitigation:

Further to my recent objection to the dormice mitigation strategy. The proposed changes in the most recent report to the area of mitigation, will allow the Council to retain some control over the felling of the trees protected by a TPO. As such subject to this amendment being accepted by interested parties I withdraw my objection.

Council's Ecology Officer - Initially raised concern that the scheme extends into previously undeveloped woodland (Penbwl Woods) and potential impact on dormice, a European Protected Species not assessed. The site is also a Site of Importance for Nature Conservation (SINC) NO: 205. The impacts of this development on the SINC need further consideration.

Woodland:

Some parts of the ancient woodland may be affected by the development.

Under the proposed layout approx. 2ha of SINC woodland will be lost permanently. SINCS are protected under UDP Policy EV28 which indicates that mitigation or compensation must be agreed for any loss of SINC designated habitat. Therefore any loss of woodland should be mitigated for within Penllergaer Valley Woods SINC. Potential mitigation measures have been discussed with the Penllergaer Trust. These measures would allow the restoration of native broadleaved woodland habitat through the control/removal of invasive species and the management of non-native tree species at various locations throughout the site. A S106 contribution to deliver this and enhancement measures is estimated at £70,000. This contribution is directly related to the extent of proposed woodland loss.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Lighting:

A lighting design scheme must be conditioned and approved prior to construction commencing. To minimise disturbance to wildlife, all lighting must be directed towards the ground and any lightspill into the surrounding woodland must be minimised.

Construction Phase:

A Construction Environmental Management Plan (CEMP) must be approved prior to construction commencing. It will include measures to protect wildlife and prevent pollution of water courses.

Further Comments on receipt of Amended Dormice Mitigation:

The first version of the Dormouse Method Statement was problematic because it involved using an area of woodland adjacent to the development site, outside the red line and blue line boundaries. The land, which is leased by the Penllergare Trust, is also subject to a different planning application, 2017/1260/FUL.

The first version was problematic for two reasons:

- No agreement had been made with the Penllergare Trust, who have a long-term lease for the land.
- If the other application were to be granted permission, the compensation area would be subject to significant physical disturbance during the construction period, and continued disturbance in the long-term due to the increased presence of humans and dogs. This disturbance is not consistent with a dormouse compensation area.

Although the Trust initially agreed to the MS, they changed their response after reading it carefully. Natural Resources Wales, who had been made fully aware of the ownership status and other application, initially recommended conditioning, but have subsequently claimed to be unaware of these factors.

After some discussion, a site visit was held in Penllergaer Valley Woods to agree an amended MS. Present were a representative from Penllergare Trust, the applicant's appointed ecologist, CCS Tree Officer, and CCS ecologist. An alternative compensation area was agreed, which is mainly comprised of very steep valley sides which will be free of all kinds of disturbance for the foreseeable future. The use of this land was agreed at the time by the representative of the Penllergare Trust who has subsequently confirmed that the remaining members of the Trust agree in principle.

The second version of the DMS is therefore preferable to the original because it addresses these two main concerns.

Council's Environment Officer - The following Japanese Knotweed condition must be placed upon this application:

Condition: 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

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

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.

Council's Housing Enabling Officer - We would expect the provision of 30% Affordable Housing which equates to 24 units of the proposed 80. These units should be dispersed across the site in clusters.

We ask that the scheme would include a range of house types and mix of DQR compliant affordable housing to include social rent (42% ACG) , intermediate rent and sale (70% ACG) split of tenure to be determined/negotiated. The design and specification of the affordable units should be of equivalent quality to those used in the open market units.

Further Comments on receipt of revised site layout plan

The revised plan indicated 20% affordable housing (16 units) dispersed throughout the site with a 25:75 split between social:intermediate housing. This is acceptable to the Housing Department.

Council's Pollution Control Officer - No objection. Recommend the inclusion of the following informative notes:

1 Construction Noise

The following restrictions should be applied to all works of demolition/ construction carried out on the development site

All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays.

The Local Authority has the power to impose the specified hours by service of an enforcement notice.

Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

2 Smoke/ Burning of materials

No burning of any material to be undertaken on site.

The Local Authority has the power to enforce this requirement by service of an abatement notice.

Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

3 Dust Control:

During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site.

The Local Authority has the power to enforce this requirement by service of an abatement notice.

Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

4 Lighting

During construction work the developer shall operate all best practice to minimise nuisance to local residences from on site lighting. Due consideration should be taken of the Institute of Lighting [www.ile.org.uk] recommendations

Council's Education Officer - The catchment area for this development is Penllergaer and the catchment schools are:

Catchment schools

English Medium Primary - Penllergaer Primary

Unfilled places Jan 2017	9
%	2.80

Unfilled places Sept 2023	15
%	4.67

English Medium Secondary – Pontarddulais Comprehensive

Unfilled places Jan 2017	16
%	2.00

Unfilled places Sept 2023	4
%	0.5

Welsh Medium Primary - YGG Pontybrenin

Unfilled places Jan 2017	7
%	1.48

Unfilled places Sept 2023	-43
%	-9.07

Welsh Medium Secondary - Ysgol Gyfun Gwyr

Unfilled places Jan 2017	227
%	21.06

Unfilled places Sept 2023	-139
%	-12.89

Recommendation:

Primary:

* There is insufficient capacity (existing and projected), in both the English medium and Welsh medium primary schools for this development. The schools are currently, and projected to be, operating well under 10% surplus capacity and as such any increase in pupil population will further impact upon the operation, suitability, sufficiency and flexibility of the schools.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

There are also many previous commitments that have already had planning approval which will further impact on the primary schools allocated.

Secondary:

* There is insufficient capacity (existing and projected), in both the English medium and Welsh medium secondary schools for this development. The schools are projected to be operating well under 10% surplus capacity and as such any increase in pupil population will further impact upon the operation, suitability, sufficiency and flexibility of the schools. There are also a large number of existing commitments that have already had planning approval which will further impact on the secondary schools allocated.

Requested contribution:

Providing the information above, the request for contributions from this development is:

Primary:

English: request full contribution to the English Medium Primary School (22 pupils) - £228,184 plus inflation.

Welsh: Request 10.2% contribution to Welsh Medium Primary School (3 pupils) - £31,116 plus indexation.

Secondary:

Request 100% of the secondary allocation - (£285.264 plus indexation) to be split 89.8% Pontarddulais Comprehensive / 10.2% YG Gwyr.

Council's Parks Division - At the present time Parks have no comments or observations to make on the planning application. However if the Parks Department is requested to adopt/maintain the proposed recreation/open space area within the development we would insist on a Section 106 commuted sum contribution for future maintenance

APPRAISAL

Introduction

This application is being reported to Planning Committee for determination as it is a departure from the adopted Unitary Development Plan (2008). The Council are also the current landowners of the site. The application has been through several iterations and amendments have been sought throughout the planning application process following comments from several internal and external consultees.

Full planning permission is sought for the development of 80 no. residential units with associated access and landscaping on the site of the former Civic Centre Offices, Penllergaer. Of the 80 dwellings 16 are proposed to be for affordable housing (20%). The site is located to the southeast of the M4 Junction 47. Access to the site is off an existing priority junction off the A48, and this arrangement is to be retained.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The Site

The application site comprises the former Civic Centre site at Penllergaer, Swansea. The site, which is an uneven and irregular shaped parcel of land measuring approx. 5.9ha, comprises of a largely undeveloped site characterised by large areas of woodland as well as the site of the former Civic Centre Offices.

The site boundaries are largely undefined and characterised by mature woodland in all directions. Beyond the woodland the A483 is located to the west of the site with the A48 to the north. A recent residential development, Parc Penllergaer is located to the south with Penllergaer Valley Woods situated to the east. The latter shares the site access onto the A48 and is managed by the Penllergare Trust who ensures the protection of the site.

The site was last used as Local Authority offices initially for the former Lliw Valley Borough Council and subsequently for both Neath Port Talbot County Borough Council and the City and County of Swansea. The former offices, subsequently demolished, were located to the south of the site set in mature landscaped grounds, arranged over 3 floors together with a basement and detached caretakers lodge. Prior approval for the demolition of the offices was approved in October 2016 (application ref 2016/1747).

The former Civic Centres building and its associated developed land amounts to approximately 2.9ha. The remaining approximately 3ha towards the northern and north-eastern boundary comprises of undeveloped land with a dense coverage of trees, planted in the 1980s when the site was redeveloped. An access road runs through the site in a north-east to south-west direction. Vehicular movement associated with the previous use of the site accessed via this internal road.

The former Civic Centre site is designated as part of the Grade II Historic Park and Garden at Penllergaer. The park was laid out by John Dillwyn Llewellyn from 1833 onwards and included the Penllergaer mansion, the former 18th century residency of the Price family, walled gardens, lakes, waterfalls, picturesque features, trees and exotic planting, paths and drives. Located approx. 60m to the north-east of the former civic centre buildings is a former astronomical observatory and laboratory building built in 1846 to house a telescope for John Dillwyn Llewellyn (this is both a Scheduled Ancient Monument and a Listed Building).

The mansion house had been the family seat since the 16th century and remained in the family for generations until a change in ownership. Following the change in ownership the building was blown up on exercise by Territorials of the Royal Engineers in January 1961. Today only garden steps and remnants of the planting of the garden remain of the house but the landscape beyond remains substantially intact. In the woods to the south of the house are the remains of the Walled Garden and associated buildings.

Heritage Context

Together with its walled gardens and equatorial observatory, the site of the former Penllergare Mansion and woodland is recognised as being of special importance to the national heritage. The garden and its setting is described by CADW as being the partial survivor of a very important Picturesque and Romantic landscape of the mid-19th century and is a Grade II listed Historic Park and Garden (PGW(GM)54(SWA)).

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The observatory and laboratory building which was built in 1846 to house a telescope for John Dillwyn Llewelyn of Penllergaer Mansion and is Grade II* listed. It is also a Scheduled Ancient Monument (SAM) (GM410). The observatory was partially restored by Lliw Valley Borough Council, using modern techniques and materials in 1981. The internal fittings, including the telescope, were stripped out when the contents of the house were sold in 1936.

The observatory comprises a windowless cylindrical tower of tolled, yellow squared stone with C20 metal-clad cylinder above. The laboratory is a single room with slate roof and terracotta-block walls with one window along its northern and southern elevation and a door towards the centre of the latter. The observatory has been designated as a Grade II listed building as it is an extremely rare example of a mid C19 private observatory; the only other example in Wales is the partly ruinous observatory at Hakin, Milford Haven. The Observatory had fallen into disrepair, suffering from inadequate maintenance, made worse by the ingress of damp and over-arching trees. The use of inappropriate materials during previous works added to the problem. Some woodland within the site also is classified as being Ancient Semi-Natural Woodland.

The park deteriorated from the 1920s onwards and there is now a successful community project spearheaded by the Penllergare Trust which is restoring the park supported by the Heritage Lottery Fund. This restoration includes dredging the lakes, restoring landscape features such as the cascades and bridges, reopening historic paths and clearing back invasive vegetation. There is a new car park and cafe off the road leading to the former civic centre site. The park is now well used by the public.

Marketing and Disposal of Site

The City and County of Swansea confirmed the intention to dispose of the building and associated land as it was deemed surplus to operational requirements. Prior to the granting of a prior notification application for the demolition of the former Civic Centre, a marketing process for the sale of the site was undertaken co-ordinated by the Council's Corporate Property section.

The Council appointed Lambert Smith Hampton (LSH) as specialist property marketing agents. A marketing package was prepared to include a brochure together with a technical information package. A high-profile advertising campaign was undertaken including adverts in the local, regional and national specialist press. LSH undertook bespoke targeted marketing at all known property requirements. The site was also published on the Council's website under its property availability heading. The Welsh Government were notified for any potential strategic requirements and the site's availability was published on the Welsh Government's EPIMS public sector land availability website for all public sector bodies to be made aware.

The property advertising generated several preliminary enquiries predominantly from other agents and housebuilders. There was however, only one single tentative enquiry from an 'office user'; however, following the sending of marketing particulars this was never progressed by the enquirer and no viewing took place. No further enquiries from officer users or other entities were received. The only substantive enquiries came from house builders, including a small number of national and local residential developers including the current applicant.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Main Issues

The main issues for consideration with regard to this application relate to the principle of residential development on this site, impacts of the development on the character and appearance of the area, impact on the site of the Historic Park and Garden and its setting, impact on the setting of the Scheduled Ancient Monument & listed building, residential amenity impacts on neighbouring occupiers, the impact of the development on access, parking and highway safety, impact on trees, ecology, drainage and environmental interests with regard to the provisions of Policies EV1, EV2, EV3, EV6, EV11, EV20, EV28, EV30, EV33, EV34, EV35, EV38, EV40, HC3, HC17, AS1, AS2, AS5 AS6, AS10 of the Unitary Development Plan 2008, and the following Supplementary Planning Guidance Notes (SPG) - Places to Live: Residential Design Guide, Planning Obligations, Parking Standards, Planning for Community Safety, and The Protection of Trees on Development Sites. There are no overriding issues for consideration under the provisions of the Human Rights Act.

Policy - Principle of Development

The City and County of Swansea UDP (adopted 2008) was 'time expired' on the 31st December 2016. The UDP however remains the extant development plan for the Council and, under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended), planning decisions must be made in accordance with the UDP unless material considerations indicate otherwise. Given the time expired nature of the UDP, such material considerations include circumstances where new national planning guidance or policy is at variance with or contradicts UDP policy and, in certain cases, where new robust evidence and/or significant changes in circumstance undermine the basis upon which UDP policy was originally formulated. Therefore, whilst the UDP must be the starting point for decision making, given the Plan's time expired status, in this instance it is appropriate to consider the unique circumstances that apply in the case of this application to resolve whether any departure from UDP policy can be considered justifiable.

Policies EV18 and EV20 are not considered applicable as this is not a rural exception site proposed for affordable housing to meet an identified need and the proposal is not for persons primarily employed in agriculture, forestry or an appropriate rural use. Both National and development plan policy (EV22) aims to safeguard the countryside for its natural heritage, environment and recreational value.

Having regard to the above UDP planning framework, it is clear that the proposal is contrary to the extant development plan, being located outside the defined settlement boundary within the open countryside. The application must therefore be considered as a departure to the UDP. However, it must also be acknowledged that the site is partly previously developed land and in this respect is broadly in line with PPW guidance which seeks to ensure that previously developed land is used in preference to greenfield sites (Para 9.2.6 PPW). PPW also acknowledges that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application (Para 6.5.26 PPW). There should also be a general presumption in favour of the preservation of a listed building and its setting, and for any development affected a listed building or its setting the primary material consideration is the statutory requirement to have regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possess (Para 6.5.11 PPW).

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The following analysis considers the special circumstances that apply in this case relating to other Council approved and emerging policy.

Para 2.8.1 of PPW states that the weight to be attached to an emerging LDP (or revision) when determining planning applications will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector delivers the binding report.

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

The Council has approved a Developer Guidance document relating to Planning Applications For Non-householder Residential Development. The document sets out the Council's strategy for determining departure applications and provides for an approved mechanism to prioritise certain 'departure sites' above others in the interests of addressing the current shortfall in housing land and delivering affordable housing. The Council's latest (1st April 2016) Joint Housing Land Availability Study (JHLAS) confirms that there is a 3.2 year housing land supply, which evidently falls below the requirement set out in TAN1 (JHLAS) for every local authority to maintain a 5-year supply of readily developable housing land.

Paragraph 4.3 of the Developer Guidance document is clear that priority is focussed on Strategic Sites recommended for allocation in the Deposit LDP and identified in the approved LDP Preferred Strategy. Paragraph 4.7 states that "less priority" will be afforded to bringing forward smaller Non-Strategic sites which are located beyond UDP settlement boundaries. This is on the basis that such sites

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

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

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

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

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

In this context it is therefore significant that the application site at Penllergaer Civic is allocated as a Non-Strategic Housing Site under Policy H1 of the Deposit LDP (Site Ref: H1:29) for approximately 80 dwellings. The allocation was made following a detailed assessment process and public consultation process undertaken for the LDP which determined that the site was in principle acceptable for residential development.

The site was subject to public consultation through the LDP process. It is important to note that the decision to allocate the site was made on the basis that the site is developed in accordance with the following development principle set out in Deposit LDP Policy H1, viz:

"The site should have Active Travel Links to the existing Penllergaer settlement across the A483 and also into the existing Parc Penllergaer development. The development must preserve or enhance the setting of the Penllergaer Historic Park as well as the setting of the observatory which is a scheduled ancient monument."

The ability of the development to have regard to the setting of the Historic Park and SAM, and into the existing Parc Penllergaer development are therefore essential elements to be considered. In respect of crossing the A483 it was evident from the outset that a crossing over the A483 would not be economically viable as part of this application. A footpath link is proposed in the southern portion of the site connecting it to the Parc Penllergaer development and wider community.

It is clear therefore that there is a Council approved mechanism in place to potentially allow a departure application at this location of this Non-Strategic Site allocation.

Notwithstanding this, the proposal must be appraised in its widest terms to determine whether it is appropriate having regard to all planning considerations. In this context, whilst the emerging LDP typically has very limited weight for determining planning applications, given the nature of the proposal it is considered that the allocation in the Deposit LDP of Site H1.29 should be a material consideration in considering the scheme.

The application has been appraised against the requirements of the Developer Guidance document with regard to the following:

* Scale of the development: The application is for 80 dwellings, and whilst this is not akin to the scale of the Strategic Development site allocations, it is important to note that the site is one of a handful of larger H1 allocations, the majority being under 50 dwellings. It is therefore considered that the site meets the requirements of the developer guidance document in terms of the ability to make a meaningful contribution to meeting housing supply.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

* Development Principles of LDP Site H1.29: The Developer guidance document requires evidence of how the application is in line with the emerging LDP. The information provided by the applicant, particularly in terms of the evolution of the design of the proposal, demonstrates how the benefits required in the development principles upon which H1.29 is based (i.e. setting of Historic Park and SAM) will be delivered. A footpath is proposed linking through to Parc Penllergaer to link to the crossing further south on the A483. A S106 contribution of £3,000 is requested to upgrade the crossing to a toucan crossing.

* Conditions: The applicant is committed to undertaking works as soon as practically possible upon the grant of planning permission and discharge of conditions therein. To this end a condition to commence development within 1 year would be attached to any grant of consent.

* Timeline and Phasing: Departure applications must be able to demonstrate that the site will deliver "a meaningful and early contribution to meeting housing supply before adoption of the LDP". Para 5.6 of the Developer Guidance document is clear that the Housing and Infrastructure Delivery Statement "should clearly identify a timeline for the development and the expected start date, the relevant phasing of infrastructure, the annual completion rate, and the expected completion date for the whole development." The forecast is for the development's construction to begin in 2018/2019 and for development to proceed at 40 units per annum. It is anticipated that the site would be built out within 2 years of commencement. The adoption of the LDP is currently scheduled for the end of 2018. Clearly, completion of the scheme is not feasible prior to adoption of the LDP. However, the timeline makes clear the commitment to expedite the development in the most pragmatic timescale possible. The approval of the application would ensure that this site is able to make a contribution to the housing supply at the earliest opportunity in the plan period post adoption.

* Impact of the application on the delivery of Strategic Sites: The applicant is an established house builder with an intention to proceed with the development in the shorter term (anticipated that the site would be built out within 2 years of commencement). The applicant is not a national house builder and does not have any involvement in the any of the proposed strategic allocations. Approval of the planning application would not therefore prejudice any strategic site from coming forward by 'diverting resources'.

* Affordable Housing: The Developer Guidance document sets out the pressing need to deliver affordable housing to meet the identified shortfall and states that priority may be afforded to applications which are able to deliver housing to meet this need. The level of affordable housing to be provided is therefore an important consideration in providing justification of a departure from the UDP.

* Mitigation Method Statement: In exchange for the loss of approximately 1.8ha of woodland and associated habitats, a Method statement (amended April 2018) has been submitted which contains detailed methodologies for sensitive working during the pre-construction, enabling and construction phases. It includes a package of enhancement, mitigation and compensation to improve and extend the habitat for any potential dormice, a European Protected Species, on and adjacent to the application site. This will ensure that no significant negative effects on dormice will occur at any stage during and following the development works. NRW has accepted this approach and raised no objection to the original method statement. The Penllergare Trust also initially confirmed their agreement to the original method statement.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Subsequent to this an amended method statement has been submitted (enlarged area of compensation). Members will be updated at Planning Committee on any additional comments raised in respect of the amended method statement.

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

Design Evolution / Heritage Issues / Layout

The submission of this application followed a formal pre-application enquiry and ongoing dialogue with the Local Planning Authority. The original submission saw development focussed almost exclusively upon the southern previously developed section of the site and a high density of development of this area. Based on the constraints and opportunities, the initial concept plan was prepared to try and help move the scheme forward.

A clear primary issue for consideration relates to the impact of the proposal upon the historic park setting and Grade II* listed SAM within the site. Moreover, the quality and maturity of trees on site comprise a significant constraint in respect of the developable area with a strong preference for retention but also a need to ensure that any scheme is deemed economically viable.

The site's setting within a Historic Park and Garden must ensure that any development is sympathetic to its historical context, but this also presents a significant and unique opportunity to provide a high-quality development, in an area close to excellent transport networks and which makes the most of the exceptional views and natural landscape.

Concerns have been raised by CADW, the Welsh Historic Gardens Trust, Penllergaer Community Council, the local Ward Member, the gardening club and local residents in terms of the impact on these designated heritage assets. These comments are outlined in the preceding section of the report.

The location of the Grade II* listed SAM, located centrally within the site provides an opportunity to maximise its potential and ensure its setting is improved as a focal point of the redevelopment.

Furthermore, the existing road network within the site provides an opportunity in respect of the layout of the scheme and location of the majority of dwellings. In addition given the existing poor connectivity of the proposal to neighbouring residential development the scheme provides an opportunity to significantly enhance the relationship of the site to those neighbouring it.

It is acknowledged that CADW has continued to express concerns with regards to the amount of development, in that it is extending beyond the former footprint of the Civic Centre, but the developer has not amended the scheme to reduce the number of units. As a consequence of these concerns, which were echoed by the Conservation and Urban Design team leader in terms of heritage context, design and layout, key recommendations for the development of the site from the LPA included:

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

- Outward facing layout with house frontages facing the park woodland on all sides with a perimeter informal lane or footpath;
- The site of the former Penllergaer mansion could be marked by a pair of large units that mimic the appearance of the mansion elevation;
- Internal streets follow historic routes such as reinstating the drive running around the west side of the observatory (the reinstatement of the original drive alignment is an enhancement necessary to offset the potential loss of openness to the setting of the observatory resulting from the housing development);
- The new pedestrian link along the northern boundary should correspond to the route of the original drive to Penllergaer village;
- Internal streets should meet the eastern boundary to coincide with existing/historic access points into the park;
- Formalisation of the footpath to the Parc Penllergaer development;
- Retention of and visual and physical link between park and observatory with observatory a focal point overlooked by house frontages;
- Streets within the site are to be faced and overlooked by house frontages;
- Retain existing stream as landscape feature and drainage provision.

