



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Planning Committee

**At:** Council Chamber - Guildhall, Swansea

**On:** Tuesday, 5 November 2019

**Time:** 2.00 pm

**Chair:** Councillor Paul Lloyd

#### Membership:

Councillors: C Anderson, P M Black, W Evans, L S Gibbard, M H Jones, M B Lewis, R D Lewis, P B Smith, D W W Thomas, L J Tyler-Lloyd and T M White

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#### Agenda

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| <b>2 Disclosures of Personal and Prejudicial Interests.</b><br><a href="http://www.swansea.gov.uk/disclosuresofinterests">www.swansea.gov.uk/disclosuresofinterests</a> |                 |
| <b>3 Minutes.</b><br>To approve & sign the Minutes of the previous meeting(s) as a correct record.  | <b>1 - 6</b>    |
| <b>4 Items for Deferral/Withdrawal.</b>   |                 |
| <b>5 Diversions and Creations of Footpaths and Bridleways -<br/>Community of Pennard.</b>   | <b>7 - 17</b>   |
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**Next Meeting:** Tuesday, 3 December 2019 at 2.00 pm

*Huw Evans*

**Huw Evans**

**Head of Democratic Services**

**Tuesday, 29 October 2019**

**Contact: Democratic Services - 636923**

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# Agenda Item 3



City and County of Swansea

## Minutes of the **Planning Committee**

Council Chamber - Guildhall, Swansea

Tuesday, 1 October 2019 at 2.00 pm

**Present:** Councillor P Lloyd (Chair) Presided

**Councillor(s)**

C Anderson  
L S Gibbard  
R D Lewis  
L J Tyler-Lloyd

**Councillor(s)**

P M Black  
M H Jones  
P B Smith  
T M White

**Councillor(s)**

W Evans  
M B Lewis  
D W W Thomas

**Officer(s)**

Gareth Borsden  
Sally-Ann Evans  
Chris Healey  
Liam Jones  
Amanda Pugh  
Ryan Thomas  
Jonathan Wills

Democratic Services Officer  
Senior Lawyer  
Area Team Leader  
Area Team Leader  
Senior Engineer  
Planning Control Manager  
Senior Lawyer

**Apologies for Absence**

None.

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**25 Disclosures of Personal and Prejudicial Interests.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

**26 Minutes.**

**Resolved** that the Minutes of the Planning Committee held on 3 September 2019 be approved and signed as a correct record.

**27 Items for Deferral/Withdrawal.**

None.

**28 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** that

- (1) the undermentioned planning applications **Be Approved** subject to the conditions in the report:

**#(Item 1) – Planning Application – 2019/1617/FUL - Change of use from 3 bedroom residential (Class C3) to 4 bedroom HMO (Class C4) at 141 Western Street, Sandfields, Swansea**

A visual presentation was provided.

Report updated as follows:  
Late letter of objection reported.

Hugh Smythe (objector) addressed the Committee.

Councillor I E Mann addressed the Committee and spoke against the application.

**#(Item 2) – Planning Application – 2019/1683/FUL - Change of use from residential (Class C3) to a 6 person 6 bed HMO (Class C4) at 18 Parc Wern Road, Sketty, Swansea**

A visual presentation was provided.

Report updated as follows:  
Late letter of objection reported.

Councillor I E Mann (Local Member) addressed the Committee and spoke against the application.

**(Item 3) – Planning Application – 2019/1729/RES - Reserved Matters - details of the appearance - pursuant to Outline Planning Permission 2013/0617 granted 30th October 2017- Residential development comprising of up to 92 dwellings with associated access, drainage and public open space at Land South Of Glebe Road, Loughor, Swansea**

A visual presentation was provided.

**29 Land North of Garden Village, Swansea - Planning Application 2016/1478.**

The Head of Planning & City Regeneration presented a report which sought authorisation to amend the proposed requirements of the section 106 agreement of the town and country planning act 1990 (as amended) relating to the provision of a new school linked to the development.



The background issues and history relating to the application which was approved in April 2018 were outlined and detailed, in particular the discussions with the applicant and the education department and the subsequent request to remove the 2.5 entry primary school for the reasons outlined in the report.

Members questioned officers as to how the revised Education Contribution of £5,500,000.00 had been calculated as the original resolution detailed the cost of building a 2.5 entry school as being £9,981,415.00. A discussion took place and it was explained to Members that the initial figure of £9,981,415.00 had been calculated using Welsh Government Guidance on measuring school capacities but the proposed development would not generate the amount of pupils needed to justify the higher figure. The revised cost was based on the Council's Supplementary Planning Guidance and is the amount which can be justified under Regulation 122 of the Community Infrastructure Levy Regulations 2010.

The proposed revised section 106 agreement and updated conditions were outlined and detailed in the report.

Luke Grattarola (agent) addressed the Committee.

**Resolved** that the following revised S106 Heads of Terms be accepted and approved, together with the revisions to Conditions 1, 25 and 29 (as set out below). For the avoidance of doubt, the other 48 planning conditions remain unchanged.