Following on from the above comments a number of alterations were carried out and the design of the scheme has evolved through several stages. The key driver for the overall design philosophy was to seek to improve the setting of the Grade II* listed and Scheduled Observatory. This has been achieved by the creation of an open meadow area around the Observatory incorporating a number of significant trees. This improves the setting as a focal point at the heart of the development and is a significant positive element of the scheme as noted by CADW and the Welsh Historic Gardens Trust. The layout has therefore been amended to a less dense development which whilst encroaching further into the historic park than originally envisioned, has resulted in a more spacious layout for the site that better reflects the setting of the site and provides further positive elements.

The green space around the observatory has been created by expanding the development area into the treed area to the north. This area is also covered by the historic park designation but map regression shows that this area was originally open fields. The amended proposal has also provided significant improvements in terms of the relationship of the observatory to adjacent Valley Woods in visual terms and in terms of increased connectivity.

Ultimately however, it is of note that CADW has not formally objected to the proposal. The Council's Urban Design and Conservation Officer has not objected following the revisions, and the encroachment of the developable area into this area is considered justified, on balance, and off set in order to improve the setting of the Observatory whilst maintaining a level of development in line with the aspirations of the LDP. The areas of the woodland to be removed are generally young as the site had extensive clearance during the construction of the Civic Centre. Furthermore, a package of habitat enhancement, mitigation and compensation is proposed to offset the loss of this area of woodland to the development.

In order to improve permeability and create a useable and safe pedestrian link from the development to the village of Penllergaer a link into the adjoining Parc Penllergaer housing estate has been created to the south of the site (this ties in with the site's allocation in the LDP).

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

A further change has been introduced through the creation of a link due east of the green between plots 71 and 72 to reconnect the Observatory visually with the Penllergaer Valley Woods.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that when considering development which affects a listed building or its setting, the local planning authority, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In this instance, it is considered that the setting is not only preserved, but is enhanced significantly and this requirement has been achieved.

Whilst no comments have been received from GGAT it is considered prudent, given the heritage constraints of the site, to attach a condition requiring the submission of an archaeology watching brief during the course of works to record any below-ground archaeological remains that may be disturbed during development of the site.

Amount of Development

The number of dwellings proposed across the site is largely compatible with recent residential developments in the surrounding area (at a density of approx. 24.7 dwellings per hectare). Furthermore it is acknowledged that due to the site's constraints, in the form of the historic park and garden and the SAM, the overdevelopment of the site would diminish their value. Accordingly, it is considered the scheme as submitted makes an efficient use of the land in accordance with the forthcoming LDP allocation of the site as suitable for 80 units and is largely proportionate to the scale of recent developments in the surrounding area. The Residential Design Guide seeks 35 dwellings per hectare on average but this amount of development would not be considered appropriate within this heritage setting. The proposed density is therefore considered acceptable in this location.

Scale

The scheme has been designed to be to 2/2.5 storey heights which largely reflects the wider built context, particularly the development to the south of the site. It is considered that the scale of development will not negatively impact upon the heritage features of the site. Dwellings have been consciously located away from the observatory building in order to minimise impact. The site is largely screened from the public domain to the north, south and west by existing trees but would be visible from within the historic park in close views.

The previous office building that occupied the site was a single large monolithic structure of larger scale than the dwellings proposed. It is accepted that the site needs a new future and the natural enclosure that exists offers the opportunity to deliver a discreet new development that would not, it is considered, have a detrimental impact on the character of the area.

Layout

As indicated above, the layout of the proposed development has arisen and been radically modified following on-going negotiations with Council officers.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The proposal is largely underpinned by the vision to create a residential development of high quality which provides a well-connected layout and maximises the efficient use of the land whilst respecting the historical and nature features presented at the site.

The houses are largely arranged with a focus on the existing spine road within the site, strong building frontages, with key buildings at focal locations to enhance its character and sense of place. Further to the above, the dwellings are arranged in order to maximise the potential created by the introduction of the area of open space centrally within the site, ensuring a high level of natural surveillance whilst also enhancing the setting of the Observatory and creating a focal landmark. The layout also facilitates easy access should any future maintenance of the observatory be required.

The larger five-bedroom dwellings are strategically positioned along the site's eastern periphery on the footprint of the former Mansion House and are designed to have an aesthetic/visual appearance that makes reference to it (plots 69-71). The layout also allows for the successful retention and integration of several high quality trees either within prominent communal areas, such as the area of open space, or via the allocation of gardens and in strategic locations within the site.

At the south-western portion of the site a pedestrian link is to be provided in order to enable a direct walkway to the neighbouring residential development and to facilitate connectivity between the site and the wider area including central Penllergaer.

With the setting of the observatory much improved there is a clear need to create a visual link to the main park. This is achieved by a visual/green link that connects the proposed meadow around the observatory and main area of the historic park between plots 71 and 72.

It is acknowledged that CADW still has remaining concerns in respect of the overall scheme, in that the development which extends into the Historic Park and Garden is at odds with its historic design, layout and function and encroaches into previously undeveloped areas. However, it is considered the close collaborative working relationship between the LPA and the applicant has generated a scheme which it is considered significantly enhances the setting of the SAM and whilst it is acknowledged the scheme encroaches into woodland this has to be balanced against the overall benefits of the scheme. These aspects include:

- The previous vistas from the garden into Penllergaer Woods to the east have been retained;
- previous route ways have been incorporated into the development layout where they were previously lost as a result of the office development;
- The footprint of the demolished mansion house has been rediscovered and used as a setting for the new built form elements;
- Any encroachment onto previously developed land has allowed key heritage trees to be retained within the layout and the setting of the SAM significantly enhanced;
- The function of the garden/park had been significantly compromised by the previous Civic Centre and the proposed scheme is a significant enhancement

The SW Police Designing Out Crime Officer does not object to the proposals and is generally supportive of the layout as the parking areas/public spaces are overlooked. He has raised concern with regards to the connecting footpath to the south but this provides active connection to Parc Penllergaer and is overlooked by plot 44.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

With respect to the rear parking for plots 69-71 it is considered this area would be sufficiently overlooked and it is not considered necessary to request the inclusion of electronic gates at the entrance to this private driveway.

Appearance and Materials

The proposed dwellings have been designed to reference the historical past of the site in terms of both design and external materials. The proposed dwellings will incorporate a schedule of high quality materials including bricked facades and UPVC sash windows. Natural stone would be used to articulate key features of the dwellings that front on to the Observatory and on the plots that are intended to replicate the mansion house. The treatment of ancillary elements has also been carefully considered including cycle parking and recycling /reuse storage which are an integral part of the scheme.

In terms of the long term commitment to the management and maintenance of the public spaces to enhance the historic character of the registered park and garden and setting of the scheduled observatory, these areas in addition to several other areas within the site will be legally transferred to the Penllergare Trust for their upkeep going forward upon planning permission being granted.

Overall it is considered that the scale, form, massing, layout and design are considered appropriate to the local setting. In this respect, the proposal provides a continuation of the residential context, within this area of Penllergaer and enhances the local vernacular through use of complementary materials, whilst enhancing the historical and natural features of the site.

On balance, the proposal is considered to represent a satisfactory form of development in terms of its impacts upon the character and appearance of the area and on the setting of the Historic Park and Garden and SAM. The layout and design of the development would create a good quality and distinctive streetscape and would accord with the provisions of Policies EV1, EV2, EV6, EV11 and HC2 of the UDP and the SPG - Places to Live: Residential Design Guide.

Residential Amenity

In terms of residential amenity impacts, the nature of the application site is such that there are a limited number of existing properties that immediately adjoin it to its southern boundary. The site is bounded to the north by the A48, to the east by Historic Woodland and to the west by the A483.

The existing residential houses located within the Parc Penllergaer development to the south are sited at a higher level, separated by existing area of woodland screening and sited a significant distance away from the proposed development. It is not considered there would be any material residential amenity impacts in terms of overlooking, overbearing or overshadowing impacts on the existing dwellings. Whilst concerns were raised about the potential increase of noise/ disturbance as a result of the link through from this development into Oak Way, it is not considered that there would be a significant increase in noise and disturbance on what is a public road in any event. The Police D.O.C.O has raised no issues in terms of increased crime, and it is considered that the increased use would provide increased natural surveillance in the area.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The layout of the proposed development ensures that all separation distances for back to back relationships accord with the minimum separation distances set out in the SPG - Places to Live: Residential Design, and all of the plots would have a standard 10m separation distance where first floor windows overlook neighbouring private amenity spaces. It is considered that all of the plots would have an acceptable sized private rear garden.

In terms of the residential amenity of the existing and future occupiers, the application is considered to be acceptable and would accord with the provisions of Policy EV1 of the UDP and the SPG - Places to Live: Residential Design Guide.

Transportation and Highway Safety

In terms of vehicular access, the existing spine road will be maintained and enhanced, providing the opportunity for the layout to be focused in part on the existing road network within the site. The internal road would partly re-establish the drive that was previously in place, which ran to the west of the observatory and curve around its southern side.

In order to provide a focal area of open space the internal road would not immediately abut the observatory; however it would encircle it with all other roads and private drives branching off this road formation, thus enhancing its aesthetic and communal value.

Furthermore, the use of the existing road network and provision of a large area of soft landscaping towards the centre of the site would enhance its character when compared with the former use as Council offices. Given the sensitivity of the site, a more informal approach to the street design is used as it is not considered appropriate to apply standard highway designs to this sensitive site nor to provide excessive visitor parking which would compromise the green meadow as the focal point of the site.

The site is not proposed to be offered up for adoption with a private management company the preferred option with future management / maintenance to be controlled via condition. In terms of parking the scheme broadly follows the adopted parking standards, as such the parking should be self-contained within the site with no overspill arising. Concerns raised about tandem parking have been given limited weight as it is an acceptable approach to parking within a residential area and is preferred to complete frontage parking in visual terms.

A Transport Statement has been submitted with the application to quantify the expected movements generated by the proposed development. This illustrates that the proposed development is predicted to result in a significant reduction in daily vehicle trip generation when compared to that of the previous office use. On that basis the Council's Head of Transportation and Engineering has advised that there is no justification to ask for any contributions towards mitigation works related to vehicular traffic.

In respect of public transport, the nearest bus stops are located approx. 500m away from the site on the A483 (equating to an approximate 6 minute walk). It is however noted that when the Penllergaer civic centre was operational buses used to enter the site to pick up passengers. It is possible that this arrangement will be re-commenced to serve the residential site if planning is granted and the site built out. Since the building was demolished buses continued to run along the A48 but no longer enter the site.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The Head of Highways has recommended the submission of details regarding the maintenance of the visibility splays onto the A48. However, it has to be recognised that this route had been utilised as an access by the former civic centre previously and is the access to the Historic Park and Garden. Visibility appears to be acceptable each way (behind the adopted footpaths) and on this basis, the request for the submission of further details is not considered necessary. Moreover, these areas are also outside the applicant's area of control.

The Local Ward Member and residents have raised concerns with regards to active travel links to and from the site and the dependence on the car. In term of non-car modes a footpath link is proposed linking the site with the neighbouring residential development to the south of the site and to the wider Penllergaer community across the A483. The Council's Head of Highways and Transportation has requested a S106 obligation to upgrade the existing pedestrian crossing (via Parc Penllergaer) across the A483 linking to Swansea Road. The requested cost for this upgraded toucan crossing is in the region of £3000. As much of the infrastructure is already in place it is considered reasonable to request a S106 contribution for this upgrade to encourage increased cycling and pedestrian use. Whilst concerns have been raised with regards to active travel links back to Penllergaer and the dependence on the car, the proposal would provide links, albeit circuitous, providing residents with the option of walking or cycling if they wish. It should also be noted that the adjacent Valley Woods would provide excellent recreational links on the doorstep of the development. It must also be remembered that this site was previously developed and in this regard, any new proposed use would be car dependent to a degree.

The Head of Highways also considers that there is sufficient space within the existing infrastructure on the land at Oak Way (within the Parc Penllergaer estate) to allow for a 4m combined cycle/pedestrian route to be installed at the applicant's expense. However, on reviewing the location, and given that cyclists would have to travel on roads either side of the section on the route through to the A483 it is not considered reasonable to request this upgrade as part of this planning application.

On balance therefore and subject to the imposition of conditions and a S106 obligation in respect of the upgrade of the existing pedestrian crossing across the A483 no highway objections are raised. On balance therefore the application is considered to be acceptable in respect of access and highway safety.

Trees

Given its setting, there are a number of high quality trees located throughout the site. To that end significant emphasis has been placed on maintaining the setting of the trees and the preservation of the higher quality trees on site whilst providing a balance in order to provide a sustainable and viable development.

The Arboricultural report submitted in support of the application is clear in its advice that the removal of the Category A and B trees is a requirement in order to facilitate the overall development. Many of these trees were planted in the 1980s when the site was redeveloped or have only grown since woodland/ground clearance occurred at the time. It is considered that through suitable compensatory tree planting this can be offset to an acceptable degree.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

The development has proposed to retain a high proportion of the heritage trees that made up part of the former Penllergaer Estate. Of note is the retention of the specimen monkey puzzle tree in the south east corner and the large amenity meadow area which will provide the required space around the higher value heritage trees to ensure their future health is protected whilst providing a high amenity area to the development. The two other monkey puzzle trees (referred to in the Heritage Report) are located on the eastern side of the carriageway within the Penllergaer Valley woods and so will not be affected by the development.

Further to the above and specifically in respect of Root Protection Areas, with the installation of permanent no dig ground protection, no significant long term adverse impact is anticipated in respect of any of the retained tree root system or associated soil structure. Notwithstanding this the Council's Tree Officer has raised concerns that further information is required to demonstrate that the no-dig design is feasible. A condition is proposed to be included requiring the submission of details to ensure the important trees will be unaffected during the course of development (including road construction and drainage works).

The Tree Officer has also raised concern regarding shading particularly in respect of units 19-25 and had requested the removal of these units from the scheme. However, it is acknowledged that these units have been placed outside the root protection areas and canopy spread. Whilst efforts have been made to develop a layout which seeks to minimise tree loss and maximise the retention of heritage trees on site, on balance it is considered the proposal as submitted is acceptable and is unlikely to have an unacceptable adverse impact on the amenity of proposed residents that would warrant a reason for refusal on this issue.

Ecology

European Protected Species

It is acknowledged that the site layout has been amended during the course of the application with development encroaching north into the Penbwl Woods area. NRW indicated that further survey work was needed to assess the possible impact on dormice and bats, European Protected species.

In respect of bats, a tree survey was undertaken consisting of a daytime "scoping" survey to ascertain use by bats (Tree Survey dated 28th September 2017 by I & G Ecological Consulting). During the inspection no bats or their signs were found in/on any of the trees that were identified as having most "potential".

The report recommends a number of bat measures to compensate for the "potential" loss of roosting opportunity and to provide site enhancement. NRW has offered no further adverse comments with regard to bats but note and welcome the best practice procedures outlined within the 'Recommendation and Mitigation' and 'Method Statement' sections within the report. A condition is proposed to be included ensuring development is carried out in accordance with the recommendations of the report.

With respect to dormice, both NRW and the Council's Ecology Officer have raised concerns that the woods contains suitable habitat for dormice and did initially request that further survey work be undertaken before any development takes place in this area.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

It is understood no dormice have been recorded within 2km of the site, tube surveys and nut searches for evidence of dormice were begun in Autumn 2017. No evidence was found and the surveys ceased.

A dormouse licence application and mitigation strategy has now been submitted, without any further dormouse surveys to be undertaken in 2018 based on the applicant undertaking a precautionary approach on the assumption that dormice are present. This is based upon the proviso by NRW that a Method Statement and accompanying EPS Licence application be submitted in support of the application.

Without mitigation, there will be short-term and long-term local impacts upon any residential dormice and their habitat:

- Short-term: noise, vibration, pollutants, dust, light, habitat disturbance and destruction;
- Long-term: habitat loss, fragmentation, noise, vibration, pollutants, light, disturbance.

The submitted Method Statement contains detailed procedures that will mitigate as much as possible against these impacts. Sensitive working methodologies are prescribed for the pre-construction enabling, construction and post-construction phases. A package of habitat enhancement, mitigation and compensation will be undertaken, to improve and extend habitat for the dormouse on and adjacent to the application site.

The five year mitigation strategy and plan includes:

- The installation and monitoring of 100 dormouse boxes;
- Coppicing, planting and managing approximately 3.6ha of woodland;
- Retention and significant enhancement of a 5m width corridor between southern Penbwl Wood and the adjacent Penllergaer Valley Woods;
- Sensitive working methods, including vegetation clearance;
- Monitoring of the habitat and dormouse population;
- All work that may impact dormice to be supervised by a qualified licensed ecologist;
- Compensation to be provided by funding the coppicing, planting and managing 3.6 ha on woodland in the adjacent Penllergaer Valley Woods. This is twice the area of habitat to be lost to the development.

NRW was satisfied with the approach that presence has been assumed, and satisfied that the dormouse mitigation strategy sufficiently demonstrated that there is suitable, and a sufficient amount of habitat being maintained/provided, which is connected to habitats off site and which will be appropriately managed. They did not object to the original mitigation strategy provided that a suitably worded condition is attached to any grant of consent to ensure the strategy is implemented accordingly.

As referenced in the consultee comments, the original Mitigation strategy proposed coppicing an area of the adjacent Valley Woods that is protected by a Tree Preservation Order and the Council's Tree Officer raised concerns due to the impact on trees. The mitigation area has subsequently been widened to include areas of the woods where there isn't significant tree coverage and the Tree Officer is agreeable to this revised approach. Similarly, the Council's Ecologist is agreeable to this approach.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Confirmation has been sought from NRW and Penllergare Trust that this approach is acceptable and Members will be updated at Planning Committee of any further comments received. Whilst the mitigation strategy relies on the use of adjacent land, the Penllergare Trust confirmed they were agreeable to the original mitigation proposals. On the basis that NRW and the Penllergare Trust considered the original mitigation acceptable, it is considered that a condition requiring the development to be undertaken in accordance with the Amended Dormice Mitigation strategy would ensure that the dormice were not adversely affected as a result of this proposal.

The Conservation of Habitats and Species Regulations 2010 and the European Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora ("European Habitats Directive") place a duty on Local Planning Authorities, in the exercise of any of their functions to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions (Regulation 9(5)). The requirements of the Habitats Directive include a requirement to establish a system of strict protection for European Protected Species (EPS). When considering development proposals where European Protected Species are present, Local Planning Authority's need to take into account the derogation tests in order to consider the effect of a proposal on the species. These tests are as follows:

- Regulation 53(2)(e) for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment, and
- Regulation 53(9)(a) that there is no satisfactory alternative and
- Regulation 53(9)(b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Regulation 53(2)(e) (Imperative reasons of overriding public interest etc): In this case, the development is not likely to have a major impact on the dormice species, and mitigation proposed has been accepted by Natural Resources Wales and the Council's Ecologist. The wider public interest includes:

- * Improving and increasing the housing stock with good quality accommodation
- * Improving the visual amenity of the surrounding landscape through the redevelopment of previously developed land
- * Improving the setting of the Observatory (SAM and Listed Building) and restoring its landscape setting

Regulation 53(9)(a)(that there are no satisfactory alternatives to the proposed activity): There are two other alternatives to redeveloping the site for residential development. The first alternative considered would be to redevelop the site for another type of development such as commercial, employment or leisure uses however it is considered that these other uses could have a similar impact to the proposed residential development in the first instance and secondly, there was no real interest in these alternate uses. The second alternative would be to leave the site undeveloped however this could create future problems for the Council as landowner given that the existing building has been demolished and could pose a health and safety threat. This would also result in a previously developed site being left unused. A smaller development would not be economically viable given the site costs and the associated abnormal costs of demolishing the building.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Regulation 53(9)(b) (that the action authorised will not be detrimental to the maintenance of the population of the species concerned): The Council's Ecologist and Natural Resources Wales have been consulted on this application and have stated that the proposals are unlikely to have a detrimental impact on the maintenance of the dormice population given the mitigation proposed and the isolated nature of Penbwl Woods. Twice as much habitat would be created in an area more conducive to dormice in the adjacent woods.

In respect of NRW's comments regarding the foul pumping station the applicant has confirmed that the 15m exclusion zone refers to buildings only and as such there is no intention to clear this area and it will be retained unaffected by the development.

SINC

The site is bordered by the Valley Wood Site of Importance for Nature Conservation (SINC) no: 205. SINCS, along with other locally designated wildlife sites are addressed under UDP Policy EV28. This seeks to ensure that appropriate mitigation or compensatory measures are sought should development be permitted which would damage the nature conservation value of the site, with such damage being kept to a minimum.

The Council's Ecology Section has advised that any loss of woodland should be mitigated for within Penllergaer Valley Woods SINC. Potential mitigation measures include: restoration of native broadleaved woodland habitat through the control/removal of invasive species and the management of non-native tree species at various locations throughout the site. A S106 contribution of £65,000 together with a further £5,000 towards habitat creation is therefore requested to deliver these measures (£ 70,000 total). The contribution request to mitigate for the loss of the SINC is directly related to the extent of proposed woodland to be lost, however the request for a further £5,000 towards habitat creation is not considered to be necessary to make the scheme acceptable in planning terms and therefore will not be requested. The SINC mitigation works would be undertaken in the adjacent woodland in Penllergaer Valley Woods and the Trust have confirmed that they are agreeable to this.

SPA

The Council's Ecologist has undertaken a Test of Likely Significant Effect (a screening exercise) and has concluded that the development would not have a significant effect on the features of the Burry Inlet SPA. Water Quality issues are addressed below separately.

Drainage

An updated drainage strategy (Version 2) has been submitted with the application following liaison with Council's Drainage Officer. Residents and the local Councillor raise concerns in respect of drainage of the site.

Flood Risk:

The site is located within Zone A as indicated on the Welsh Government Development Advice Maps. The submitted drainage strategy confirms that further flood risks and justification tests are not required to sites located within Zone A with drainage design incorporating aspects of Sustainable Urban Drainage Systems (SuDS) applicable to the development.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Foul Water Drainage:

The current authorised use of the site is that of an office development which is the current planning land use and as such its historical level of foul discharge into the existing network is therefore a material consideration.

At its peak the previous development use had up to 400 officer works on site with estimated peak foul flows of 2.4 litres/second. The proposed use of the site for 80 dwellings results in a peak foul flow rate of 1.04 litres/second.

Based upon the level of foul discharge it is conceded that the foul flows which will be achieved from the redevelopment of the site (for 80 residential units) will be less than the current authorised use of the site for a maximum of 400 employees. Given the above, it is considered that the proposal will result in a volumetric reduction in foul flows thus creating "betterment" which will negate the requirement to seek any further surface water removal.

All foul flows will connect to a new pumping station to be built to the rear of plots 8 and 9. This will transfer flows across the north of the site to the gravity system where the existing rising main discharges. The existing on site pumping station will be decommissioned and demolished as part of the infrastructure works for the proposed development. Contrary to concerns from the Local Ward Member, no dwellings would be served by private drainage. All dwellings will be connected to the public sewer and will be draining to the pumping station.

Surface Water Drainage:

The former Civic Centre and associated infrastructure drained surface water flows into surface water drains that discharge to a local tributary of the Afon Llan.

Geotechnical site investigations have been undertaken and on the basis of these results which show poor infiltration rates due to ground conditions it is unlikely that an infiltration based drainage system will be possible across the entire site.

The proposed development will lead to an increase in impermeable area from approximately 1.297ha to 1.651ha. Much of the existing surface water drainage will be demolished as part of the redevelopment of the site and therefore new surface water drainage infrastructure will need to be constructed.

The route of the existing culvert that takes flows from offsite will largely remain the same, with local realignment of the culvert headwall to maximise and improve flows through the culvert. These works will be included within a Land Drainage Consent application to be submitted to City and Council of Swansea Council and will include proposals to upsize the culvert from 300 to 450mm diameter.

As infiltration based drainage is not practicable, surface water runoff will be collected via a gravity sealed pipe network and discharged into the tributary of the Afon Llan, mimicking the existing brownfield runoff regime and utilising the existing outfall arrangement. The surface water flows will pass through a flow attenuator which will restrict the flow rate to a maximum of 103 litres/second with a 30% allowance for climate change.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Surface water drainage infrastructure will remain private to each household with highway drainage to be maintained by a private management company.

Based on the above, there are no objections raised to the application by statutory consultees on drainage grounds, providing conditions are added relating to the comprehensive and integrated drainage of the site with regard to surface water and land drainage and sustainable drainage (SUDS), and the removal of permitted development rights. In respect of permitted development rights Class B and C (alterations to roof will not increase surface water run-off and it is proposed not to be excluded. However Band F (hard surfaces) should be included within the condition due to concerns in respect of increased surface run off from any impermeable surfaces.

Dwr Cymru Welsh Water has confirmed that they raise no objection to the application subject to conditions relating to a drainage scheme for the disposal of foul, surface water disposal for the site and the inclusion of advisory notes relating to easements for the watermains that cross the site, and the proposed pumping station to minimise any effects of noise and odour nuisance.

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

Burry Inlet Habitat Regulations Assessment

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

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

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

Water Quality

With regard to the water quality issues in the Burry Inlet and Loughor Estuary, the City and County of Swansea, as part of the LDP process has undertaken a 'Shadow Habitats Regulations Assessment to inform the Habitats Regulations Assessment of the Local Development Plan. The application site (being an allocated residential site within the deposit LDP) was considered as part of this HRA.

As the proposed development has already been considered as part of this HRA (alone and in combination) under the provisions of the Habitat Regulations, there is no need for the City and County of Swansea to undertake a further assessment of the proposal.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

In summary, the HRA concludes that the deposit LDP (which includes the application site as an allocated site) will not be likely to have a significant effect either alone or in combination on any of the European protected sites (Carmarthen Bay and Estuaries SAC, the Carmarthen Bay SPA, or the Burry Inlet SPA and Ramsar).

Other possible effects on CBEEMs features

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

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

Natural Resources Wales, as statutory advisor to the Council on the requirements of the Habitats Regulations, confirmed that they are content with the above approach.

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

Affordable Housing

The applicant has proposed an amended housing offer of 16 (20%) units of affordable housing to be dispersed throughout the site. Initially the applicant has proposed 8 units (10%) but this has been the subject of negotiation during the course of the application.

The applicant submitted a Financial Viability Assessment in October 2017. This has been the subject of an Independent Financial Vitality Appraisal. The initial conclusion of this independent appraisal is that it is viable for the proposed development to provide 16 affordable dwellings (i.e. 20% of the total number of new homes). Following discussions, a balance between social (25%) and intermediate (75%) tenure types has been accepted on viability grounds. The Council's Housing Department has reviewed the revised site layout plan and has confirmed their acceptance of the amended housing offer.

Education

The projected pupil numbers generated by the proposed development of 80 houses (having regard to the calculations contained within the Planning Obligations SPG) is as follows:

Primary - 25 pupils (22 English and 3 Welsh medium)

Secondary - 18 pupils (16 English and 2 Welsh medium)

The Education department has requested a total contribution of £554,564 as they consider that there is lack of capacity in all the catchment schools (both English and Welsh medium).

The total contribution requested is £228,184 plus indexation towards Penllergaer Primary, and £31,116 plus indexation towards YGG Pontybrenin and £285,264 plus indexation (split 89.9% and 10.2% respectively between Pontarddulais Comprehensive and YG Gwyr).

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

However, given viability concerns a review of consultee responses has taken place and it is considered that a reduction in the education contribution requested is necessary on viability grounds. This is discussed further under the Financial Viability/Planning Obligations heading.

Japanese Knotweed

It has been confirmed that Japanese Knotweed is present on the site. Therefore a planning condition will be added requiring that a detailed scheme for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the Local Planning Authority, which shall be implemented prior to the commencement of work on site, in the interests of the ecology and amenity of the area. In order for the condition to be discharged, the developer must then devise an appropriate and suitable method statement for the control of the plant.

Welsh Language

Although no Welsh language impact assessment has been submitted in support of the application, at the time of the 2011 Census, 10.2% of the residents of Penllergaer Ward could read, write or speak Welsh. The percentage at a County level is 8.4% (14.6 nationally) (figures taken from 2011: Census: Key Statistics for Wards; City & County of Swansea). It is anticipated that the majority of the new occupiers of the development would be drawn from throughout the City and County of Swansea and therefore it is considered reasonable to adopt the Swansea wide proportion of residents who can speak, read and write Welsh. Based on the census figures of average residents per household (2.4%), it is anticipated that 192 new residents would reside in the development and the number of residents who it is anticipated could read, write or speak Welsh would be approximately 16 which is considered to have a neutral impact.

As a result, the development is considered unlikely to lead to a loss in Welsh speaking households. The mix of units would help cater for people of different ages and economic status, with different lifestyles and levels of independence. Due to the nature of the scheme (residential), it is not considered that the proposals would lead to greater economic diversity resulting in in-migration of non-Welsh speakers or increased competition for Welsh speaking businesses. It is considered unlikely that the development would force the local Welsh speaking community to leave the area.

The proposed development would generate 25 children of primary school age, 18 of secondary school age. As a result of the number of pupils generated by the development, it is considered unlikely that the proposal would alter the balance between Welsh speaking pupils/students. The developer has agreed to provide a S106 contribution which will include both Welsh and English speaking schools.

Responses to Objections

It is acknowledged that the objections raise a number of issues in respect of the redevelopment of this sensitive site. However, it is considered the issues raised are addressed in the report above and it is considered that the scheme as submitted, and following extensive dialogue with Officers represents an acceptable form of development subject to compliance with relevant planning conditions. Concerns about the recreational use of the area around the observatory have been given limited weight as this would be a management issue.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Planning Balance

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

In this instance the application site is proposed as an allocated site for residential development within the Local Development Plan and the Council do not have a 5 year housing land supply, both of which weigh in favour of the application.

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

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

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

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

The Council submitted the Swansea Local Development Plan 2010-2025 (the 'LDP') to the Ministers of the Welsh Government for independent examination on 28 July 2017. The formal hearing sessions for the Examination process are currently underway (commenced 6th February 2018). The site is allocated within the emerging LDP for housing for approximately 80 dwellings. Further to this, it is acknowledged that the Council cannot meet its future housing land supply needs without allocation of greenfield sites and this site is largely previously developed land which adds to its sustainability credentials. The need to increase housing supply is considered to warrant considerable weight in the short term.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Balanced against this it is acknowledged that given the heritage constraints on the site, the development has posed a significant challenge. The current layout only works because it has been possible to extend the development area to the north into the existing young woodland. The layout of the scheme has been radically amended taking on board comments from the Conservation and Urban Design Manager and to provide a scheme that is underpinned by the vision to significantly enhance the setting of the observatory, with the inclusion of an open meadow, reinstating historic routes, creating a visual link to the wider historic park and enabling the retention of a number of higher quality trees on site.

When assessing all of these issues, it is considered the benefits of the development including the improved setting of the observatory, marginally outweigh the impact on and encroachment onto previously undeveloped areas of the registered park and garden, provided that a condition is attached requiring the development to be implemented within one year of permission being granted to ensure the prompt delivery of much needed housing.

Planning Obligations /Financial Viability

The applicant submitted a Financial Viability Assessment in October 2017 outlining that they could only provide 10% Affordable Housing provision on site and a contribution of £225,000 towards S106 contributions. As per the Planning Obligations SPG, where there is a discrepancy in terms of the project viability, the Local Planning Authority shall seek an independent appraisal at the applicant's expense.

The application has been the subject of an Independent Financial Viability Appraisal undertaken by the same independent appraiser who undertook the Local Development Plan viability to ensure consistency of approach. This appraisal has been discussed at length between parties as the applicant considered there to be some discrepancies and their costs had increased since the initial appraisal as a result of higher specification materials. They maintain that the scheme would not be viable unless the S106 contributions are reduced significantly. In light of this, the requests from consultees have been further interrogated and it is considered that the education contribution for English primary provision and Welsh primary provision could be omitted as three Welsh primary places would be created but there is still capacity for this provision at the current time in YGG Pontybrenin and a recent 2 class demountable at this school has further eased pressure. With regards to English medium, the development would create more places than the capacity at Penllergaer Primary and a contribution would normally be required. However, it has been evidenced that this would make the scheme unviable. In addition, it should also be considered that a new primary school is proposed as part of the nearby Strategic Site at Parc Mawr proposed in the Local Development Plan which is anticipated to be included in a forthcoming planning application. Within this context, it is considered that a reduction in contributions is necessary on viability grounds and the small shortfall in school provision for English primary students would not warrant a recommendation for refusal in these circumstances.

In addition, the independent appraisal has indicated that it would be viable for the proposed development to provide 16 affordable dwellings as outlined above.

The planning obligations associated with this development include:

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

* Provision of 16 affordable housing units on site (25% of which at social rent and 75% at intermediate rent)

* £253,568 contribution towards Pontarddulais Secondary School

* £3,000 contribution towards Toucan Crossing upgrade;

* £65,000 contribution towards mitigation for loss of SINC;

* £4,400 contribution towards ongoing management and monitoring fees (20% of application fee).

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

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

b) Directly related to the development: (the obligations of the Section 106 Agreement are directly related to the development.

and

c) Fairly and reasonably related in scale and kind to the development; (the obligations as set out in the Section 106 Agreement, both in terms of scale and kind of obligations being required, are fair and reasonable to ensure a contribution towards education, upgrade of the existing pedestrian crossing and the provision of affordable housing, SINC.)

On balance the above contributions are considered necessary, directly related and fairly and reasonably related in scale and kind to the development.

Conclusion

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.

The layout has consciously allowed for the retention and enhancement of the Grade II * listed observatory building within an area of open space at the focal heart of the site. In doing so, it is considered the scheme successfully preserves an important historical asset and successfully assimilates it into the development and its natural context whilst having minimal impact on the registered Historic Park and Garden. Moreover, it would enable use of a largely vacant brownfield site within close proximity to a public transport corridor and efficient road network, and which is allocated for housing in the forthcoming LDP.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

Having regard to all material planning considerations, including the provisions of the Human Rights Act, whilst it is acknowledged the proposal is located outside the settlement boundary and within the confines of a Historic Park and Garden, the development is considered acceptable on balance when considering all material considerations. It is therefore concluded that the application should be approved subject to the following conditions and the completion of a S106 Agreement.

RECOMMENDATION

APPROVE subject to the following conditions and the applicant entering into a S106 Planning Obligation in respect of the contributions listed below:

- * **Provision of 16 affordable housing units on site (25% of which at social rent and 75% at intermediate rent)**
- * **£253,568 contribution towards Pontarddulais Secondary School**
- * **£3,000 contribution towards Toucan Crossing upgrade;**
- * **£65,000 contribution towards mitigation for loss of SINC;**
- * **£4,400 contribution towards ongoing management and monitoring fees (20% of application fee).**

1 The development hereby permitted shall begin not later than one year 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:

09 House Type 7 proposed plans & elevations
12 House Type 10 proposed plans & elevations
Received on the 4th May 2017

11 Rev A House Type 9 proposed plans & elevations
Received 17th May 2017

10 Rev B House Type 8 proposed plans & elevations
Received 23rd May 2017

03 Rev A House Type 1 proposed plans & elevations
15 House Type 13 proposed plans & elevations
LP-01 Rev A Site location plan
Received on 8th December 2017.

Material Specification Rev B

04 Rev D House Type 2 proposed plans & elevations
05 Rev D House Type 3 proposed plans & elevations
06 Rev C House Type 4 proposed plans & elevations
07 Rev B House Type 5 proposed plans & elevations
08 Rev C House Type 6 proposed plans & elevations

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

13 Rev A House Type 11 proposed plans & elevations
14 Rev B House Type 12 proposed plans & elevations
Received on 21st March 2018

01 Rev D proposed site layout and boundary treatment plan
Received on 19th April 2018

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

3 Prior to the commencement of development, a Construction Pollution Management Plan (CPMP) shall be submitted to and approved in writing by the Local Planning Authority. The CPMP shall be implemented in accordance with the approved details and is to include the following as a minimum:

- a) Construction programme and timetable;
- b) Detailed site plans to include details of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas for site operatives and visitors etc;
- c) Traffic scheme (access and egress) in respect of all construction related vehicles including the loading and unloading of plant and materials;
- d) An assessment of construction traffic generation and management in so far as public roads are affected, including provisions to keep all public roads free from mud and silt;
- e) Proposed working hours;
- f) Principal Contractor details, which will include a nominated contact for complaints;
- g) Details of all on site lighting (including mitigation measures) having regards to best practicable means (BPM) and avoidance of statutory nuisance impacts;
- h) Details of on-site dust mitigation measures having regard to BPM;
- i) Details of on-site noise mitigation measures having regard to BPM;
- j) Details of waste management arrangements (including any crushing/ screening operations);
- k) Identification of surrounding watercourses and potential pollution pathways from the construction site to those watercourses;
- m) How each of these watercourses and pathways will be protected from site run off during construction;
- n) Notification of whether a Control of Pollution Act 1974 (Section 61) Notice is to be served by Principle Contractor on the Local Authority.

Reason: To protect residential amenity and the environment during the construction phase.

4 No part of the development hereby permitted shall be occupied until details of a lighting design scheme, which shall include details of the phasing of the street lighting, has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and retained in accordance with the approved scheme.

Reason: In the interests of pedestrian and highway safety and to minimise disturbance to wildlife.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

- 5 No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how surface water, and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority. This scheme shall include the following:
- o Details of a sustainable drainage system (SUDS) for surface water drainage and/or details of any connections to a surface water drainage network.
 - o Details on ownership, long-term adoption, access, management/maintenance scheme(s) and monitoring arrangements/responsibilities for the SW scheme and onsite culvert including easements.
 - o Supporting calculations for performance of the system up to and including the 1 in 100 year critical storm including a 30% allowance for climate change.

The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved unless otherwise agreed in writing by the Local Planning Authority.

The scheme shall include details of the impact on the works of trees along the diverted culvert and shall be informed by an Arboricultural Impact Assessment.

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

- 6 The development shall not discharge to the watercourse network at any rate greater than 103l/s as detailed in the Drainage Strategy Report Version 2, dated October 2017.

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

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

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

- 8 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, and a Landscape Management Plan. 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. The Landscape Management Plan shall detail all the measures for the long-term conservation and management of all retained trees, new trees and hedgerows on the site.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

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 first house 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.

- 9 The development hereby permitted shall be undertaken in accordance with the measures outlined in Sections E, F, G and H of the European Protected Species (Hazel Dormouse *Muscardinus avellanarius*) Method Statement (Amended April 2018) prepared by Dr Deborah Sazer. Full details of the area of new habitat to be created (as indicated in E.2.3) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: To ensure dormice mitigation is provided in accordance with best practice during the course of the works.

- 10 No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which shall be 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.

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.

- 11 No development shall commence until the Local Planning Authority has been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.

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

- 12 Notwithstanding the submitted details, no development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme. The tree protection scheme shall include the following information:

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

- (a) A tree protection plan comprising of a drawing at a scale of not less than 1:500 showing, with a solid line, all trees and other landscape features that are to be retained and, with a dashed or dotted line, those that are to be removed. This drawing shall also show the position of protection zones, fencing and ground protection measures to be established for retained trees. Where applicable, two lines shall be shown demonstrating the lines of temporary tree protective fencing during the demolition phase and during the construction phase.
- (b) A British Standard 5837 Tree Survey schedule with tree reference numbers corresponding with trees on the plan required by section a) of this condition.
- (c) The specification for protective fencing and a timetable to show when fencing will be erected and dismantled in relation to the different phases of the development;
- (d) Details of mitigation proposals to reduce negative impacts on trees including specifications and method statements for any special engineering solutions required and the provisions to be made for isolating such precautionary areas from general construction activities;
- (e) Details of any levels changes within or adjacent to protection zones;
- (f) Details of the surface treatment to be applied within protection zones, including a full specification and method statement;
- (g) The routing of overhead and underground services and the location of any wayleaves along with provisions for reducing their impact on trees to an acceptable level;
- (h) A specification and schedule of works for any vegetation management required, including pruning of trees and details of timing in relation to the construction programme;
- (i) Provision for the prevention of soil compaction within planting areas;
- (j) Provision for the prevention of damage to trees from soft landscape operations including details of the application of any herbicides;
- (k) Provision for briefing construction personnel on compliance with the plan;
- (l) Provision for signage of protection zones and precautionary areas;
- (m) Details of contractor access during any demolition or building operations including haulage routes where soil is to be removed.
- (n) A tree protection mitigation plan detailing emergency tree protection and remediation measures which shall be implemented in the event that the tree protection measures are contravened.

Reason: To ensure that reasonable measures are taken to safeguard trees in the interests of local amenity and to ensure no detriment to potential bat roosts.

- 13 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 details.

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

- 14 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 in accordance with the approved details prior to the commencement of work on site.

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

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

- 15 No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed residential streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or successor legislation.
Reason: To ensure the roads are maintained to a satisfactory standard in the interests of highway safety.
- 16 Prior to the first beneficial occupation of any of the dwellings hereby permitted, details of the footpath link to the south of the site, to include details of surfacing and width along its length, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be undertaken in accordance with the approved details prior to the first beneficial occupation of any of the dwellings hereby permitted.
Reason: To ensure access and connectivity to the surrounding area is improved.
- 17 Prior to the first beneficial occupation of any dwelling hereby permitted, the highways and footpaths located within the residential development serving that dwelling shall be constructed to base course level and prior to the occupation of the final dwelling shall be laid out to an adoptable standard, in accordance with full engineering details which shall first be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the phasing of the highways and footpath construction. The development shall thereafter be completed in accordance with the approved details.
Reason: In the interests of highway safety.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: [EV1, EV2, EV3, EV6, EV20, EV22, EV24, EV28, EV30, EV33, EV34, EV35, EV38, EV40, HC3, HC17, HC24, AS1, AS2, AS5, AS6 and AS10.
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 3 Please be aware that under the Flood and Water Management Act 2010 the City and County of Swansea is now classified as the Lead Local Flood Authority (LLFA) and as part of this role is responsible for the regulation of works affecting ordinary watercourses. Our prior written consent for any works affecting any watercourse may be required irrespective of any other permissions given and we encourage early engagement with us to avoid any issues.
- 4 The Drainage Officer has advised that where the diverted culvert route will run through back gardens/private land those owners will become the riparian owner/s of the system and responsible for the management and monitoring of the structure in perpetuity. An easement must be clearly marked showing where no development can take place i.e. extensions, sheds, decking, planting etc. to allow for future access/maintenance/replacement. This must be included in the deeds of those properties.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

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

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

No habitable buildings should be constructed within a 15 m vicinity of the pumping station as to minimise any effects of noise and odour nuisance.

- 6 The applicant is advised to note the following:

1 Construction Noise

The following restrictions should be applied to all works of demolition/ construction carried out on the development site

All works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of 08.00 and 18.00 hours on Mondays to Fridays and between the hours of 08.00 and 13.00 hours on Saturdays and at no time on Sundays and Public Holidays and Bank Holidays. The Local Authority has the power to impose the specified hours by service of an enforcement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

2 Smoke/ Burning of materials

No burning of any material to be undertaken on site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

3 Dust Control:

During construction work the developer shall operate all best practice to minimise dust arisings or dust nuisance from the site. This includes dust and debris from vehicles leaving the site. The Local Authority has the power to enforce this requirement by service of an abatement notice. Any breaches of the conditions attached to such a notice will lead to formal action against the person[s] named on said notice.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

4 Lighting

During construction work the developer shall operate all best practice to minimise nuisance to local residences from on site lighting. Due consideration should be taken of the Institute of Lighting [www.ile.org.uk] recommendations

7 Highway Informatives:

Note1 : Section 278 Works

All off-site highway works are 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.

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

Note 2: Retaining Wall Informative

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

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

Note 3:Future maintenance

The applicant is advised that to discharge this condition, that the local planning authority requires a copy of a completed agreement between the applicant and the local highway authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

8 Any waste materials that are generated on site (either resulting from construction or demolition) must be stored and treated in line with relevant environmental legislation. If it is proposed to treat waste on site (i.e. production of aggregates), a relevant waste permit/exemption must be registered with NRW. More information on relevant waste exemptions can be found on our website at: www.naturalresourceswales.gov.uk

9 Dwr Cymru Welsh Water have advised that the proposed development is crossed by a 20 inch and a 160mm trunk watermain, the approximate position being shown on the Statutory Public Sewer Record. Their position shall be accurately located and marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of the public sewers.

Planning Committee – 1st May 2018

Item 1 (Cont'd)

Application Number:

2017/0986/FUL

It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

- 10 Warning: An European protected species (EPS) Licence is required for this development. This planning permission does not provide consent to undertake works that require an EPS licence.

It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.