### **Revised S106 Planning Obligation**

#### **Affordable Housing**

20% Affordable housing (AH) on the site; comprising 50% social rent (at 42% ACG) and 50% intermediate (at 70% ACG) and DQR compliant. The AH shall comprise a mix of 2 and 3 bedroom dwellings. The design and specification of the AH shall be of an equivalent quality to those used in the Open Market Units. The AH shall be dispersed across the site in clusters and 20% shall be delivered within each phase of the development.

#### **Local Highway Improvements Works**

\* J47 (M4) – contribution to the installation of the MOVA to be made on the occupation of the first dwelling. (£100,000).

\* A484 / B4560 Swansea interchange (Day's Roundabout) – existing roundabout enlarged, wider flare lanes and the two western approaches increased from two lanes to three lanes each. The access from Day's (eastern approach) increased from one lane to two lanes. Payment to be triggered on the occupation of the 100th residential unit (£334,688).

\* A4240 / Hospital Road Interchange (Gorseinon Rd / Hospital Road) – the existing 2 mini roundabouts will become one small roundabout with access to 3M (UK) becoming a priority junction. Payment to be triggered on the occupation of the 50th residential unit (£134,297).

\* B4560 / Hospital Road Interchange (Swansea Road / Hospital Road) – the signalisation of the junction with a pedestrian phase across both Hospital Road and Swansea Road. Payment to be triggered on the occupation of the 300th residential unit (£214,453).

### **New School**

A payment of £5.5m to the Council for the Council to construct the 2.5 form entry school (together with the associated playing fields, external open space, and boundary treatment etc) together with delivery of the land required to build the school. A payment of £266,503 would be required prior to any works commencing on site, whilst the remaining balance of £5,233,497 would be required to be paid prior to the occupation of the 201<sup>st</sup> residential unit. The developer to construct the school drop off / pick up area and associated access road, prior to the occupation of the 301<sup>st</sup> residential unit.

### **Cycle Path**

Contribution of £100,000 towards the extension of the existing Kingsbridge Link cycle path across Stafford Common to Gowerton Railway station, to be paid prior to the occupation of the 351<sup>st</sup> dwelling.

### **Local Enhancement Works**

Scheme of enhancement works for Railway Terrace (shared surface, planting and new fencing) - £197,210 to be paid prior to the occupation of the 351<sup>st</sup> dwelling. Improvements to the existing footpath between Clos Bryngwyn and Clos Llandyfan (widening and resurfacing) £50,000 to be paid on the prior to the occupation of the 351<sup>st</sup> dwelling.

### **Management Plans**

Unless offered for adoption by the Council (with an appropriate commuted sum agreed with the Council's Parks Dept), the Management Plans for the future maintenance of the retained woodland and ecologically sensitive areas, proposed parks, open spaces, LEAPS, NEAPS, MUGA and SUDs ponds, to be submitted prior to the commencement of the phase of works within which the relevant area is contained.

### **Bus Service**

A subsidy payment of £101,000 per year for the provision of a public bus service to go through the site for 2 years, or up to the year following the creation of a through bus route, whichever is the sooner. £202,000 to be paid (following the occupation of the 75<sup>th</sup> dwelling).

### **Council's Monitoring Fee**

A Monitoring fee of £11,340 (based on 20% of the application fee, as the 2% fee of the overall cost of the obligation would be unreasonably and prohibitively large). The fee to be paid prior to the commencement of works on site.

## **Legal Fees**

The Council's legal fees of £3,000 relating to the preparation of the S106 agreement.

### Revised Conditions:

#### Condition 1

Prior to the commencement of development on site (other than the strategic access road from Hospital Road) , a phasing plan relating to the proposed development and the application site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of the phasing of the following:

- a) each and every development parcel
- b) site accesses
- c) school and associated drop off area
- d) bus route and public transport stops
- e) strategic foul and surface water features and SUDS
- f) all open spaces, community infrastructure and other publicly accessible areas.

The development shall be carried out in accordance with the approved phasing plan.

Reason: To ensure there is a clear framework for both the progression of the development and for the submission of reserved matters applications so that the development is carried out in a comprehensive, sustainable and coherent manner.

#### Condition 25

With the exception of the works to deliver the strategic access road hereby approved, prior to the commencement of development on site, details of the following air quality assessment shall be submitted to and approved in writing by the Local Planning Authority : the applicant shall conduct, and provide the results of an air quality assessment of the potential impact of the proposed development, within the development site and upon the surrounding local area. The assessment should pay particular attention to the 1 hour NO<sub>2</sub> objective and NO<sub>2</sub> annual mean objective within the National Air Quality Strategy and Air Quality (Wales) Regulations 2000 as amended by the Air Quality (Amendment) (Wales) Regulations 2002. In addition the assessment should also pay particular attention to the PM<sub>10</sub> objectives set in regulation (24 hour mean objective of 50µg/m<sup>3</sup> - 35 exceedances' and the annual mean objective of 40µg/m<sup>3</sup> to be achieved by the 31/4/2004 and maintained thereafter). Also, an indication of the particles (PM 2.5) Exposure Reduction objective (contained within the Air Quality strategy 2007) of 25µg/m<sup>3</sup> should be made

Reason: To provide the Local Planning Authority with information relating to the impact of the development of air quality within the site and the locality.