To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>

- 11 The applicant is advised to prepare and implement a Site Waste Management Plan 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.
- 12 The Council's Highways Officer has recommended the implementation of a Construction Method Statement to be adhered to throughout the construction period. The statement should provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during demolition and construction; and
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
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Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

UDP - EC4 - New Retail Development

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

UDP - EV1 - Design

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

UDP - EV2 - Siting

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

UDP - EV3 - Accessibility

Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV30 - Trees, Woodland and Hedgerow Protection

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

UDP - EV33 - Sewage Disposal

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

UDP - EV35 - Surface Water Run-Off

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

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

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

UDP - EV38 - Contaminated Land

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

UDP - EV39 - Land Instability

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

UDP - EV40 - Air, Noise and Light Pollution

Development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC2 - Urban Infill Housing

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

UDP - HC3 - Affordable Housing

Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC17 - Planning Obligations

The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC24 - Play Areas/Public Open Space

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

UDP - HC1 - Housing Sites

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

UDP - EV34 - Protection of Controlled Waters

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

UDP - HC18 - Leisure Facilities and Areas

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

Planning Committee – 1st May 2018

Item 2 (Cont'd) Application Number: 2017/2677/FUL

Site History App Number	Proposal	Status	Decision Date
2016/3063/PRE	Withdrawn	WDN	04.10.2016
2017/2677/FUL	Mixed-use development comprising 23 residential dwellings and Coffee Shop with Drive Through Facility and associated works	PDE	
2010/1548	Demolition of farm bungalow (application for Prior Notification of Proposed Demolition)	PNRE Q	04.11.2010
2003/2400	Residential development (renewal of outline planning permission 98/1144 granted 30th November 1998)	APP	03.02.2004
2003/2077	Variation of condition 02 of planning permission 2001/1903 granted on 26th March 2002 to allow for the extension of time in which to submit a reserved matters application for a further period of 3 years	WDN	23.01.2004
2001/1903	Variation of condition 02 of planning permission 98/1144 dated 30th November 1998 to allow an extension of time in which to submit a reserved matters application	APP	26.03.2002

Response to consultations

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

1. The new development with the 23 houses and flats is going to bring more than 50 cars a day on top of the 479 estimated trips to the drive thru and service traffic. The proposal would have a significant detrimental impact upon traffic in the surrounding area.
2. The motorway junction has severe traffic problems at peak times. The development will encourage more traffic to leave and re-join the motorway.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

3. The two proposed entrances on the B4291 will cause traffic to back up due to cars turning right into the coffee shop and residential areas.
4. The traffic lights already cause stationary vehicles to back up and foul the motorway junction. Adding more traffic will make a bad situation worse.
5. There is no need for a coffee shop in this location. The area is already well served by similar facilities. Housing is needed not coffee shops.
6. The proposal would increase anti-social behaviour and reduce the quality of lives for elderly residents, especially in view of the late opening hours
7. Is low cost housing suitable in an area containing housing in the higher price range? The proposal could reduce house prices and potentially reduce council tax for the council.
8. The design of the development would not be in keeping with surrounding properties. The buildings surrounding the site are low density. The development is cramped over-intensive and would have a significant adverse effect on the character and appearance of the area.
9. Pedestrian safety, including that of school children, on the roads surrounding the area is already an issue and the development will not improve the situation.
10. Concerns regarding the increased levels of noise, air and light pollution from higher numbers of slow moving traffic, delivery lorries and waste management vehicles. The proposal would be detrimental to the health and well-being of residents.
11. Concerns the air quality is already poor in the area and the development would make the situation worse, to the detriment of the health of residents.
12. The development may impede Welsh Government plans to improve junction 44.
13. Future developments in Birchgrove have not been factored into the traffic movements within the submission.
14. Concerns the proposal would result in a loss of privacy due to the height and proximity of the development.
15. The site is within the Local Development Plan as a housing site for 10 units. Swansea planning department should not deviate from this.
16. The proposal will cut off residents of Upper Peniel Green Road from the village.
17. There are enough people in Birchgrove, infrastructure and services are overwhelmed as it is.
18. Concerns regarding litter arising from the development.
19. Concerns the traffic assessment has not captured a representative sample of traffic in the area.
20. Concerns regarding existing flooding on the site. The development may result in run-off across Peniel Green Road at junction 44, resulting in a potential traffic hazard and may result in run-off to neighbouring properties.
21. The proposal will be of no benefit to residents of Birchgrove.
22. Concerns regarding overlooking of the rear gardens of dwellings on Birchgrove Road and Peniel Green Road.
23. Concerns regarding the security of the rear boundaries of properties on Peniel Green Road.
24. Concerns regarding access to the garages to the south of the site and concerns this area may be used as a stop off for delivery vehicles, thereby blocking access to the garages.
25. Concerns the products sold at a drive through would not be healthy for school children.
26. Concerns regarding the disturbance of the Japanese knotweed on the site and that its eradication may result in environmental problems to wildlife and residents.
27. Concerns the development does not align well with the local public service board Well-being strategic plan or Well being of Future Generations (Wales) Act 2015.
28. Concerns the development may increase the instances of illegally/dangerously parked cars on Peniel Green Road and the surrounding roads.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

29. Concerns the proposal is a motorway service station by stealth.

30. The drawings accompanying the application do not provide sufficient information. The plan fails to show the council & community, the road manoeuvres, the size of the road layouts and the distance between the junctions. Can delivery vans and trucks turn into either site? Lorries, trucks and cars will be unable to turn safely using the current road system.

31. Concerns a drive through will eradicate the heritage of the village. This area was once farmland.

32. Concerns the part of the site is not owned by the applicant and the correct notice has not been served on the land owner.

33. Concerns the bus stops may be moved from their current positions.

Summaries of Other Consultation Responses:

Highways Department

Introduction

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

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

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

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

Transport Assessment

Trip Generation.

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

Coffee Shop

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

Residential

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

Analysis

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

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

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

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

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

Road Safety Audit

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Internal Layout

Residential

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

Street Lighting has not been detailed.

Car parking is provided broadly in accordance with the adopted parking standards, with a provision of 39 spaces, this is 10 less than the maximum standards. It is thought that due to the type of tenure being offered car ownership rates will be lower, Statistical Bulletin SB100/2013 shows vehicle ownership levels for social rented households are significantly lower than those for market housing. This is considered to be acceptable and the proposed parking will cater for expected demand.

Coffee Shop

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

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

There is no Highway objection to the scheme subject to:

1. The developer entering into a section 278 agreement for the construction of both site access junctions, and the detailed design and alterations to the B4291 detailed on plan 'Proposed S278 Highway Works (Draft)'
2. A system of Street Lighting for the residential area being designed and installed to adoptable standards.
3. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

- vi) measures to control the emission of dust and dirt during demolition and construction; and
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
4. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the residential development have been submitted to and approved by the local planning authority. [The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established].
5. All front boundaries to be kept below 1m in the interests of visibility.
6. The applicant be required to submit a Travel Plan for approval, and that the Travel Plan be implemented prior to the beneficial use of the building commencing.

Pollution Control Division

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

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

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

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

07:00 - 19:00

19:00 - 23:00

23:00 - 07:00

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

Ecology Officer

Bats

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Nesting Birds

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

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

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

Reptiles

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

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

Non-native Invasive Species

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

Habitats and Sites

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

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

The scheme will result in an overall loss of habitat and the additional planting requested above will go some way to offsetting that loss. There is also an opportunity to improve the retained woodland with improved management. As well as the presence of non-native invasive species the woodland has been disturbed by fly tipping and den building activities and the ground flora is therefore limited.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

A management plan for the site must be produced and include how the remaining woodland shall be managed to improve the ground flora within it. This must be integrated with the scheme for eradication of the non-native invasive species on the site. This should be secured through the use of an appropriately worded condition.

Environment Officer

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

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

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

Tree Officer

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Drainage and Coastal Management

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

Condition 1

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

Reason

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

Condition 2

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

Reason.

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

Condition 3

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

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

Housing Department

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Education Department

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

Primary:

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

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

Secondary:

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

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

Requested Education Contribution

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

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

Parks Service

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Natural Resources Wales

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

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

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

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

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

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

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

Coal Authority

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

Prior to the commencement of development:

- * The undertaking of the scheme of intrusive site investigations for shallow coal mine workings and recorded (unrecorded) mine entries, as outlined within the Desk Based Coal Mining Risk Assessment Report prepared by Terra Firma (Wales) Limited, dated August 2017 (Ref: 14346)

- * The submission of a report of findings arising from the above intrusive site investigations, and any remedial works and/or mitigation measures considered necessary; including the calculated exclusion zones and these to be annotated within the proposed layout plan

- * Implementation of the remedial works and/or mitigation measures.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

South Wales Police Designing Out Crime Officer

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

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

Dwr Cymru Welsh Water

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

Glamorgan Gwent Archaeological Trust

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

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

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

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

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

Welsh Government Network Management

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

Appraisal

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

The development would be a mixed use scheme comprising an A3 use class drive through coffee shop (167sqm) and a residential element of 23 units comprising 8 No. 1 bed flats, 2 No. 2 bed flats, 6 No. 2 bed houses and 7 No. 3 bed houses.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

The residential element would provide social rented affordable units that would meet the definition of affordable housing defined within Technical Advice Note (TAN) 2: Planning and Affordable Housing.

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

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

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

Main Issues

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

The site is located within an area where there are former coal mine workings, in accordance with Policy EV39 development will not be permitted in such areas unless the Council is satisfied that proposals to make the land capable of supporting the development are adequate. In this respect the Council is guided by the advice of the Coal Authority. The former industrial uses on or near the site may also result in localised land contamination. The development must therefore be considered against Policy EV38, whereby the Council must be satisfied that measure can be taken to address any potential land contamination issues.

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

Visual Amenity

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

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

Concerns have been raised that the design of the development is not in keeping with the character and appearance of the area, these concerns in relation to the commercial element have been discussed above. In relation to the residential element, there is currently no residential street scene to speak of along the B4291, other than glimpses of the rear elevations of properties on Dan Y Coed and their rear boundaries. The proposals will retain the woodland area in the north eastern corner of the site and a green frontage onto the B4291 will be maintained through the retention of the modified highway verge. The site has been vacant for a number of years, it is overgrown and currently adds very little to the character or appearance of the area. In contrast, the proposal will create a residential street scene, which, it is considered, will improve the appearance of the area. The house types follow a simple modern design characterised by duo pitched roofs and vertical window. The house types and blocks incorporate feature canopies and provide balanced elevations to the street scene. In view of the mix of scales, designs and materials displayed in the residential properties in the streets around the development site, and in the absence of any established street scene on the B4291, it is considered the layout and design approach to the development is satisfactory.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Moreover, the development would not appear overly cramped, as has been suggested in letters of objection. The Council's urban design officer has made a number of suggestions to refine and improve the proposals and, where possible, these have been incorporated into the design. The South Wales Police Designing Out Crime Officer has reviewed the proposals and, whilst making specific comments in relation to achieving the secure by design standard, has offered no objection to the proposals. The final choice of materials for the development and the type of boundary treatments will be secured by conditions.

In relation to the loss of trees at the site none of the trees present on the proposed site are protected by TPOs. The submitted arboricultural impact assessment shows the trees that will be removed to facilitate the development. The Council's tree officer has offered no objection to these removals if suitable mitigation is offered. It is noted that 50% of individual category B trees will be removed and half of G2, category B, will be removed. Their removal will require compensatory planting and those proposed to be retained will require specialist tree protection measure. These matters can be dealt with by a planning condition.

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

Residential Amenity

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

Reference to the noise assessment shows that only plots 1, 7, 8 and 9 fall within NEC C, whereas the remainder of the plots are within NEC B. It will be necessary to provide noise mitigation measures on all parts of the site that fall into NEC C and NEC B. For the plots within NEC B this will comprise of conventional wall and roof construction with specific double glazing, window construction and vents. Those plots within NEC C will, however, require specific mechanical ventilation. Whilst this scenario is not ideal for the living conditions of the future occupiers, this scenario has come about by the requirement to have a meaningful street frontage with active overlooking and habitable windows facing onto the B4291, which is necessary in street scene terms. As this arrangement will affect only four properties within the development and when weighing up the positive benefits of having an active street frontage onto the B4291, this relationship is considered to be acceptable.

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

In terms of the living conditions of the future occupiers of the development the dwellings are designed to provide satisfactory levels of outlook and ventilation to habitable rooms. The private garden areas for the dwellings broadly accord with the design guide SPG which states that private amenity space serving new dwellings should be no smaller than the footprint of the dwellings they serve.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

There will be overshadowing of plot 6 from a group of trees on/near to the southern boundary of this plot, the cutting back of the trees to the site boundary, as indicated on the tree survey, will improve this relationship and the impacts would be mitigated by the design of the dwelling which has large areas of glazing in the rear elevation. This impact, it is considered, would not be so significant as to refuse planning permission for this reason alone.

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

Air Quality

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

Access and Highway Safety

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

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

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

Drainage

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

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

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

Land Instability

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

Land Contamination

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

Ecology

The application site is not a nationally designated or locally designated nature conservation site. A preliminary ecological assessment has been submitted with the application and the Council's planning ecologist considers that sufficient information has been provided to assess the ecological impact of the development.

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

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

There is a small parcel of woodland which is proposed to be retained. The Council's planning ecologist is supportive of this element but has raised concerns indicating that this area would be isolated and disconnected from other features of ecological interest. This could be addressed by a suitable landscaping scheme which could go some way to offset the loss of ecological features within the site.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

It is also considered necessary for a condition relating to the management of the woodland and for a scheme to eradicate the Japanese knotweed at the site. Subject to the above conditions and informatives, it is not considered that the proposed development would result in any significant impacts upon the ecology of the area. The development would therefore be in accordance with UDP EV2, which requires developments to assess species and habitats within the site and implement mitigation measures, where necessary.

Section 106 Planning Obligations

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

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

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

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

Other Matters

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

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

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

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

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

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

Concerns have been raised that the products sold at a drive through would not be healthy for school children. Whilst this may or may not be the case, in view of the distance from the site to local schools (the nearest being Birchgrove Primary some 750m away) it is not considered that the site would be frequented by large numbers of school children.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

In any event such premises often provide a range of more healthy food and drink options. This concern is therefore afforded little weight.

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

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

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

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

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

Finally concerns have been raised that the proposals would eradicate the heritage of the village. As explained above, it is not considered that the proposal would have a significant impact upon the character and appearance of the area. The land has been allocated for housing for some 10 years as such the principle of development on this site is well established. For these reasons this concern is afforded little weight.

Conclusion

The proposal would develop a long standing housing allocation on a brown field site for affordable housing and, if developed, would more than double the number of residential units on the site specified within the housing allocation, whilst also providing a leisure/retail use that may be used by the community and commuters/visitors to the area. The development is considered to provide an appropriate design response in an area of mixed character that would have an acceptable impact on the character and appearance of the area. Moreover, the development would not result in any significant residential amenity impacts to neighbouring properties and is considered to be acceptable in parking and highway safety terms.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

Matters relating to noise, air quality, ecology, land stability, land contamination and drainage have been given full consideration and, subject to conditions the development is considered to be acceptable in all respects. Consideration has been given to the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this recommendation due regard has been given to the ways of working set out at section 5 of the WBFG Act and it is considered that this recommendation is consistent with the sustainable development principle as required by section 8 of the WBFG Act. For the above reasons, the proposal is considered to be in accordance with UDP policies and SPG and is accordingly recommended for approval.

Recommendation:

Approve, subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: SP532 - P02 (Proposed House Type A Plans), SP532 - P03 (Proposed House Type A Elevations), SP532 - P04 (Proposed House Type B Plans), SP532 - P05 (Proposed House Type B Elevations), SP532 - P06 (Proposed House Type C Plans), SP532 - P07 (Proposed House Type C Elevations), SP532 - P13 (Proposed Drive-Thru Unit Plans + Elevations), received 15th December 2017. SP532 - P12 (Proposed Street Elevations), received 26th January 2018. SP532 - P09 A (Proposed Flats (Block 1) Elevations), received 8th March. SP532 - P08 REV A (Proposed Flats Block 1 Plans), SP532 - P15 (Proposed Site Sections), SP532 - P10 A (Proposed Flats (Block 2) Elevations), SP532 - P11 A (Proposed Flats (Block 2) Elevations) received 14th March 2018. Figure 7 (Proposed S278 Highway Works (Draft)), received 11th April 2018. SP532 - P100 B (Site Location Plan), SP532 - P00 B (Existing Site Plan), SP532 - P01 E (Propose Site Plan), C-SK02 G (Access Road Long Section), received 16th April 2018
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Prior to the commencement of development, the following must have taken place to address the risk posed to the development from former coal mining features:
 - a) A scheme for intrusive site investigations shall be undertaken for shallow coal mine workings and recorded (unrecorded) mine entries, as outlined within the Desk Based Coal Mining Risk Assessment Report prepared by Terra Firma (Wales) Limited, dated August 2017 (Ref: 14346)
 - b) The findings of the investigation shall be reported to the Local Planning Authority for approval.
 - c) A scheme of remedial works, where identified as necessary under b), shall be submitted to the Local Planning Authority for approval.
 - d) The implementation of the works identified within c) and the submission of a validation report to the Local Planning Authority for approval to confirm the works, as approved, have been undertaken.

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

- 4 Notwithstanding the details hereby approved, no superstructure works shall commence within the commercial part of the development hereby approved until details and/or samples of the materials to be used within construction of the external surfaces of the commercial development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 5 No development shall take place until a detailed scheme for the eradication of Japanese Knotweed, including timescales, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timescales.
Reason: In the interests of the ecology and amenity of the area.
- 6 Notwithstanding the details hereby approved, no superstructure works shall commence within the residential part of the development hereby approved until details and/or samples of the materials to be used within construction of the external surfaces of the residential development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.
- 7 No development or further site clearance shall take place within the commercial part of the development until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping for the commercial part of the development. The scheme shall include indications of all existing trees (including spread and species, exact location and diameter of tree boles) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

2017/2677/FUL

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

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

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

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

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

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

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

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

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

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

Planning Committee – 1st May 2018

Item 2 (Cont'd) **Application Number:** 2017/2677/FUL

12 The development shall not discharge to the watercourse network at any rate greater than 9.5l/s as stated in Section 4.5 of the Drainage Strategy Report C0959 dated 25/09/2017.
Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment and to minimise surface water run-off.

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

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

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

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

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

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

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

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

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

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

Planning Committee – 1st May 2018

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| Item 2 (Cont'd) | Application Number: | 2017/2677/FUL |
|------------------------|----------------------------|---------------|
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- 17 The scheme shall be implemented in accordance with the mitigation measures described in Section 7 of the submitted document entitled 'Bat Roost Assessment, Trees and Building' produced by Hawkswood Ecology dated December 2017. The mitigation measures shall be retained thereafter.
Reason: In the interest of protecting species listed under Schedule 2 and 4 of the Conservation (Natural Habitats) Regulation 1994.
- 18 The noise mitigation measures in relation to external wall construction, roof construction, window construction and ventilation as detailed within sections 5.3-5.7 of the 'Noise Impact Assessment' produced by Acoustic Consultants Ltd shall be fully implemented within the construction of the development and shall thereafter be retained for the lifetime of the development.
Reason: In the interests of ensuring a satisfactory noise environment for the future residents.
- 19 Prior to any superstructure works commencing on the commercial part of the development, the positions, height, design, materials and type of boundary treatment to be erected within and around the commercial development shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed as approved before the commercial unit is occupied and shall thereafter be retained as such for the lifetime of the development.
Reason: In the interest of maintaining a satisfactory scheme of landscaping and to protect the visual amenity of the area.
- 20 Prior to any superstructure works commencing on the residential part of the development, the positions, height, design, materials and type of boundary treatment to be erected within and around the residential development shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed as approved before any residential unit is occupied and shall thereafter be retained as such for the lifetime of the development.
Reason: In the interest of maintaining a satisfactory scheme of landscaping and to protect the visual amenity of the area.
- 21 Prior to works being commenced on site, full details of a scheme of proposed highways improvements works as illustrated in draft form on Drawing No. 'Figure 7 Rev A' shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to any part of the development hereby approved being brought into beneficial use.
Reason: In the interest of highway safety, to minimize the impact of the development of the free-flow of traffic and to provide safe vehicle and pedestrian access to the site.
- 22 Prior to the occupation of any dwelling hereby approved a scheme for street lighting within the residential element of the development shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be constructed and operational prior to the occupation of any dwelling hereby approved.
Reason: In the interests of pedestrian and highway safety.

Planning Committee – 1st May 2018

Item 2 (Cont'd) **Application Number:** 2017/2677/FUL

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

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS1, AS2, AS6, AS10, EC4, EV1, EV2, EV3, EV30, EV33, EV34, EV35, EV38, EV39, EV40, HC3, HC17, HC18 and HC24.

Planning Committee – 1st May 2018

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|------------------------|----------------------------|---------------|
| Item 2 (Cont'd) | Application Number: | 2017/2677/FUL |
|------------------------|----------------------------|---------------|
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- 2 Management and Maintenance of Estate Streets - The applicant is advised that to discharge this condition, that the local planning authority requires a copy of a completed agreement between the applicant and the local highway authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.
 - 3 The Developer must contact the Highway Management Group , The City and County of Swansea , Guildhall Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Principal Engineer (Network Management), e-mails to networkmanagement@swansea.gov.uk , tel. no. 01792 636091
 - 4 Under the provision of the Highways Act 1980, the approval of the Highway Authority must be obtained for the construction of any retaining wall that is both within 4 yards of a highway and over 4ft 6ins (1.37m) in height.

Under the provision of the West Glamorgan Act 1987, the approval of the Highway Authority must be obtained for the construction of any retaining wall that exceeds 1.5m in height.
 - 5 No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared. This is to ensure that nesting birds are not disturbed by development works and to enable the Local Authority to fulfil its obligation under Section 25 (1) of the Wildlife & Countryside Act (1981).
 - 6 Reptiles may be present. All British reptiles are protected under Schedule 5 of the Wildlife and Countryside Act 1981 as amended. It makes it an offence to intentionally kill or injure adder, slow worm and common lizard. If the reptiles listed above are encountered work must cease immediately and the advice of Natural Resources Wales sought before continuing with any work (0300 065 3000).
 - 7 The drive through element would be situated within the protection zone of the 305mm public sewer measured 3 metres either side of the centreline. It is possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act and DCWW request that the developer contact them to discuss our concerns and consider possible solutions. In the first instance, it is recommended that the developer carry out a survey to ascertain the location of this sewer and establish its relationship to the proposed development.
 - 8 The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.

Planning Committee – 1st May 2018

Item 2 (Cont'd)

Application Number:

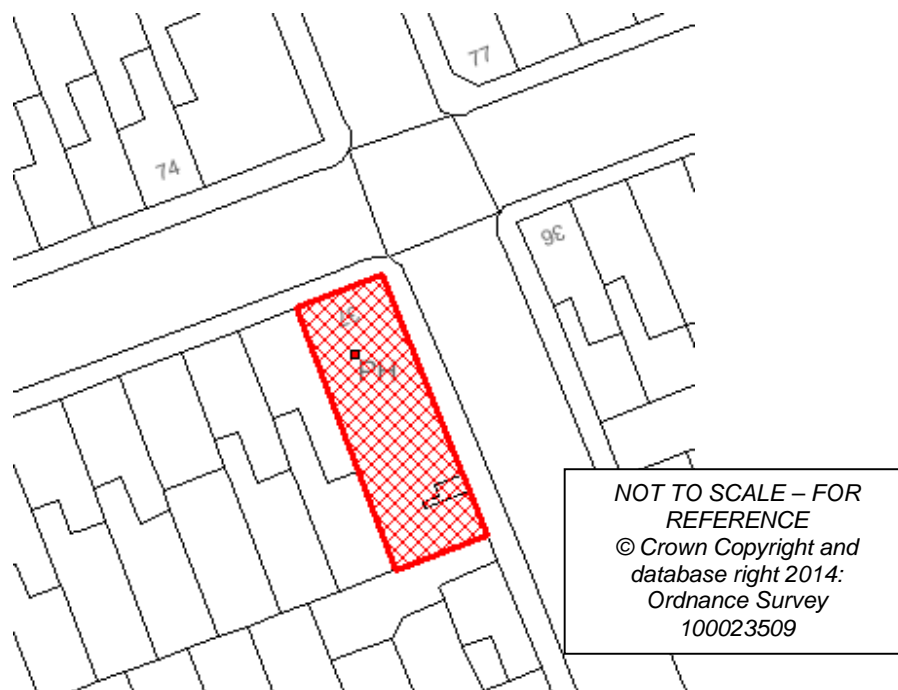
2017/2677/FUL

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

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

Planning Committee – 1st May 2018

Item 3 **Application Number:** 2017/2693/FUL
Ward: Castle - Bay Area
Location: Robin Hood, 37 Fleet Street, Sandfields, Swansea, SA1 3US
Proposal: Change of use from public house (Class A3) to 11 bedroom HMO for 11 people with associated fenestration alterations
Applicant: Mr Ryan Hole



Background Information

Policies

UDP - AS6 - Parking/Accessibility

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

UDP - EV1 - Design

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

UDP - HC5 - Houses in Multiple Occupation

Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

Site History

App Number

2017/2693/FUL

Proposal

Change of use from public house (Class A3) to 11 bedroom HMO for 11 people with associated fenestration alterations

Status

PDE

Decision Date

RESPONSE TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to 38 Fleet Street and 68, 70, 72, 74, 74a and 74b Rodney Street, Sandfields, on 3rd January 2018; and through the display of a notice at the site on 8th January 2018.

The application was called-in by Councillor Fiona Gordon on 15th January 2018, stating that "Residents have concerns about the density of the proposal in the context of the area, and the likelihood that this as an HMO will add to the concentration of students, with resultant issues with noise, rubbish, ASB and lack of maintenance, rather than family homes".

A petition containing 48 signatures was received on 18th January 2018, objecting to the change of use to a 12 bed HMO unit, accompanied by a letter stating that the increase in HMO and people buying to let is leading to the erosion of the community spirit of Sandfields, threatening the health and well-being of its residents. The letter goes on to question the validity and accuracy of statements made in the Planning Statement and urges the Council to "... reflect on the findings of the Sandfields Neighbourhood Renewal Assessment Report findings" from August 2013, particularly with regard to the other effects of HMOs.

THREE LETTERS OF OBJECTION have also been received from nearby residents which can be summarised as follows:

- Far too many HMO properties in the area
- Devaluation of family residential homes
- Insufficient parking
- Increase of litter and fly tipping
- Area is made up largely of young families whose children attend the two local primary schools and of elderly people. A development of this size in such a dense area would have a severe impact with noise and anti-social behaviour which would affect all the local residents and their right to peace. Since the demise of a lot of the public houses in the area, it has become a more peaceful place to live, especially on weekends and we wish for that to continue. I am all for development of empty buildings to bring them back to use but I feel 12 rooms is far too many. I see that no parking spaces are being provided, this will have a massive effect with the on street parking in what is an already congested area.
- To allow that many rooms would be ridiculous, especially in an already over populated area due to so many other HMO properties being given planning.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

HMO Team - I can confirm that this Section has no objections to the Planning Application for conversion of 37 Fleet Street into an HMO property. However, the applicant must apply for an HMO licence and bring the property up to the required standards prior to occupation.

Pollution Control Team - I have no grounds for objection but would ask for the build details for the adjoining wall to be supplied so as to assess if robust detail is being used to comply with airborne and impact sound transmission between adjacent premises.

Highways Officer - I have reviewed application 2017/2693/FUL for the conversion of the Robin Hood public house to an HMO and would comment as follows:-

The site is currently used as a public house 123m² floor area and a 4 bedroom flat. The overall trip rate for a public house of this size together with residential use is around 97 trips per day (2 way). Were it a new application applying the current parking standards would require 25 spaces.

The proposals are for a 11 bed HMO, the overall person trip rate for the proposed use is 35 trips per day (2 way). Application of the parking standards would require 8 off road spaces.

The site is located on Fleet Street Swansea, an area with extremely limited opportunity for off road parking, as such none has been offered. The site is located in a controlled parking zone, with all roads covered by either 'permit holder only' bays or 'limited waiting permit holders exempt'. This restricts parking to non-residents permit holders to 3 hours. The residents parking policy treats HMOs as a single dwelling, which means only 2 permits would be available for the whole property.

Given the potential trip generation and parking demand for the existing use, the proposed use will result in a significant decrease in trips and demand for on street parking. Given this combined with current policy on the issue of residents parking permits I recommend no Highway objection to the proposals.

Applicant's Responses

The applicant has responded to the petition of objection (by e-mail received 29th January 2018), in respect of the points raised in the petition/covering letter of objection, as follows:

"... I have lived in Swansea my entire life and I am actively involved in the local community. The former Robin Hood Public House has been closed for a number of months and I saw the potential to turn this property into a high quality residential property for young professionals. ... I completely understand their (petitioners) concerns with respect HMO properties in Swansea but I thought I would try and take this opportunity to try and address the issues raised and try and alleviate some of their concerns.

there is no evidence to suggest that HMOs have resulted in the erosion of community spirit ... (they) have provided a valuable form of housing accommodation within Swansea and have helped communities thrive ... residents have helped sustain local shopping facilities and are an important part of the fabric of Uplands and Castle Wards. I am a responsible Landlord and will not allow my tenants to disrespect the local community.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

records held by the Councils Environmental Health Department indicate that approximately 10% of properties on Fleet Street are HMOs which is a relatively low figure. The emerging SPG being put forward by the Local Planning Authority suggests a higher % of HMOs in a street is acceptable. The application site is situated in Castle Ward which has a high % of HMOs, however the majority of these are concentrated in the Mount Pleasant area of the Ward.

there is no real alternative use for the building.

the prevalence of rented accommodation in the area is irrelevant and cannot be legislated for by the Local Planning Authority. The market will dictate whether properties are owner occupied or in rented accommodation

the property is situated on Fleet Street. Part of the property does address Beach Street. The property is a large detached public house which has been actively marketed for a period of time. There is no demand for an A3 use and the property is too large for residential use. The conversion of the property to a HMO is the only viable alternative use for the building.

there is no evidence to suggest a high level of HMOs results in anti-social behaviour or indeed alcohol consumption and the accusation is very stereotypical as HMOs tend to attract low income residents. The proposed development will remove a large pub from a densely populated residential area, thus removing a non-conforming use which ultimately may have a positive impact on residential amenity. Anti-social behaviour is a blight on all areas of Swansea and I will not tolerate tenants who do not respect the property or the community in which it resides. Any issues with residents will be acted upon swiftly with the Police contacted and tenants moved on. In terms of general amenity, I am looking to invest significant amounts of money into this property and I will not tolerate tenants who do not respect the property and adhere to Environmental Health legislation. I would expect the Council to enforce against any inappropriate behaviour conducted by residents. There is sufficient legislation in place to take action against such behaviour and I would expect my tenants to be treated no differently.

the removal of this large public house would result in a less vehicular intense form of development. Furthermore a large HMO is likely to result in less waste than the public house. My tenants would have to adhere to Council recycling policy and again any waste which isn't properly disposed of should be dealt with under the enforcement powers available to the Local Authority.

whilst I appreciate there are local concerns with respect HMOs, there is no evidence to suggest HMOs create a problem. HMOs provide an important level of affordable houses for residents. HMOs have helped create thriving vibrant multi-cultural areas such as Uplands. The refusal of this application based on misconceived stereotypes is not considered justification to refuse this application. Swansea has a vibrant and growing student population which has been part of the community of Swansea for over 100years. The net benefit of the student population and emergence of young professional graduates who remain in Swansea is vital to the economic growth of the City.

the Castle Ward is a popular destination to live due to its location within close proximity to Swansea City Centre and the City's Universities. There is no viable alternative to the use of this large detached commercial property and it is unrealistic to assume a family would have the financial capital to convert this huge premises into a family property.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

The property has been marketed and there has been no commercial interest in purchasing the building. HMO properties in Castle Ward and Uplands Ward have helped maintain property prices within the area. A cap on HMO properties will result in the inflation in value of existing HMO properties and the reduction in general housing which could plunge families into negative equity".

APPRAISAL

The application is called to Committee for determination at the request of Councillor Fiona Gordon.

DESCRIPTION

Following negotiation with the applicant in respect of the cramped nature and lack of outlook from some of the rooms proposed in the original scheme for 12 bedrooms, an amended proposal has been put forward reducing the number of bedrooms to 11 and providing a clearer internal layout of facilities for the proposed occupants. As this amended scheme proposes a less intensive use of the premises than that originally proposed, no further consultation has been undertaken; however, the description has been altered and the scheme is considered on the basis of the amended plans received on 19th March and 16th April 2018.

Full planning permission is sought for the change of use of the former Robin Hood Public House, a large building with frontages on to Fleet Street and Beach Street in the Sandfields area of Swansea, to an 11 bedroom HMO. The applicant proposes to provide the 'Higgi Haus' type of accommodation as detailed in the supporting information, with a higher specification of decoration and technological provision which is aimed at a more specific student and young professional demographic.

ISSUES

The main issues for consideration during the determination of this application relate to the acceptability of this type of use at this location and the resultant impact of the use upon the visual and residential amenities of the area and highway safety conditions in the area, having regard to the provisions of Policies EV1, EV2, EV3, AS6 and HC5 of the adopted City and County of Swansea Unitary Development Plan and the Supplementary Planning Guidance document entitled 'Swansea Parking Standards'.

Policy Issues

Policy HC5 of the Swansea UDP supports the conversion of dwellings or non-residential properties to HMOs subject to compliance with a set of criteria, each of which is addressed below:

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

On the basis of the information provided, it is clear that the proposal would result in an increase in the number of bedrooms or persons capable of residing within the property, from a 4 bedroom flat above the public house to an 11 bedroom HMO.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

Regard needs to be given to the fact that a large family (up to 8 persons) could occupy the existing 4 bedroom flat under the extant lawful use of the premises, in addition to the lawful use of the ground floor as an unrestricted Class A3 use. As such it is not considered that the use of the flat for 6 bedrooms and of the conversion of the ground floor to provide a further 5 would result in an unacceptable intensification of the use of the building over and above what could be experienced by its lawful use as a public house/licensed premises with its associated four bedroom flat. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance over and above what could be experienced from the lawful use.

In addition, the HMO Team advises that the applicant must apply for a HMO licence and bring the property up to the required standards prior to occupation; and the Pollution Control Team require that build details for the adjoining wall be supplied, so that they are able to assess whether these details are sufficiently robust to mitigate any airborne and impact sound transmission between adjacent premises. In this way, the amenities of the immediately adjoining neighbouring dwelling on Fleet Street will, it is considered, be adequately protected.

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

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

It is noted from the Councils own HMO register that there were 12 registered HMO properties along the length of Fleet Street as of the 23rd February 2018; as well as 9 on Beach Street (running along the side of the application property). Breaking these numbers down, however, there are 10 properties along the application site side of this particular block of Fleet Street including the application property, Christ Church Primary School yard and the side of No.50 Bond Street; whilst the opposite side of the street contains 15 properties, primarily residential but with the Old Bond Street club/pub on its western extreme.

Of these 25 properties, 5 are registered as existing HMOs, with neither property facing Bond Street being registered. Taking this block, therefore, there are currently 20% of properties in HMO use, which would rise to 24% if the current application is approved. Solely taking the application side of the street into consideration there are a total of 61 properties with a frontage to the street, with 7 currently registered as HMOs, equating to approximately 11.5% of properties in HMO use; and this figure would rise to 13% if the application proposal is approved.

In the absence of a formal percentage or other similar calculation-based approach, however, it is difficult to determine what number of HMOs in an area would constitute a 'harmful concentration'. Given that there are a relatively limited numbers of HMOs in this particular area and that the application property comprises a non-conforming public house use, it is not considered that the proposal would result in a harmful concentration and, as such, the proposal would not conflict with the aims of this criterion.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

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

There are only minimal external alterations proposed at the property, comprising the addition of two ground floor windows on the eastern elevation, and it is not considered that these alterations would result in any unacceptable visual impact.

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

The Head of Transportation and Engineering has been consulted and considers that, given the potential trip generation and parking demand for the existing use, the proposed use will result in a decrease in trips and demand for on street parking. Given this reduction, combined with the current policy relating to the issue of residents parking permits, no highway objection is recommended on the proposal.

In addition, it should be acknowledged that the applicant has indicated the provision of storage for a minimum of 10 cycles and the retention of such cycle parking is considered appropriate and could go some way to encouraging more sustainable modes of transport for occupiers of the HMO.

Therefore, while no car parking is being provided, it must be acknowledged that the proposal is situated in a highly sustainable location which would offer future residents alternative forms of transport to the private car and, by not offering car parking spaces, future occupants would be more likely - and be encouraged - to be car-free.

In light of this, the proposal is not considered to have a greater impact on highway safety or parking over and above the existing extant lawful use of the property and therefore would comply with the provisions of Policies EV1, HC5 and AS6.

(v) Appropriate refuse storage arrangements can be provided

The submitted details also demonstrate sufficient space and facilities to provide for the storage of refuse within the curtilage of the site, and these facilities will also be conditioned to be provided prior to the commencement of the use and retained as such.

Response to consultations

The issues raised in respect of increase in numbers of HMO properties, increase of litter and fly tipping, impact of noise and anti-social behaviour, are addressed in the above report. The issue raised in connection with the devaluation of family residential homes is not material to the consideration of this application, but is addressed in the responses of the applicant. The provision of suitable areas for waste storage has been provided for as part of the development and can be controlled by condition.

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it is accepted that the proposal would generate a requirement for parking spaces, regard needs to be given to the fact that Parking Standards SPG is guidance and this should not be applied slavishly to planning applications.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

Regard should be given to the fall back position here which is that of an unrestricted Class A3 use with a four bedroom flat above with no off-street parking that, in itself, could potentially generate a high level of journeys and demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted in the appeals referred to in below paragraphs.

Material Planning Appeal Decisions

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

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

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

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

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

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

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

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

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions, the Inspector noted that the provision of amenity space would be largely unchanged and, whilst being modest, it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The Inspector stated that "*... Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists*".

On the issue of highway safety, 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces. In concluding that the scheme would be acceptable, the Inspector stated "*... I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality*".

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

This appeal related to a proposal for a HMO for up to 6 people. The Inspector considered that the key issues were the effect of the development on the character of the area in terms of ensuring a mixed and balanced community and highway safety with reference to vehicle parking. The Inspector noted the high concentration of HMOs in the area, which equates to 42% in the street, and the concerns about impacts upon a cohesive and sustainable community but considered that that the proposal would not run counter to the objectives of securing a sustainable mixed use community. She stated that "*... whilst I acknowledge the transient nature of multiple occupancy dwellings and note the evidence submitted in relation to age and economic profiles and household tenure, there is no detailed evidence before me to demonstrate that the resulting property would be occupied by students or that its change of use would materially alter existing social structures and patterns ...*" and "*... the proposed use clearly serves to meet a particular housing need and the surrounding area offers a broad mix of uses*".

On the issue of highway safety and parking, the Inspector noted that car parking is near saturation levels and witnessed high levels of on-street parking on her site visit. She noted that only 1 parking space could be provided but stated that "*... However, the area is well served by facilities and services and incorporates good access to public transport links, which would reduce the necessity to have access to a private vehicle*".

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

I also note that 8 Alexandra Terrace was originally a six bedroom family home and would have had similar parking demands. Moreover, the Council operates a residential permit zone in the area which could be utilised to minimise such problems for those residents that are reliant on the use of a private car. For these reasons, I do not consider the level of evidence provided to justify the refusal of planning permission". The appeal was allowed.

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

In allowing this appeal, the Inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity, the Inspector stated that "... Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs".

He went on to say that "... The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission".

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

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

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

In allowing this appeal the Inspector stated as follows: "The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

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

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

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

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

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the Inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality. The Inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and, given there is no adopted SPG on this matter, stated that "*whether or not a proposal is harmful depends on planning judgement*". He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter, the Inspector considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

On the issue of concentrations of HMOs the Inspector found little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community. On concerns raised about lack of parking, the Inspector stated that, "... whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users". The appeal was allowed.

CONCLUSION

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

Having regard to all material planning considerations, including the Human Rights Act, the proposal is considered to represent an acceptable form of development, complying with the criteria of Policies AS6, EV1 and HC5 of the adopted City & County of Swansea Unitary Development Plan (2008) and generally with the guidance contained in the Supplementary Planning Guidance document 'Swansea Parking Standards' (2016).

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin no later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan, Block Plan, FS-37-1 - Existing Floor Plans, Planning Statement received on 18th December 2017; Amended Plans: Proposed Ground Floor Plan, Proposed First Floor Plan received on 19th March 2018; Amended Plan: FS-37-3A - Existing and Amended Proposed East Elevation received on 16th April 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The development shall not be occupied until the facilities for the secure storage of cycles and refuse/recycling have been provided in accordance with the details submitted to and hereby approved by the Local Planning Authority. These facilities shall be retained as approved at all times for the lifetime of the use
Reason: In the interests of providing facilities for sustainable transport; and for providing secure waste storage in the interests of general visual and residential amenity.

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

- 4 Prior to the commencement of development, build details for the party wall shall be submitted to and approved in writing by the Local Planning Authority and such details shall ensure that the scheme provides sufficiently robust means to prevent unacceptable airborne and impact sound transmission between adjacent premises. Any sound insulation works shall be carried out in accordance with the approved details before the use of the building hereby approved begins and shall thereafter be retained for the lifetime of the use.
Reason: To ensure that the amenities of occupiers of other buildings in the vicinity are protected.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS6, EV1 and HC5
- 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 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.gov.uk/government/organisations/the-coal-authority

Planning Committee – 1st May 2018

Item 3 (Cont'd)

Application Number:

2017/2693/FUL

- 5 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development, including the need to licence the premises for the purposes of HMO legislation. The Developer is advised to contact the appropriate sections of the Council in this respect/for further information.
 - 6 **PARTY WALL ETC ACT 1996**
The developer is advised that the provisions of the Party Wall etc. Act 1996 may be applicable to the proposal and is advised to seek appropriate advice prior to any work commencing on site.
-

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

UDP - CC1 - City Centre Mixed Use Development

Within the City Centre, development of the following uses will be supported:-

- (i) Retailing and associated uses (Classes A1, A2, A3),
- (ii) Offices (B1),
- (iii) Hotels, residential institutions and housing (C1, C2, C3),
- (iv) Community and appropriate leisure uses (D1, D2, A3)
- (v) Marine related industry (B1, B2).

Subject to compliance with specified criteria. (City & County of Swansea Unitary Development Plan 2008)

UDP - EC4 - New Retail Development

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

UDP - EV1 - Design

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

UDP - EV2 - Siting

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

UDP - EV3 - Accessibility

Proposals for new development and alterations to and change of use of existing buildings will be required to meet defined standards of access. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV4 - Public Realm

New development will be assessed against its impact on the public realm. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV6 - Ancient Monuments & Protection of Archaeological Sites

Scheduled ancient monuments, their setting and other sites within the County Sites and Monuments Record will be protected, preserved and enhanced. (City & County of Swansea Unitary Development Plan 2008)

UDP - EV13 - Shopfronts

Proposals for new or renovated shopfronts, including security grilles, should be sympathetic to the character of the building, adjacent properties and the surrounding area. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC17 - Planning Obligations

The Council will negotiate with developers to secure improvements to infrastructure, services, and community facilities; and to mitigate against deleterious effects of the development and to secure other social economic or environmental investment to meet identified needs, via Section 106 of the Act. (City & County of Swansea Unitary Development Plan 2008)

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

UDP - HC3 - Affordable Housing

Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)

UDP - HC6 - Flat Conversions

Proposals for the conversion of larger dwellings and vacant or under-utilised commercial and industrial buildings to flats or similar will be permitted subject to a set of defined criteria including the effect upon residential amenity; overintensive use of the dwelling or building, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

UDP - R16 - Major New Development Waste Management Facilities

Proposals for major new developments will be required to incorporate adequate and effective waste management facilities. (City & County of Swansea Unitary Development Plan 2008)

Site History

App Number	Proposal	Status	Decision Date
2018/0268/FUL	Mixed use development consisting of change of use of ground floor (6 No. units) from mixed use commercial to retail (Class A1), professional services (Class A2) or food & drink (Class A3), and change of use of 1st, 2nd and 3rd floor from commercial with construction of extended 2nd floor & 3rd floors, and addition of 4th floor to provide 28 residential units, together with external alterations including new shop fronts and ancillary works	PDE	
87/1794/03	CHANGE OF USE TO A WIMPY RESTAURANT AND A NEW SHOP FRONT.	APP	09.02.1988

RESPONSE TO CONSULTATIONS

Pre-application consultation report (PAC)

The Wales Planning Act 2015 introduced the requirement in March, 2016 for applications for major development to be accompanied by a pre-application consultation report (PAC).

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

The submitted PAC report has outlined the pre-application consultations undertaken including contacting interested parties and the provision of the information on a website.

Statutory Consultation

The planning application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by press notice and display of site notices. No response were received.

Natural Resources Wales - does not object to this application, however we have the following comments to make.

European Protected Species - Bats

We note that the bat report submitted in support of the above application ('College Street Swansea - Bat Scoping Survey/Assessment', dated March 2018, by Rob Colley Associates) has identified that bats were not using the application site. We therefore have no comments to make in relation to bats on the application as submitted.

Pollution Prevention and Waste Management

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

As best practice, we would advise the applicant/developer to produce a site-specific Construction Environmental Management Plan (CEMP)/Pollution Prevention Plan (PPP). We also recommend that a Site Waste Management Plan (SWMP) is produced. Completion of a SWMP will help the developer/contractor manage waste materials efficiently, reduce the amount of waste materials produced and potentially save money. We acknowledge that a SWMP may be something best undertaken by the contractor employed to undertake the project. Furthermore, we note that these documents are often 'live' and as such may be best undertaken post permission.

Dwr Cymru Welsh Water - advise that the proposed development site is crossed by a 150mm public sewer and Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs albeit, in this instance, they acknowledge that the proposal relates to a change of use with alterations and therefore would be situated outside the protection zone of the public sewer measured 3 metres either side of the centreline. In order to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets, a condition is requested for no surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Housing Enabling - this site falls within the Castle Ward, Central Sub Area, the Local Housing Market Assessment indicates a high need for affordable housing.

I can confirm that we require 30% affordable housing onsite, a mix of DQR complaint flats. The affordable housing units should to be transferred to the Council/RSL. (mix/tenure to be agreed). To ensure affordability they need to have either a low or nil service charges applied.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

Glamorgan Gwent Archaeological Trust - Thank you for consulting us about this application; consequently we have reviewed the detailed information on your website and identified that the proposal has an archaeological restraint.

The information in the Historic Environment Record, curated by this Trust, shows that the application area is within the walls of the medieval Swansea Castle and Town Defences. An antiquarian survey of east Gower by Llewellyn Morgan in 1899 proposed that the Town wall followed the old bailey wall along College Street and turning south to Waterloo Street. The proposed application is situated on College Street, which lies on an east-west alignment and follows the medieval street line. The street has been partially destroyed by the construction of a roundabout, during the post-war reconstruction at the junction of Princess Way and The Kingsway. On the Tithe Plan, 18 tenements were identified to the north of this road and 15 to the south. The Ordnance Survey plan of 1919, shows that the street line remained the same apart from the number of tenements which were numbered 14 to the north and 14 to the south. The proposed development area also incorporates the site of the previous Wesleyan Chapel which was built in 1844 to 1847 to replace an earlier building. Wesleyan Chapel is shown in great detail on the 1851 Board of Health plan and also appears in Victorian drawings as well as more recent photographs. The entrance to the Chapel was situated on College Street and the exterior was Classical with an ashlar plinth with a flat string course at the top and ashlar dressings. The Chapel was destroyed during the Swansea Blitz of the Second World War in 1941. Part of the ditch of the castle bailey was also encountered nearby during construction works at 32 to 34 Princess Way. The stratigraphy revealed a number of distinct episodes ranging from Edwardian consolidation to a 1941 'destruction layer'.

Archaeological investigations were undertaken in 2007 by The Glamorgan-Gwent Archaeological Trust Ltd, to the immediate south of the proposed development area, at the former site of the David Evans store, Princess Way. The result of the archaeological excavations identified a sequence of archaeological deposits and features ranging from the 12th to 13th century through to the 20th century. These features were comprised of medieval walls, refuse deposits and cobbled surfaces. Additionally, the sequence of the lower deposits filling the outer bailey ditch was also established, the earliest which date to the 12th to 13th century. The works also concluded that despite the archaeological remains being considerably truncated by modern structures and services, several areas of stratified, securely dated occupational deposits and structures were identified and recorded and archaeological finds and environmental assemblages were recovered (GGAT Report No.: 2009/078).

The proposed application is for mixed use development which includes external alterations and ancillary works. We note the supporting documents and proposed plans, especially the proposed new build to the rear of the properties. Therefore, it is of our opinion that it is highly likely that archaeological remains may be encountered during the ground works associated with the proposed development and that archaeological mitigation will be required.

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

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

We envisage that this programme of work would take the form of an archaeological watching brief during the demolition and associated groundworks required for the development, with detailed contingency arrangements, including the provision of sufficient time and resources to ensure that any archaeological features or finds that are located are properly investigated and recorded; it should include provision for any sampling that may prove necessary, post-excavation recording and assessment and reporting and possible publication of the results. To ensure adherence to the recommendations we recommend that the condition should be worded in a manner similar to model condition 24 given in Welsh Government Circular 016/2014.

CADW-

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the historic assets.

Assessment

The application area is located some 115m northwest of scheduled monument Swansea Castle (GM012) and 70m west of scheduled monument Original Swansea Castle (GM441): However all views towards the development from GM441 are blocked by the extant Castle Buildings. The development will not be seen from ground level of GM012 but will be visible from the wall walk above the hall block and the top of the southern garderobe tower.

Scheduled monument Swansea Castle (GM012) consists of the remains of the 'New Castle', dating from the late 13th to early 14th century. The visible remains consist of the north and south blocks, connected by a short stretch of much-altered curtain wall. The curtain wall was originally continued up Castle Bailey Street on the west, and west from the north block to enclose a roughly rectangular area, with an entrance on the west side. The well preserved south block, which occupied most of the south side of the 'New Castle', is the most spectacular part, with its picturesque arcaded parapet on top of the outside walls. This was probably a slightly later addition to the main building, which was a residential block. At the west end of the block is a spectacular circular garderobe tower standing to its full height, and in the south-east angle is a small turret with an arrow slit.

The castle was built to command the Tawe Valley with significant views along the valley to the north and to Swansea Bay to the south. It also controlled land access to the Gower Peninsula with significant views to the east along the coastal plain, west along the line of the present Gower Road and to the northwest along the Roman road to Loughor. The proposed development is in the latter view but will not block it as the Roman road climbs up Raven Hill and therefore will still be visible above the proposed extension. Consequently, it is our opinion that proposed development will cause slight, but not significant damage to the setting of scheduled monument GM012 Swansea Castle (GM012).

Highway Observations -

Highways were consulted as part of the PAC / pre-application process and provided the following comments. The only areas of immediate concerns would be the cycle and waste storage facilities which appear wholly inadequate. Notwithstanding that in terms of Highways conditions should include a Construction Method Statement, exclusion of residents having a parking permit, the provision of cycle storage and adequate waste storage facilities.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

Pollution Control Officer -

I would be looking for confirmation that the internal structure is compliant with Regulation E for domestic use and also the following for commercial/domestic sound transmission: -

- o Unless otherwise agreed in writing by the Local Planning Authority, prior to the beneficial use of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority that adequately restricts the flow of sound energy through party walls and floors between the commercial and residential class uses within the development. The scheme supplied shall achieve a minimum DnT,w + (Ctr) of 50dB for the ceiling/floor between the commercial and residential uses and be verified by the appropriate testing methodology upon completion.

Reason:- to protect the proposed residential use against noise emanating from the commercial activity.

Also, I would be looking for a noise assessment to be carried out to inform the design stage to take into consideration the noise from road traffic and the plant noise from the surrounding A3 uses. I would prefer to have this information prior to determination so as to inform comment.

There is also the odour potential from the elevated extraction systems which do not currently constitute a statutory nuisance; the change in land use could well have a detrimental effect and it could be a matter for the courts to decide the effect the change of locality would have.

Looking at the plans submitted it is not clear where the extract system for AWA grill will be located as it appears that the existing location will be part of the residential development?

The last time I visited the 'tented structure' (a few years ago) it was not in use; we have not received any complaints relating to its use and so have not been back since.'

Regarding potential smoke/odour from the existing A3 use at AWA Grill this is a concern for me as several years ago the business was extracting the charcoal grill emission at the rear of the premises and the smoke/odour was directly effecting premises above. After the service of an abatement notice and at significant cost for AWA Grill they installed the new system with Charcoal filters for odour and HEPA filters for the smoke which terminates on their roof; this abated the nuisance.

If the applicant advises: -

'I would envisage it being vented through the roof of the development.'

Then a condition could be added to require that a scheme is to submitted for approval to mitigate against statutory smoke and odour nuisance, from the existing A3 use due to the introduction the residential use. The scheme would have to consider the existing residential land use adjacent as well.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

APPRAISAL

This prominent 3 (part 4) storey building onto Kingsway Circle, turns the corner onto Princess Way. It has a post-war character with a central architectural feature, flat roof, brick elevation in the main with Portland stone/ cast stone feature areas and metal slender frame windows. A number of retail units at ground floor are vacant, the upper floors are vacant and overall the building has a rundown appearance. It does not maximise the contribution to the activity/ vitality of the city centre.

Proposed Development

The proposals comprise the following:

- o Retention of the building, conversion and extension of upper floors to residential upper/rear extension to give with full 3rd floor and part 4th floor to provide 28 residential units (1 x studio, 14 x 1 bed, 10 x 2 bed, 3 x 3 bed) and 5th floor plant room;
- o Refurbishment of ground floor commercial units (6 no. units) and retention of existing Awa restaurant (Use Class A3) and one retail A1 unit, together with external alterations including new shop fronts and ancillary works;
- o New residential entrance in the middle (current 'Crossfire' vacant unit).

Adjacent developments have provided new residential units homes and additional height within the former Barons nightclub immediately to the east and to the south is the mixed use development in place of the former David Evans building.

Material Planning Considerations

The key material planning considerations in the determination of this planning application are set out as follows:

- o Principle of development having regard to Development Plan Policy and Supplementary Planning Guidance;
- o Townscape and visual impact;
- o Impact on residential amenity;
- o Highways, traffic, car parking, access and pedestrian movements;
- o Affordable Housing

There are considered to be no additional issues arising from the provisions of the Human Rights Act.

Principle of development

In terms of the location the site itself is contained within the 'City Centre Action Area', as specified within the UDP. In this respect the development of the site for mixed use residential and retail / commercial (A1/ A2 & A3) units is supported in principle by development plan policy.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

Policy CC1 supports the development of the following uses within the city centre; retailing and associated uses, office, hotels, residential institutions and housing, community and appropriate leisure uses and marine related industry. This policy also supports the re-use of historic buildings and the redevelopment/enhancement of post war buildings will be encouraged and proposals will be considered against the following criteria: impact on existing uses or residential amenity, potential for noise, disturbance and pollution, traffic generation, access and parking, and in the case of retail development, the criteria specified in Policy EC4.

Policy CC5 requires all new development schemes to make a positive contribution to enhancing the City Centre's environment. A programme of improvements will be implemented and, where appropriate, developer contributions will be sought towards this process.

Policy HC8 encourages the conversion of vacant or underused floorspace above commercial properties to residential use subject to: satisfactory design considerations, compatibility with nearby uses, and appropriate pedestrian/cycle access and parking arrangements.

Policy HC6 states that proposals for the conversion of larger dwellings and vacant or underutilised commercial and industrial buildings to flats or other self-contained units of accommodation will be permitted subject to satisfaction of a list of criteria.

Further consideration can be given to the remaining design criteria in the paragraphs below along with the requirements of UDP Policies EV1, EV2, EV3, EV4 and EV13 and the relevant Adopted SPG including:

- o Swansea Central Area Regeneration Framework (SCARF) (February 2016)
- o Places to Live Residential Design Guide (2014)
- o Planning for Community Safety (December 2012)
- o Planning Obligations (March 2010)
- o Car Parking Standards (Adopted March 2012)
- o Non Retail Uses in Swansea City Centre (Adopted October 2010)
- o Shopfront & Commercial Frontages Design Guide - Jan. 2017

Subject to compliance with the above mentioned policies and guidance it can be considered that the principle of development is acceptable.

The above site lies within the Swansea Central Area Regeneration Framework (SCARF) designation (February 2016). The Regeneration Framework presents a Masterplan which focuses on development opportunities in a Retail and Leisure Led Mixed Use area and identifies a future role and function for a range of Complementary Areas set within the context of a Vision for the 4 following broad areas:

- o Creating a Living, Working and Learning Area
- o Developing a Retail Leisure Led Mixed Use Centre
- o Connecting to the City Waterfront
- o Creating a Green Artery

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

The application site is located within the Swansea Central - Kingsway / Orchard Street Complementary Area where the key vision theme is living, working and learning with the potential to provide a new defined working, living and learning zone within a new business district. The Kingsway could become a more attractive location for employment and upper floor residential development. New mixed use development with active frontages at street level will be encouraged. The design principles encourage the addition of scale to existing buildings of at least four stories. The proposed development would therefore conform to Development Plan Policy and Supplementary Planning Guidance for the area.

Townscape and visual impact

Policy EV1 of the UDP requires new development to accord with 11 specified objectives of good design. The application site includes 2-14 College Street and 38-48 Princess Way, a prominent part 3, part 4 storey building onto fronting onto the Kingsway Circle, with frontages onto both College Street and Princess Way. The building has a post-war character with central architectural feature, flat roof, brick elevation in the main with Portland stone/cast stone feature areas and metal slender frame windows.

There are a number of commercial units at ground floor which are currently vacant and the upper floors are also vacant and overall the building has a neglected appearance, and as such the building in its current form does not maximise the contribution to the activity/vitality of this part of the city centre. The regeneration framework for the Kingsway area as set out in the SCARF document is an area for living, working and learning, increasing densities, improving the public realm and respecting the post war character.

The proposals comply with the SCARF document by bringing vacant floor space back into use for homes and bringing vacant ground floor commercial space back into use as active frontage. The application building is a prominent building adjacent to one of the main green spaces proposed as part of the Kingsway public realm project. The adjacent area is likely to be an important 'play space' and this building is a key aspect of the setting of this space in terms of active frontage and architectural backdrop. The residential entrance, centrally placed in the building frontage, is located in a legible and welcoming location onto the main public realm area to become part of the active frontage.

The architectural proposal works with the post war character by retaining the brickwork and stone/cast stone areas. The proposed drawings have been annotated to state that the existing brickwork and concrete panel/columns are to be cleaned which will significantly improve the appearance of the existing fabric.

The design approach to the frontage includes a pronounced central feature to the building which projects marginally above the remaining 4th floor extension which will help to accentuate the central focal point and increase the massing of the building from this vantage point. The building also takes the appearance of additional massing as a result of the re-design of the terrace space enclosures to 4th floor with brick pillars/arches along the frontage. In terms of plant provision, a screened rooftop plant area is proposed which provides additional height above the central architectural feature. Full details can be controlled by condition.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

The additional floors are set back to distinguish between old and new and provide articulation of the roof scape. This new element would be clad in metal sheeting which is supported as this is a robust/quality material which reflects other schemes with additional height such as Pearl House opposite. An element of lighter grey polycarbonate is proposed to the central 4th floor feature which is acceptable. A condition requiring a composite materials sample board of all external materials to be provided on site is suggested to be included. The drawings indicate the provision of UPVC window frames which will be acceptable subject to them being sharp profile frames taking the appearance of aluminium. This can be controlled by condition.

An element of colour has been added to the frontage including orange window surrounds to some first and second floor existing windows, and incorporating the same orange colour to the proposed 3rd and 4th floor extensions through metal infills. This approach is welcomed and there is scope to further enliven the frontage by adding colour to a number of ribbed panels between the 2nd and 3rd floor windows. The existing stone/cast columns to the shopfront are to be retained and cleaned.

The proposal includes a substantial rear extension that broadly doubles the depth of the floorplate. The rear elevation is visible only from views along the lane from Castle Street and in accordance with previous comments provides a level of natural surveillance. Concern was raised at pre-application stage regarding the issues associated with render in terms of weathering, staining etc and it was suggested that a full cladding system be considered. The supporting information claims that the use of cladding to the rear elevation would undermine the viability of development and subsequently a render finish is proposed to the rear. Full details should be conditioned to control appearance, including details of any fungicidal coating.

Units in the rear will have a restricted outlook onto the rear lane but this will help to naturally police this area. This is acceptable to make the upper floor residential accommodation work, but the amenity impact on existing residents of the units within the former Barons block and the approved but not yet implemented scheme for residential conversion above the former TA unit also needs to be considered. Controlled aspect oriel windows are proposed to east facing windows to ensure there is no overlooking to the former Barons block. With regard to the unimplemented scheme above the former TA unit this relationship is oblique across the rear lane. Given the city centre location the relationship between the proposal and adjoining residential units is not considered unacceptable.

The site is also well linked in an accessible manner to adjacent attractions and areas of public realm and the city centre shopping areas. The site is located on a bus route and has good access to the public transport network, with the Train Station and Quadrant bus and coach station all within walking distance. The site is also in close proximity the National Cycle Network. Accordingly it is considered that the proposal accords with the requirements of Policy EV3.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

Policy EV4 of the UDP states that where development and ancillary features impact on the public realm designs should ensure that schemes integrate with areas to produce spaces that result in quality townscape and building frontages that actively engage with the public, that are "people friendly" in terms of perceived and actual safety levels, and provide attractive detail through the use of high-quality, durable materials. In this respect the main entrance to the residential accommodation is off Princess Way, and along with the retail units to ground floor and level of glazing and active frontage to the road, it is considered that the proposal will provide for a good deal of natural surveillance at all times of the day. The proposal is considered in compliance with the provisions of UDP Policy EV4.

Impact on residential amenity

In the first instance the principle of a mixed use development at this location is supported by development plan policy. The application site is located within the SCARF Swansea Central Area - Kingsway Appraisal Area where the key vision is City Living, Working and Learning. Residents therefore should realistically expect a level of activity akin to a mixed use urban area rather than a suburban location. It is not considered that the proposal would result in demonstrable unacceptable level of disturbance from this proposed residential use that would be considered so harmful in a mixed use urban area that would warrant a recommendation of refusal.

Consideration can also be given to Adopted SPG entitled 'Place to Live Residential Design Guide'. Whilst this guide is generally aimed at housing developments, it is relevant to this proposal in terms of high density city centre living considerations and the residential amenity tests.

The relevant requirements of the Residential Design Guide include:

- * Density and Mixed Uses - the design guide highlights the importance of maximising density in accessible locations. The site is well served by public transport, walkable to the city centre and a cycle ride to the various university areas and as such is located in a highly accessible location. Furthermore the scale, height and massing of the proposed development would not appear out of place at this location.
- * Community Safety - Legible and welcoming entrances - a key requirement for all forms of development is that the entrances are legible (easy to locate), and are safe and welcoming. This can be ensured by facing the entrances onto streets and public realm areas and also by emphasising the entrances as part of the architectural design. A new residential entrance and core are introduced to the Kingsway Circle façade to give access to the residential apartments.
- * Privacy and Amenity - The Design Guide also sets the requirement to avoid cramped living environments in high density developments and it is considered that the density is appropriate for city centre living.

In terms of residential amenity, the residential design guide sets out tried and tested considerations to assess the impact on residential amenity of existing residents around the site. At this location within the city centre there are no adverse impacts on the residential amenity of any existing residential uses, or any adverse impacts on the surrounding business uses from the proposed residential use.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

The Authority's Pollution Control Officer has provided comments on the scheme and pointed to potential concerns with sound insulation matters, condensing units and ventilation/fume extraction for the commercial units. Particular concern was raised with the absence of information as part of the planning application to deal with potential odour/smoke from the existing A3 use at the AWA Grill. Given that the AWA Grill falls within the same planning unit and the applicant has suggested that odour/smoke could be vented through the roof of the development a suitable condition can be appended to produce an acceptable form of development.

Subject to appropriate conditions to deal with noise levels, building services plant noise and a scheme of ventilation to deal with potential odour/smoke concerns then the application is compliant with the requirements of UDP policies and the adopted residential design guide in relation to residential amenity impacts.

Highways and car parking

Planning Policy Wales aims to reduce the need to travel, especially by private car, by locating development where there is good access by public transport, walking and cycling. It also supports the locating of development near other related uses to encourage multi-purpose trips and reduce the length of journeys.

Policy AS5 also requires development proposals to consider access requirements for pedestrians and cyclists. Policy AS6 states that parking provision to serve development will be assessed against adopted maximum parking standards to ensure that proposed schemes provide appropriate levels of parking for private cars and service vehicles. Account will also need to be taken of the need to provide facilities for the parking of motorcycles and cycles.

Moreover, as stated within the Swansea Central Area: Regeneration Framework (SCARF) under Section 5: Framework for Regeneration and Movement which seeks to promote sustainable transport by reducing car dependency and with regard to the central area car parking standards provide the following advice:

To facilitate new land uses and regeneration initiatives in the Central Area which align with the aims, objectives and proposals of the Regeneration Framework, such as the re-use of vacant upper floors and vacant underused buildings for residential use, a limited relaxation of car parking standards will be considered where appropriate and where there are no adverse effects on highway conditions.

The application site is located within the city centre core and as such there is no requirement to provide car parking for the residential use. Notwithstanding this, adequate secure cycle storage must be provided to serve the proposed residential uses. In addition, the Head of Transportation has advised that conditions in respect of a Construction Method Statement to reduce the likelihood of obstruction of the highway / control construction traffic etc., and adequate waste storage facilities / and collection should be included on any grant of planning permission.

On this basis, it is considered that the scheme complies with the aims and requirements of policies EV1, EV2, AS1, AS5, AS6 and the Adopted Supplementary Planning Guidance 'Parking Standards' in regard to the impact of the development upon highway safety in the area.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

Planning Obligations - Affordable Housing

This site falls within the Castle Ward, Central Sub Area, the Local Housing Market Assessment indicates a high need for affordable housing and there would normally be a requirement for 30% affordable housing which would be secured through a Section 106 Planning Obligation.

In order to address this issue, the applicant has submitted a Viability Assessment which has assessed the proposed gross development value of the proposed development against the valuation of adjacent properties. The Assessment has concluded that the site is not viable to include Section 106 Planning Obligations and the development is reliant upon grant funding in order to proceed. This conclusion is accepted.

Impact on Archaeology and Cultural Heritage

This site lies within an area of archaeological potential as part of the outer ward of Swansea Castle and might include the line of the Castle Walls. GGAT have advised that it is likely that archaeological remains may be encountered during the ground works associated with the proposed development and that archaeological mitigation will be required in the form of an archaeological watching brief.

CADW have assessed the impact of the proposed development on the scheduled Ancient Monument of Swansea Castle. They have concluded that the proposals will cause slight, but not significant damage to the setting of the Scheduled Monument.

Impact on Ecology

The application is supported by an Bat Scoping / Assessment Survey Report to assess the bat interest within the building. The Survey found no evidence of bat use internally or externally with no potential for bat roost opportunities. As such the development will have no adverse impact upon ecology and NRW have accepted the conclusions of the Report.

Waste Storage

Policy R16 states that proposals for major new developments will be required to incorporate adequate and effective waste management facilities. The supporting text states that when assessing proposals for major new developments, the provision of waste management facilities for the collection, recycling and other management of all waste likely to be generated must be included. The building proposes a waste storage area on the ground floor which lies near the rear access. A suitable planning condition can be used to secure the full details of the storage and through a waste management scheme to prevent any potential adverse impacts upon visual amenity or the amenity of those living and working in the area.

Conclusion

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").

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

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.

In conclusion it is considered that the details submitted in accordance with development plan policy subject to conditions. It is considered that the proposals would bring a long term vacant building back into beneficial use in accordance with the regeneration aims of the Swansea Central Area Regeneration Framework City Centre. Approval is therefore recommended.

RECOMMENDATION:

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents:

HG.17.47.001 - existing site location plan; existing ground floor plan; existing first floor plan; existing second floor plan; existing third floor plan; existing front & rear elevations; existing section; topographical survey;

HG.17.47.101 - proposed site location plan; HG.17.47.105 - proposed block plan; HG.17.47.110 - proposed ground floor plan; HG.17.47.111 - proposed first floor plan; HG.17.47.112 - proposed second floor plan; HG.17.47.113 - proposed third floor plan; HG.17.47.114 - proposed fourth floor plan; HG.17.47.115 - proposed plant room floor plan; HG.17.47.103A - proposed sections 01 & 02; HG.17.47.131 - proposed section 03; HG.17.47.140A - proposed elevations 01 & 02; HG.17.47.141A - proposed elevation 03; (plans received 5 February, 2018)
HG.17.47.142 - proposed elevations 04 & 05; HG.17.47.143 - proposed elevations 06 & 07; HG.17.47.144 - proposed elevations 08 & 09 - proposed perspectives; (plans received 2 March, 2018).

Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Notwithstanding the details shown on any approved plan, samples of all the external finishes including windows and doors and the precise pattern and distribution of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details. Composite sample panels shall be erected on site and the approved sample panel shall be retained on site for the duration of the works.
Reason: To ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

- 4 Prior to the commencement of the external works, details at an appropriate scale of the following shall be submitted to and approved in writing by the Local Planning Authority:
- o Typical window and door units within their openings;
 - o Details of the location, external design and finishes of all visible external ventilation;
 - o Rainwater goods;
 - o Shopfronts.

The development shall thereafter be carried out in accordance with the agreed details.

Reason: In the interests of visual amenity.

- 5 No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To reduce the likelihood of obstruction of the highway, danger to road users, to conserve public health and local amenity, to ensure satisfactory standard of sustainable development and in order to ensure a proper standard of development and appearance in the interests of conserving the amenities and architectural character of the area.

- 6 The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details shown on drawing no.P(0)100 and the cycle storage shall be retained as approved at all times.

Reason: In the interests of providing facilities for sustainable transport.

- 7 Notwithstanding the details submitted, prior to the first beneficial occupation of any retail unit, details of the allocation of space for the provision of dedicated waste and recycling bins for each retail unit within the curtilage of the site, shall be submitted to and approved in writing by the Local Planning Authority. The waste storage shall be completed in accordance with the approved details prior to the first occupation of any retail unit and thereafter retained in perpetuity.

Reason: In the interests of visual amenity and to ensure that adequate waste storage facilities are retained within the site curtilage for commercial waste.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

- 8 No development shall take place until the applicant, or their agent or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted and approved in writing by the Local Planning Authority. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.
Reason: To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource.
- 9 A scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following:

All habitable rooms exposed to external road traffic noise in excess of 63 dBA Leq 16 hour (free field) during the day (07.00 to 23.00hrs) or 57 dBA Leq 8 hour (free field) at night (23.00 to 07.00 hours) shall be subject to sound insulation measures.

These measures should ensure that all such rooms achieve an internal noise level of 35 dBA Leq 16 hour during the day and 30 dBA Leq 8 hour at night as set out in BS 8233:2014 Guidance on sound insulation and noise reduction for buildings. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be provided with mechanical ventilation units so that future residents can keep their windows closed.

The sound insulation works shall be completed as approved before occupation of any residential unit and thereafter retained in perpetuity.

Reason: To protect the proposed residential use against noise arising from the existing traffic use of the area
- 10 Prior to the beneficial use of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority that adequately restricts the flow of sound energy through party walls and floors between the commercial and residential class uses within the development. The scheme supplied shall achieve a minimum $D_{nT,w} + (Ctr)$ of 50dB for the ceiling/floor between the commercial and residential uses and be verified by the appropriate testing methodology upon completion. The scheme shall be completed as approved before any part of the development hereby approved is brought into beneficial use and thereby retained in perpetuity.
Reason: To protect the proposed residential use against noise emanating from the commercial activity.
- 11 Prior to commencement of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide the following:

All building services plant noise shall be designed to achieve a rating level (dBLArTr), that does not exceed the representative night time background sound pressure level (LA90,15min) at the nearest noise sensitive dwelling; in accordance with BS 4142:2014.

Methods for rating and assessing industrial and commercial sound. Any approved measures shall be retained thereafter in accordance with the approved details.

Reason: To protect the existing commercial and proposed residential uses against noise from building services plant.

Planning Committee – 1st May 2018

Item 4 (Cont'd)

Application Number:

2018/0268/FUL

- 12 Prior to the beneficial use of the development a scheme shall be submitted to and approved in writing by the Local Planning Authority to control the emission of fumes and odour from the existing A3 premises within the application site. The scheme shall provide an assessment of the existing on-site situation and introduce measures to protect the amenities of existing and future residential occupiers. The development shall thereafter take place in accordance with the approved scheme and the approved measures shall be retained thereafter for as long as the use continues.
Reason: To protect the proposed residential use against odour and smoke emanating from the commercial activity.

Informatives

1. The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: AS5, AS6, CC1, EC4, EV1, EV2, EV3, EV4, EV6, EV13, HC17, HC3, HC6, R16.
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Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

UDP - EV1 - Design

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

Site History

App Number	Proposal	Status	Decision Date
2018/0285/FUL	Change of use from residential (Class C3) to 3 bed HMO for 3 people (Class C4)	PDE	

APPRAISAL

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

RESPONSES TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos.33 and 35 Westbury Street, and Flats 1 and 2 35 Westbury Street on 8th March 2018.

A site notice was also posted within the vicinity of the application site on 12th March 2018.

One letter of objection has been received which is summarised below:

- o Strongly objects to another HMO in Uplands.

One objection petition has been received containing 53 signatures.

The comments on the petition are as follows:

"We the undersigned object to the above planning application on the grounds that we believe that it will add to an already harmful concentration of HMOs in the area, have a detrimental impact on the environment of the immediate neighbourhood and attract more cars causing parking difficulties on the street. We also believe that this application demonstrates the discriminatory effect that the SPG rejected by the planning committee on 4th July 2017 would have had on the Uplands Ward".

Dwr Cymru

The application appears to rely on existing sewer connections and no new connections are to be made with the public sewerage system. Nonetheless, for the avoidance of doubt we would be grateful if you could provide the developer with the following advisory notes: Advisory Notes The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991.

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Should circumstances change and the application proposes any operational development, including any new structures or increase in the roof area of the building, we must be re-consulted on this application.

Description

Full planning permission is sought for the change of use of a residential (Class C3) to 3 bed HMO for 3 people (Class C4) at No.34 Westbury Street, Swansea.

The application is a two storey, mid terraced dwelling currently occupied as a dwellinghouse. Indicative floor plans submitted indicate the ground floor is laid out to a living room, dining room, kitchen and outhouse whilst the upper floor contains 2 bedrooms and a bathroom. Plans indicate the only change as a result of this application being the alteration of the existing ground floor dining room into a bedroom.

Plans further indicate bin storage to be within an existing outhouse attached to the ground floor.

No external alterations are proposed and as such the proposal will have no impact upon visual amenity.

Main Issues

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

Principle of Use

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

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

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

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

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

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

The criterion of the above is addressed below.

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

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

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

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

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

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

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

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

From viewing the Council's own HMO register, there are 27 properties on Westbury Street which are registered HMOs, and there are 70 properties on Westbury Street. The street currently has a concentration of approximately 38.6% and the proposal would increase this to 40%. Whilst the property lies in a high concentration area for HMOs it cannot be argued that the approval of this additional HMO would result in a 'harmful concentration' of HMOs that would justify a refusal of planning permission.

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

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

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

There are no external alterations proposed to the property and accordingly no adverse effect upon the external appearance or character of the locality.

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

Under the Adopted SPG Parking Standards (page 16) reference is made to the parking requirement for a HMO, in terms of residents parking, being 3 spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. On this basis the Local Planning Authority has assessed such applications on the fall-back position of the existing dwellinghouse including any existing parking it has to offer and the potential traffic generated from the proposal.

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

In effect where an existing dwellinghouse has no parking and a new HMO of similar residential nature is proposed it is generally considered to be unreasonable to require additional parking unless it can be demonstrated that the proposal would result in potential harm to highway safety in the area.

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

At present there are no off-street parking spaces for the existing dwelling and given the nature of the use as a small scale HMO it cannot be regarded that the traffic generation from the proposed HMO for 3 people would be of a different or harmful nature to that of the dwellinghouse.

In terms of the character of the area it can be noted that the rear garden is accessible from Westbury Lane, adjacent to a group of garages, and could potentially be used to provide access for a rear parking space. However, this entrance would prove to be narrow, would remove useable amenity space and would actually remove kerbside parking along the site curtilage. In any event given the above it is not considered to be reasonable to require a parking space to be provided when there would not be any increased demand arising from the proposal. The site is sustainable in terms of its location in walking distance of the Uplands District Centre and has sufficient space for cycle storage and ensuring this is provided can be secured by a planning condition.

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

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

Appropriate refuse storage arrangements can be provided

The refuse storage can be provided within the 'out-house'.

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

Response to objectors

The objection with regards to social cohesion, character of the local area and parking have been addressed above. The comments with regard to the non-adopted HMO SPG are not considered material to the determination of this application.

Material Planning Appeal Decisions

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

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

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

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

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

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

It is also close to the University and other employment opportunities." The inspector allowed the appeal citing that it was finely balanced but that the overall difference in activity between the existing guest house and a 10 bedroom HMO would not likely have a significant effect on traffic generation, parking problems or road safety within the area.

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

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

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

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

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

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

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."*

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

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

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

In allowing this appeal the inspector stated *"The appeal site is in the Uplands Ward where the evidence indicates that 49% of the population are students. However, although I understand local concerns, it would appear to be the case that HMOs in this area are already established alongside family housing in fairly balanced numbers. An additional HMO in this location would not result in any material change to existing circumstances. In addition, whilst I recognise the cumulative effects that development can have, there is no supported threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity or character of the area. Whilst the ward profile and census data establishes a high student population and a large proportion of private rented accommodation in Uplands, there is little evidence that directly relates this to an unbalanced or unsustainable community."*

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

The census data shows a good mix of tenure types with over 46% in private ownership, either owned outright or with a mortgage. Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type. The appeal property is in an accessible and sustainable location and although students are generally away from the area during holiday periods, they are also likely to provide some support for local facilities such as sport centres, libraries, and shops. I note that the Council has consulted on supplementary planning guidance for HMOs but given its draft status I am unable to attach any significant weight to it."

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

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

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

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

Planning Committee – 1st May 2018

Item 5 (Cont'd)

Application Number:

2018/0285/FUL

Conclusion

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

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

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: Site location plan received on 22nd February 2018. Proposed floor plans received on 6th March 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 Details of facilities for the secure and undercover storage of three cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of providing facilities for sustainable transport.

Informatives

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

UDP - AS6 - Parking/Accessibility

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

Site History

App Number	Proposal	Status	Decision Date
2018/0322/FUL	Change of use from residential dwelling (Class C3) to a 7 person HMO with a replacement single storey rear extension and associated car parking	PDE	

APPRAISAL

This application has been called to Committee for decision at the request of Councillor Mary Sherwood.

RESPONSE TO CONSULTATIONS

Public Response - The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to No.16 Gwydr Crescent on 26th February 2018. A site notice was also posted within the vicinity of the application site on 2nd March 2018.

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

- o Parking concerns.
- o Loss of social cohesion from high concentration of HMO's
- o Refuse being put out on the incorrect day and increase in litter.
- o Increased noise and disturbance.
- o Anti-social behaviour.

One petition of objection has been received comprising 32 signatures from 30 separate addresses.

The comments on the petitions are as follows:

"We object to the proposal to convert 14 Gwydr Crescent, Brynmill into a 7 bedroom HMO (Application 2018/0322/FUL). The application does not meet the required parking standards, providing only 2 spaces where 4 are required, with kerbside provision saturated in this area."

HMO Team - This department has never had any involvement with this property as an HMO and the property would need to be converted fully in accordance with HMO standards and licensed under the Councils HMO Licensing Scheme.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

Dwr Cymru

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

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

SEWERAGE

Condition

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

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

Advisory Notes

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

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

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

Highway Authority

Change of use from residential dwelling to a 7 person HMO with replacement single storey rear extension and associated car parking. Two parking spaces are proposed within the curtilage of the property and on street parking is a mix of restricted in terms of traffic orders and residents only permit holders, and an element of unrestricted parking which is in high demand from existing residents and people accessing the nearby shopping area. As on-site parking will be available and parking is in such high demand due to a lack of properties with off street parking, it will be necessary for a condition to be imposed whereby residents will not be able to apply for parking permits and will need to sign an agreement to this effect.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

In terms of parking requirements, current adopted supplementary planning guidance City and County of Swansea parking standards state that for HMOs 3 spaces are required for up to 6 people sharing with 1 space for each additional bedroom. The property is situated in a highly accessible area however and is within easy walking distance of numerous amenities and excellent transport links such that it would benefit from sustainability points to warrant a reduction in spaces required. There is no provision for visitors, however it is felt that this can be accommodated by unrestricted parking in the surrounding area, the availability of regular public transport and cycle storage.

It is noted from submitted plans that the property is on a sloping site. After discussions with City and County of Swansea's Structures team it was felt that as the driveway would need to be built upwards to the entrance point it would as such support the highway. However, it should be noted that the highway must not be compromised and should be supported at all times during the construction of the parking area if necessary therefore the developer must contact the Authority prior to carrying out any works in this respect.

On that basis, despite concerns over the growing number of HMOs in the area and the high demand for on street parking for both residents and persons visiting the nearby shopping area, given that the property is in such an accessible location and will benefit from 2 off road parking spaces it is felt that a refusal would be unwarranted and would be unlikely to be supported at appeal.

There are no highway objections subject to

1. The applicant must ensure that during construction of the rear parking area the highway is supported at all times.
2. Any gates at the entrance point to the parking area should be sliding or open inwards and not out over the carriageway.
3. Before the development hereby permitted is occupied arrangements shall be agreed in writing with the local planning authority and be put in place to ensure that, with the exception of disabled persons, no resident of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force on surrounding streets.

The Developer must contact the Highway Management Group, The City and County of Swansea, Guildhall, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . E-mails to networkmanagement@swansea.gov.uk.

APPRAISAL

Description

Full planning permission is sought for the change of use from a residential dwelling (Class C3) to a 7 person HMO with associated car parking at No.14 Gwydr Crescent, Uplands.

The application property is a three storey end of terrace currently used as a dwelling house with 6 bedrooms.

The application includes the removal and replacement of the existing single storey rear extension to facilitate the creation of a larger kitchen. The proposals also include the creation of two parking spaces to the rear garden with associated access gates.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

Principle of Use

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

The criteria of Policy HC5 are as follows:

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

The criterion of the above is addressed below:

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

On the basis of the information provided, it is acknowledged that the proposal results in an increase of one bedroom to provide a seven bedroom property. A large family could occupy the property under the extant lawful use of the premises (i.e. 6 bedroom dwelling) and it is likely that the overall nature of the use for 7 unrelated individuals would increase the intensity in the use of the building. Whilst this is the case there is no evidence to suggest that this increase in use would represent a 'significant adverse effect upon residential amenity' having regard to potential for noise, nuisance or other disturbance as referred to in the policy. There is anecdotal evidence of problems arising from HMOs in that they can create problems such as antisocial behaviour, waste and litter but such amenity issues do not arise exclusively from a HMO use and could also be generated by a dwelling in C3 use.

It is not considered that the use of the premises for up to 7 people as a HMO would result in an unacceptable intensification of the use of the building over and above what could be experienced as a dwelling house, or indeed as the historic use of the property as a 6 bedroom HMO.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

As such, the use of the property as a 7 bedroom HMO is not considered to result in an increase in noise and disturbance which could reasonably warrant the refusal of this application. The proposal is considered to respect residential amenity in compliance with the provisions of Policies EV1, EV40 and HC5 of the Swansea UDP.

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

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

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

From viewing the Council's own HMO register there are 40 properties on Gwydr Crescent which are registered HMOs, and there are 74 properties on Gwydr Crescent. The street percentage of HMOs would therefore change from approximately 54% to 55% on approval and implementation of the application. It is noted that there is already a high level of HMOs in the street and the surrounding area. However it could be argued that given the existing high concentration the character of the street has already changed with regard to the number of HMOs relative to residences. Furthermore the property lies in close proximity to the Uplands District Centre, which contains a high number of bars and restaurants.

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

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

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

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

The proposal includes the part removal and replacement of the existing single storey rear extension with a small increase in footprint. The design and scale of the extension would be similar to that of the existing. The proposed rear parking area with gates is accessed via an unnamed lane. It is noted that a number of the neighbouring properties have similar rear parking areas and associated hardstanding. It is therefore considered that the proposal would have an acceptable impact on the character and appearance of the host dwelling and local area.

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

The Authority's Parking Standards SPG requires that HMO properties have 3 car parking spaces for up to 6 sharing and 1 space per additional bedroom. The SPG was produced at a time when planning permission was not required for a HMO for up to 6 sharing and it was accepted that the level of use and highway considerations would be akin to that of a C3 dwellinghouse. In terms of the SPG the proposed 7 bedroom 7 person HMO would generate a requirement for 4 onsite parking spaces.

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

The application has proposed the creation of two parking spaces to the rear of the property and a space for bicycle storage, leaving a shortfall of two parking spaces on site. However it can be noted that the existing 6 bedroom residential dwelling has a shortfall of 3 parking spaces under current Authority standards. The proposal will therefore overall represent a net gain of 1 parking space onsite compared to existing conditions. On this basis along with the fact that the site lies within walking distance of a range of facilities at Uplands District Centre and provision can be made on site for cycle storage provision to support sustainability it is not considered that the application will result in any adverse effects on local car parking and highway safety.

The Authority's Highways Officer raises no objection to the application given the above. A condition has been requested that the future tenants shall not be allowed to apply for residential parking permits. Whilst this request is noted it is not considered to be a reasonable planning condition in this instance to make the development acceptable. This is on the basis that the parking permit scheme terms and conditions actually limits permits to 2 per property (as existing) but also states that permits will not be issued to residential complexes that have private parking provision. On this basis there is no demonstrable harm and the existing facilities will not be impacted such that a condition could be justified. A condition relating to ensuring the gates of the rear parking area do not open outwards onto the land is considered to be reasonable in the interests of highway safety. In respect of additional conditions it is considered reasonable to require full details of the cycle storage area given that the layout plans show only an area for storage and not the defined spaces or design of the store. The parking spaces shall also be provided prior to first beneficial use of the HMO and this can be secured by condition.

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

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

Appropriate refuse storage arrangements can be provided

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

Response to objectors

The issues raised in respect of social cohesion, high concentration of HMOs, increased noise, disturbance and anti social behaviour are addressed in the above report. The issue raised in connection with refuse being put out on incorrect days is not a material planning consideration whilst the provision of suitable areas for waste storage can be provided for as part of the development.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

The concerns raised about parking are noted and have been appraised in the above paragraphs. Whilst it can be accepted that the proposal generates a requirement for 4 parking spaces regard needs to be given to the fact that Parking Standards SPG is Guidance and this should not be applied slavishly to planning applications. Regard should be given to the fall back position here which is that of a dwellinghouse with no off-street parking that in itself can potentially generate a high level of demand for parking. Reference can be made to appeal decisions in which Planning Inspectors treat the SPG as 'guidance' with particular similarities being noted with the Rosehill Terrace Appeal referred to in below paragraphs.

Material Planning Appeal Decisions

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

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

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

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

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

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

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

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

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

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

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

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

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated "Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs." He went on to say; "The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."

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

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

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

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

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

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

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

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

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

This appeal related to a proposal for a 4 person HMO and the principal issue considered by the inspector related to the impact of the proposal on the character and amenity of the area by reason of the level of use of the property having regard to the number of HMOs in the locality. The inspector noted that UDP Policy HC5 does not quantify what might constitute a significant adverse effect and given there is no adopted SPG on this matter stated "*whether or not a proposal is harmful depends on planning judgement*". He noted that the proposal would involve the conversion of a ground floor reception room to a fourth bedroom and given that the existing dwelling features 3 bedrooms and could be occupied by a family considered that the use of the property by 4 unrelated individuals would not represent a substantial increase in the intensity of the use of the building. Responding to concerns about nuisance, noise, disturbance, antisocial behaviour, waste and litter considered that such amenity issues would not arise exclusively from an HMO use but could also be generated by a C3 use. On the issue of concentrations of HMOs the inspector found 'little convincing evidence to substantiate the view that the concentration of HMOs in the wider area has materially harmed the sustainability of the community.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

On concerns raised about lack of parking the inspector stated: *"whilst occupants of the proposed HMO may be more likely to own cars than all residents of the property in C3 use, given that the building would accommodate only 4 individuals any increase in vehicles would not be significant in the context of the street as a whole. Pinewood Road appears lightly trafficked, with relatively low vehicle speeds, and there is little evidence that the parking of vehicles on the street by future occupants would demonstrably affect the safety of highway users"*. The appeal was allowed.

Conclusion

It is considered that the Local Authority has no evidence to suggest that the use of this property as 7 bedroom HMO would result in a harmful concentration of HMOs within this area. Furthermore the proposal would have an acceptable impact upon the visual amenities of the area, the residential amenities of neighbouring properties and highway safety having regard for the provisions of Policies EV1, EV40, AS6 and HC5 of the City and County of Swansea Unitary Development Plan.

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

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: 2001-PL block & location plan received on 12th February 2018. 3002-PL-A proposed floor plans, 4001-PL existing & proposed elevations received on 21st February 2018. 2002-PL-A proposed site plan received on 20th March 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The two car parking spaces, hereby approved, shall be laid out and completed in accordance with the approved plans prior to the change of use being brought into beneficial use. The car parking spaces shall remain available for their designated use for the lifetime of the approved HMO.
Reason: In the interest of highway safety.

Planning Committee – 1st May 2018

Item 6 (Cont'd)

Application Number:

2018/0322/FUL

- 4 The driveway access gates shall open inwards only and are not permitted to open over the carriageway.
Reason: In the interests of highway safety.
- 5 Details of facilities for the secure and undercover storage of seven cycles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the beneficial use of the development and shall thereafter be retained for the approved use and not used for any other purpose.
Reason: In the interests of providing facilities for sustainable transport.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: Policies EV1, EV40, AS6 and HC5.
 - 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
 - 3 The 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.
 - 4 The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
-

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

UDP - HC5 - Houses in Multiple Occupation

Proposals for the conversion of dwelling or non-residential properties to HMO's will be permitted subject to a set of defined criteria including the effect upon residential amenity; harmful concentration or intensification of HMO's in an area, effect upon the external appearance of the property and the locality; effect on local car parking and highway safety; and adequate refuse storage arrangements. (City & County of Swansea Unitary Development Plan 2008)

Site History

App Number	Proposal	Status	Decision Date
2018/0674/FUL	Change of use from residential (Class C3) to 4 bed HMO for 4 occupants (Class C4)	PDE	

APPRAISAL

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

RESPONSES TO CONSULTATIONS

Public Response

The application was advertised in accordance with the Town and Country Planning (Development Management Procedure) Order 2012 (as amended) by neighbour notification letters sent to Nos. 24 and 26 Bay Street on 4th April 2018.

A site notice was also posted within the vicinity of the application site on 6th April 2018.

Twenty five letters of objection have been received which are summarised below:

- o Over saturation of HMO properties
- o Lack of parking
- o Pressure on local provisions/facilities
- o No council houses or private rentals for locals
- o Anti-social behaviour arising from HMOs
- o HMO housing will disrupt the family community
- o HMO properties should not be approved until the SPG has been agreed
- o Property is opposite a school so parking is already an issue, the HMO will make this worse
- o Reduction in value of houses
- o More accommodation should be made on the Bay Campus
- o Buses have damaged local cars because people are parking too close to junctions due to the limited space
- o Children cannot safely cross to the local school
- o A public enquiry should be held to investigate the number of HMOs within the city

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

Dwr Cymru

No objection subject to an advisory note.

Description

Full planning permission is sought for the change of use of a residential dwelling (Class C3) to a HMO for 4 people (Class C4) at No. 25 Bay Street, Port Tennant.

The application property is a two storey, mid-terrace dwelling currently occupied as a three bedroom dwelling house along Bay Street.

No external alterations are proposed and as such the proposal will have no impact upon visual amenity.

Main Issues

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

Principle of Use

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

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

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

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

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

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

The criterion of the above is addressed below:

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

Regard needs to be given to the fact that a large family could occupy the property under the extant lawful use of the premises and as such it is not considered that the use of the premises for up to 4 people as a HMO would result in an unacceptable intensification of the use of the building over and above that which could be experienced as a dwellinghouse. There is no evidence to suggest that this proposal would result in any harm to neighbouring occupiers by virtue of noise, nuisance or other disturbance.

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

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

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

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

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

It is noted from the Council's own HMO register that there are no registered HMO properties along Bay Street (as of 18th April 2018). It is however acknowledged that there may be properties along Bay Street which have been used as HMOs pre March 2016. It should also be noted that outside of the Castle and Uplands wards, only larger properties are captured under Mandatory Licensing. As a result there may be instances where HMOs exist in the area, albeit that they would have been implemented prior to the use class change in February 2016 and are not subject to licensing requirements.

Notwithstanding this, a check has been made on Rent Smart Wales which provides a public register for all landlords in Wales who rent properties and seven are registered (including the application property). However this register does not indicate whether or not the properties are used as a HMO or rented out and occupied as a single dwellinghouse.

Bay Street comprises of 27 properties all of which appear to be in residential use. On this basis approval of the application would result in the street percentage of HMOs being 3.7% overall. On the basis of the character of the area and the addition of one HMO in to the street the application is considered to be acceptable and would not result in a harmful concentration or intensification of HMOs in the area.

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

There are no external alterations proposed at the property.

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

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

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

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

In respect of the character of the street it can be noted that the existing dwelling offers no off-street parking. Parking is unrestricted on the road other than a section of the road opposite being unavailable for parking due to it adjoining a school. Some of the objections to the application have been received on the basis that the school already brings parking issues to the area and that further parked cars would result in an increase risk of accidents. Whilst this is noted there is no evidence to suggest that a 4 person HMO would be materially different in terms of highway movements and parking demand than that of a dwellinghouse. Furthermore it is unreasonable to use a planning application for a HMO to address any existing highway constraints in an area.

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

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

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

Appropriate refuse storage arrangements can be provided

As above, refuse storage can be provided within the rear yard and this has been demonstrated on the submitted block plan.

Material Planning Appeal Decisions

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

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

This appeal related to the creation of a seven bed HMO from an existing 6 bedroom HMO and a single reason for refusal relating to a failure to provide any parking to mitigate the impact of the development on demand for on-street parking in the area.

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

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

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

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

This appeal related to a refusal of permission for a change of use from residential (C3) to a 7 bedroom HMO. The principal issues related to living conditions for future residents and highway safety. On the issue of living conditions the inspector noted that the provision of amenity space would be largely unchanged and whilst being modest it would be sufficient to meet the requirements of residents for outdoor relaxation and functional space. The inspector stated *"Whilst I agree that the proposed development would lead to an increase in activity at the appeal site, which could give rise to additional noise and disturbance, the increase in the scale of this activity caused by 1 additional occupant would not be materially different to that which currently exists"*. On the issue of highway safety 2 off-street parking spaces were proposed and the Adopted Parking Standards require that the development makes provision for 4 off-street spaces thus a short fall of 2 spaces.

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

In concluding that the scheme would be acceptable the inspector stated *"I am mindful that the parking standards are generic guidance and should be applied reasonably to the individual circumstances of the development. In this instance, I am of the opinion that the level of off-street provision proposed coupled with the existing parking regime in the area and the close proximity of public transport would ensure that the development would not exacerbate parking problems in the locality"*.

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

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

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

In allowing this appeal the inspector noted that the Council identified 36% of dwellings in the street being HMO whilst a local resident estimated that 43% of all dwellings within 50 metres are HMO. In response to concerns about damage to the area's character of amenity the inspector stated *"Whilst I do not dispute that there are a number of HMOs nearby, there is limited evidence before me to indicate that the appeal development, specifically, has a significant or detrimental effect on the sustainability of the local community. Further, although many dwellings nearby appear to be in good or very good physical condition, some of the environmental issues cited are not exclusive to their use as HMOs."* He went on to say; *"The appeal development has resulted in a modest increase in the number of bedrooms within the property. Even were the previous house not to have been fully occupied, all bedrooms could have been used without planning permission. There is little evidence before me to demonstrate that the use of the property as an HMO, rather than a C3 dwelling, would in itself result in levels of noise, disturbance or antisocial behaviour that would harm the living conditions of those living nearby. Whilst I note that the bedrooms appear large enough to accommodate double beds, any substantial increase in occupation would require separate planning permission."*

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

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

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

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

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

In this case the inspector made similar conclusions as to the case at No. 57 St Helen's Avenue noting that there was no substantiated threshold to demonstrate the point at which any further HMOs would have an adverse effect on the amenity of the area. In relation to concerns about the transient population the inspector stated *"Similarly, concerns relating to a transient population and the effects on community facilities are not verified by any tangible details as to which community facilities are being affected in the area or to what extent, or how any such effects correlate with HMO accommodation type."*

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

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

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

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

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

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

Planning Committee – 1st May 2018

Item 7 (Cont'd)

Application Number:

2018/0674/FUL

Conclusions

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

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

RECOMMENDATION

APPROVE subject to the following conditions:

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The development shall be carried out in accordance with the following approved plans and documents: 25SA1-1 location plan, existing and proposed block plan, existing and proposed floor plan, received 19th March 2018.
Reason: For the avoidance of doubt and to ensure compliance with the approved plans.
- 3 The cycle stands and refuse area/bins as set out on the existing and proposed block plan received 19th March 2018 and the details provided by email on 27th March 2018 shall be provided on site prior to first beneficial use of the HMO and shall thereafter be retained for the lifetime of the use.
Reason: In the interests of providing facilities for sustainable transport and interests of amenity.

Informatives

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: EV1, EV40, AS6 and HC5.
- 2 To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, no surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.



Report of the Head of Planning and City Regeneration

Planning Committee – 1 May 2018

Planning Application Ref: 2014/0977 -Proposed Cessation of Landfill and Other Operations Enabled by Residential Development Circa 300 Dwellings, Public Open Space, Associated Highway and Ancillary Work (Outline)

Parc Ceirw, Cwmrhydyceirw Quarry and Adjoining Land, Cwmrhydyceirw, Swansea

1.0 Background

- 1.1 On 7th June 2016, Planning Committee refused the above application, contrary to officer recommendation for the following reasons:
 1. The applicant has failed to prove that the additional traffic movements generated by the proposal will not have an adverse effect on local congestion to the detriment of the safe and free flow of vehicles and pedestrians, contrary to the provisions of policies EV1, AS2 and HC2 of the City and County of Swansea Unitary development Plan (2008).
 2. The proposal fails to provide sufficient affordable housing to contribute towards the demonstrable need within the area, to the detriment of community regeneration and social inclusion. The proposal is therefore contrary to the aims of Planning Policy Wales (edition 8) and the well-being of future generations Act 2015.
- 1.2 An appeal was submitted against the decision to refuse the application which was considered by the appointed Inspector at a hearing in January and February 2017. Due to the scale of the development, the appeal was recovered for determination by the Welsh Ministers and following the Hearing, the Inspector presented a report of his findings to the Welsh Ministers for decision.
- 1.3 In the Inspector's view, the main considerations in the appeal were the effect of the development on highway safety and whether the proposal made adequate provision for affordable housing.
- 1.4 The inspector noted that pressures on the local highway network were evident during the site visit, which coincided with pupils leaving Cwmrhydyceirw Primary School and Morryston Comprehensive School. He was of the view that the proposed entrances into the development would provide safe and suitable access to the appeal scheme and considered that the proposed highway mitigation measures would address the existing congestion and likely highway impacts of the scheme while supporting alternative modes of transport to the private car.
- 1.5 In terms of affordable housing, the Inspector considered that the proposed provision of 5% affordable housing was carefully considered within the Officer report and due to

the exceptional development costs associated with the development, the proposal complied with policy HC3. In refusing the application, Committee considered that the level of affordable housing proposed was insufficient which would be detrimental to community regeneration and social inclusion and contrary to the Well-being of Future Generations Act 2015. In this regard, the Inspector recognised that there is clearly a need for affordable housing within the locality of the appeal site and that affordable housing contributes to the achievements of well-being goals.

However, Policy HC3 enables a balance to be struck where exceptional development costs are demonstrated and the Inspector did not consider that the proposal conflicted with development plan policies. The Inspector also noted the absence of a 5 year land supply and the need to increase supply provided significant weight in favour of the appeal scheme.

- 1.6 The Inspector considered other matters raised during the consideration of the appeal but found no grounds on which to dismiss the appeal.
- 1.7 In recommending approval of the scheme, the Inspector considered that the planning obligations entered into gave significant weight on favour of the scheme as they address matters regarding compliance with planning policy, ensuring the acceptability and appropriateness of the proposal and ensuring a sustainable form of development which would contribute to the well-being goals of the WCFG Act.
- 1.8 In considering the Inspector's recommendation on highway safety, the Welsh Minister found no reason to disagree with the Inspector's conclusions. In terms of the affordable housing provision within the proposed scheme, the Minister accepted that the proposal would provide a 5% provision of affordable housing and agreed with the Inspector that the proposed development complied with planning policies. The minister concurred with the Inspector that the appeal scheme would be a form of sustainable development which would contribute to meeting the well-being goals of the Well-being of Future Generations Act. Accordingly, the appeal was allowed and planning permission granted subject to conditions and the signed Section 106 Unilateral Undertaking dated 7th November 2017. No application for costs was made in this case.
- 1.9 In reaching the decision, the Minister stated:
'...I have considered the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015. The decision made is in accordance with the sustainable development principle set out in the FG Act 2015. In accordance with section 3(2) of the FG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "build healthier communities and better environments" and "build resilient communities, culture and language" by providing housing in a sustainable location where there is a clear need for new housing.'
- 1.10 A copy of the Inspector's report and the Minister's decision letter are attached to this report as Appendix 1.

2.0 Recommendation

- 2.1 The appeal decision be noted.

Background Papers: None

Appendices: Inspectors Letter

Contact Officer: Ian Davies

Extension No: 635714

Adroddiad

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

Ymweliad â safle a wnaed ar 15/02/17

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

Dyddiad: 12.04.2017

Report

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

Site visit made on 15/02/17

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

Date: 12.04.2017

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Appeal by Edenstone Homes Ltd And S I Green UK Ltd

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

Land at Parc Ceirw, Cwmrhydyceirw, Swansea

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

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

Site address: Parc Ceirw, Cwmrhydyceirw, Swansea

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

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

Procedural Matters

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

The Site and Surroundings

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

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

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

Planning Policy

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

9. The following UDP policies were within reasons for refusal or were mentioned in the Council Officer's report to Committee on the proposal. The policies cited within the reasons for refusal are:
 - Policy EV1 – Good design – Requires new development to meet criteria for good design.
 - Policy AS2 – Transport & access – Seeks new developments to be designed to facilitate sustainable transport choices and highway safety.
 - Policy HC2 – Housing development within the urban area – Supports housing development that would be on previously developed land or does not conflict with other UDP policies.
10. The Council's second reason for refusal referred to Planning Policy Wales - 8th edition and the Well-being of Future Generations (Wales) Act 2015 ('the WCFG Act'), in regard to the provision of affordable housing. Planning Policy Wales - 9th edition (PPW) retains paragraph: 9.1.2 which seeks local planning authorities to make appropriate provision for affordable housing and to promote mixed tenure communities; 9.2.14 which confirms that affordable housing will have secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing for first and subsequent occupiers; 9.2.15 that notes it to be desirable for housing developments to incorporate a mix and balance of house types and sizes to meet a range of housing needs contribute to the development of sustainable communities; and, 9.3.5 which in looking toward development plan policies, indicates that an authority may need to negotiate a revision in the mix of housing or refuse an application where a proposal would not contribute sufficiently towards the objective of creating mixed communities.
11. Other UDP policies mentioned were:

- Policy AS1 – Accessibility
- Policy AS4 – Creating or improving public access routes
- Policy AS6 – Parking provision
- Policy AS10 – Traffic management measures
- Policy EV2 – Preference to the use of previously developed land
- Policy EV3 – Access for all with appropriate parking and public realm design
- Policy EV28 – Natural heritage
- Policy EV30 – Protection/improved management of trees, woodlands and hedgerows
- Policy EV33 – Drainage provision
- Policy EV34 – Proposals that may have an impact on the water environment
- Policy EV35 – Adverse impact on the water environment
- Policy EV36 – New development within flood risk areas
- Policy EV38 – Development proposals at risk from land contamination
- Policy EV39 – Development proposals at risk from land instability
- Policy EV40 – Noise, light or air pollution

Planning History

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

The Proposal

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

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

² Paragraph 3.3 of the Council's Statement of Evidence

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

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

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

The Case for the City and County of Swansea

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

⁴ Paragraph 3.4 of the Council's Statement of Evidence

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

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

Highway safety

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

⁶ Paragraph 4.12 of the Council's Statement of Evidence

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

⁸ Paragraph 2.4 of the Council's Final Comments

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

Affordable housing

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

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

¹¹ Paragraph 3.3 of the Council's Final Comments

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

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

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

Other matters

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

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

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

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

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

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

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

¹⁹ Paragraph 6.5 of the Council's Statement of Evidence

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

The Case for the Appellant

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

²⁰ Paragraph 1.4 of the Appellant's Written Statement

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

²² Paragraph 2.12 of the Appellant's Written Statement

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

²⁴ Appellant's Final Comments

²⁵ Paragraph 3.6 of the Appellant's Written Statement

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

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

Traffic and Highways

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

²⁶ Page 14 of the Appellant's Written Statement

²⁷ Paragraph 3.14 of the Appellant's Written Statement

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

²⁹ Paragraph 5.11 of the Appellant's Written Statement

³⁰ Paragraph 5.18 of the Appellant's Written Statement

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

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

Affordable housing

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

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

³² Paragraph 5.26 of the Appellant's Written Statement

³³ Page 1 of the Appellant's Final Comments

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

³⁵ Paragraph 12 of HD5

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

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

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

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

³⁸ Page 33 of the Appellant's Written Statement

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

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

⁴¹ Page 38 of the Appellant's Written Statement

Cases for interested parties

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

Cllr Andrea Lewis – Cabinet member Next Generation Services

Cllr Ceri Evans – Councillor for Morryston Ward

Cllr Yvonne Jardine – Councillor for Morryston Ward

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

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

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

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

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

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

Ms J Jones – Local resident

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

⁴² See HD4

⁴³ See HD4

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

Mr Ball – Local resident

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

Mr Davies – Local resident

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

Mr Rees – Local resident

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

Mrs Rees – Local resident

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

Ms B Griffith – Local resident

76. Emphasised that traffic occurred throughout the day.

Written Representations

(Third/Interested Party Correspondence Folder)

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

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

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

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

Planning Obligations and Conditions

Planning obligations

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

Conditions

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

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

⁴⁷ HD6 and HD7 are within the correspondence file

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

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

⁴⁹ Suggested conditions 13 and 12 of Document 8

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

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

Conclusions

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

The Main Considerations

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

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

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

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

Other Matters

Character and appearance

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

⁵¹ Provided and tabbed within the Questionnaire folder

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

Previous uses on the appeal site, and flooding

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

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

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

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

Wildlife

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

Local living conditions

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

Property prices

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

Environmental Statement (ES)

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

Housing land supply

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

Education provision

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

⁵⁵ Provided within the Questionnaire

⁵⁶ PPW paragraph 9.2.3

⁵⁷ Paragraph 6.4 of the Council's Statement of Evidence

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

Highway Safety

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

⁵⁸ HD9

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

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

⁵⁹ HD8

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

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

Affordable housing

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

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

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

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

Conclusion

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

⁶¹ Clause 8.1, Part 1, Schedule 1 of HD9

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

Recommendation

159. I therefore recommend that the appeal be allowed.

Clive Sproule

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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

FOR THE APPELLANT:

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

INTERESTED PERSONS INCLUDED:

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

DOCUMENTS SUBMITTED AT HEARING

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

ANNEX A

LISTS OF PLANNING CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Prior to first occupation of any dwelling a Site Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

16 No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during demolition and construction; and
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conditions as edited by the Inspector

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

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

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

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

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

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

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

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

11. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during demolition and construction; and
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
12. Details of the reserved matters set out in condition 1 shall be accompanied by an arboricultural impact assessment.
13. No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the local planning authority. The tree protection scheme and method statement, which shall include trees to be retained ("Retained Trees") shall address the impacts raised in the arboricultural impact assessment. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.
14. Prior to first occupation of any dwelling within the Environmental Permit boundary (as defined on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement) a scheme to restrict public access to essential infrastructure comprising gas monitoring equipment, gas venting equipment and lagoon pumping equipment, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out and thereafter retained in accordance with the approved details and timescales.
15. No Retained Trees as shown on any landscaping scheme approved as part of the reserved matters application, shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved detailed plans and particulars, without the prior written approval of the Local Planning Authority. If any Retained Trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at a similar location and that tree shall be of a size and species as specified in writing by the Local Planning Authority.
16. All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

17. Each dwelling shall be provided with on-site parking, which shall be laid out prior to the first beneficial use of the dwelling which it serves. The approved car parking shall be retained as such thereafter.
18. Prior to the commencement of construction of any unit sited within 30 metres of the Llangyfelach Railway Tunnel to the south details of the construction method for the dwellings shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved construction method.
19. Prior to the commencement of any development hereby approved measures for the control, management and monitoring of landfill gas and leachate generated in the existing landfill site shall be submitted to and approved in writing by the local planning authority. The measures for the control, management and monitoring of landfill gas and leachate shall have regard to the presence of the adjacent Llangyfelach Railway Tunnel and shall include measures necessary to protect the Llangyfelach Railway Tunnel from adverse impacts associated with the migration of landfill gas and leachate and to monitor for the presence of both landfill gas and leachate in proximity to the Llangyfelach Railway Tunnel to confirm the effectiveness of the protection measures.
20. Prior to development taking place and throughout the course of development you must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990

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



Llywodraeth Cymru
Welsh Government

Ein cyf/ Our ref: qA1286639

Mr Geraint John
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11 January 2018

Dear Mr John

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

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

Bae Caerdydd • Cardiff Bay
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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

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

Main Issues

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

Highway Safety

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

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

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

Affordable Housing

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

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

Other material considerations

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

Character and Appearance (IR106 – 110)

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

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

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

Wildlife (IR117 – 118)

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

Local living conditions (IR119 – 122)

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

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

Property prices (IR123)

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

Environmental Statement (ES) (IR124)

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

Housing land supply (IR125)

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

Education provision (IR126 – 127)

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

Conditions and Unilateral Undertaking (UU)

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

Inspector's Overall Conclusions

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

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

FORMAL DECISION

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

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

Yours Sincerely

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

Lesley Griffiths AC/AM

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

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

Annex

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

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

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

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

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

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

9. Prior to the commencement of development an Environmental Management Plan (EMP) detailing site wide strategies for ecological mitigation, compensation and enhancement as summarised in Chapters 7 and 9 of the Environmental Statement shall be submitted to and approved in writing by the local planning authority. These measures shall cover both pre and post construction phases of the development. In addition to site wide mitigation measures the EMP shall include specific Mitigation and Management Plans for Bats, Peregrine Falcon, Amphibians and Reptiles. The development shall be implemented in accordance with the approved details and timescales set out within the approved EMP.
10. Prior to the commencement of development the developer shall provide written confirmation to the Local Planning Authority that an application has been submitted to Natural Resources Wales (NRW) for the definite closure of the landfill site. The written confirmation shall also include evidence of confirmation from NRW that the application has been received. The application for definite closure must not be withdrawn without first notifying the local planning authority.
11. No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;

- iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during demolition and construction; and
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.
12. Details of the reserved matters set out in condition 1 shall be accompanied by an arboricultural impact assessment.
13. No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction works shall commence until a scheme for tree protection has been submitted to and approved in writing by the local planning authority. The tree protection scheme and method statement, which shall include trees to be retained ("Retained Trees") shall address the impacts raised in the arboricultural impact assessment. No development or other operations shall take place other than in complete accordance with the approved tree protection scheme.
14. Prior to first occupation of any dwelling within the Environmental Permit boundary (as defined on Plan No. EDE/CW/06-14/17856 (Figure 8.2 of the Environmental Statement) a scheme to restrict public access to essential infrastructure comprising gas monitoring equipment, gas venting equipment and lagoon pumping equipment, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out and thereafter retained in accordance with the approved details and timescales.
15. No Retained Trees as shown on any landscaping scheme approved as part of the reserved matters application, shall be cut down, uprooted, destroyed, pruned, cut or damaged during the construction phase other than in accordance with the approved detailed plans and particulars, without the prior written approval of the Local Planning Authority. If any Retained Trees are cut down, uprooted, destroyed or die during the construction phase a replacement tree shall be planted at a similar location and that tree shall be of a size and species as specified in writing by the Local Planning Authority.
16. All planting and grass seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
17. Prior to the commencement of construction of any unit sited within 30 metres of the Llangyfelach Railway Tunnel (to the south) details of the construction method for the dwellings shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved construction method.

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

Notification of initiation of development and display of notice

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

Notice of initiation of development

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

Display of notice

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

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

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