Condition 29

With the exception of the works to deliver the strategic access road hereby approved no development works within each phase of the development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within that phase of development, has 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 that the development is provided with satisfactorily maintained and managed streets.

**30 Appeal Decision - Land North of Rhodfa Fadog, Cwmrhydyceirw, Swansea.**

The Head of Planning & City Regeneration presented a report which outlined the result of an appeal against a decision of the authority not to grant planning permission.

The appeal was dismissed by the Inspector and his report was outlined at appendix 1 to the report.

**31 Planning Annual Performance Report.**

The Head of Planning & City Regeneration presented the Annual Performance Report. The report is seen by Welsh government as important mechanism for monitoring Local Planning Authorities performance against a key set of national performance indicators

The report is also a important tool for benchmarking the performance of Local Authorities across Wales. The draft report for 2018-19 was detailed at Annex A to the report.

The actual performance figures, the substantial improvements achieved over the last few years and the issues to be further addressed were all detailed in the report, along with a series of appeal decisions from applications that decisions had been made on, contrary to officer recommendations.

The meeting ended at 3.29 pm

**Chair**

# Agenda Item 5



## Report of the Head of Planning and City Regeneration

Planning Committee – 5 November 2019

### Diversions and Creations of Footpaths and Bridleways Community of Pennard

|                                    |   |
|------------------------------------|---|
| <b>Purpose:</b>                    | To adjust the legal routes of the paths across Pennard Burrows golf course to bring them in line with the routes that have been used by the public for at least the last 25 years.  |
| <b>Policy Framework:</b>           | The Authority's Countryside Access Plan (Rights of Way Improvement Plan).   |
| <b>Consultation:</b>               | Pennard Community Council, local Member, Natural Resources Wales, Gower Riders, Ramblers Association, British Horse Society, Open Spaces Society, local horse riders, local path users (via site notices).  |
| <b>Recommendation(s):</b>          | It is recommended that:<br><br>1) Public path creation and extinguishment orders be made to move the legal routes of paths on to the used routes, and if objections are received, for the orders and objections to be submitted to the Planning Inspectorate. |
| <b>Report Author:</b>              | Chris Dale  |
| <b>Finance Officer:</b>            | Adele Harris  |
| <b>Legal Officer:</b>              | Debbie Smith  |
| <b>Access to Services Officer:</b> | Catherine Window  |

#### 1.0 Introduction

- 1.1 Pennard Burrows at Southgate is a busy area for walkers and horse riders, and on certain days of the year hundreds of visitors and residents will make use of the area for walking and riding.

- 1.2 However, the network of bridleways and footpaths in the area does not reflect the way in which the area is used by walkers and riders, with many well used routes not recorded as public paths and others crossing the played areas of the golf course.
- 1.3 An attempt was made to rectify this in 2013 by diverting some of the paths. Unfortunately, despite extensive informal consultations prior to making the diversion orders, a small number of objections to the orders were received, which prevented the Authority from confirming the orders.
- 1.4 On 7 March 2017 this committee resolved to withdraw the 2013 diversion orders and to make the necessary changes by publishing amended orders containing fewer changes to the path network, as these would have less chance of being challenged.
- 1.5 Pennard Golf Club (company name Pennard Burrows Ltd), as landowner, have applied for two of the proposed changes across the golf course, and the other changes are being done as part of the Wales Coast Path improvements.

## **2.0 Consultations**

- 2.1 Following the Committee resolution mentioned above informal consultations with users on changes to 3 paths were carried out last summer and resulted in 5 objections. The proposals were therefore altered as a result of the objections, with 2km of additional bridleway added, and further informal consultations took place this summer (see map in appendix 1) . However, one objection was still received and therefore it is for this Committee to decide whether or not to proceed to making formal orders under the Highways Act 1980.

## **3.0 Objection to proposals**

- 3.1 The objection is from a horse rider and refers to the proposed changes not addressing the issues at this location and that they are unacceptable. The objector also questions why another route, which is currently a well-used permissive bridleway route alongside the road, has not been included in the proposals.
- 3.2 As stated above, the proposed changes reflect how the area has been used by walkers and riders for at least the last 30 years and the great majority of these users have followed the proposed diversions set out in the appendices to this report. Examination of aerial photos from 1971 and 1992 indicates that the proposed routes were in use and well worn at these times. The golf course has been in existence since 1896, pre-dating the first public rights of way legislation by 53 years. It may be that the paths across the golf course were only informally diverted because there was no legislation to divert them at the time. The diversions therefore appear to have been accepted by most of the public. Comments from two other horse riders were supportive of the proposed changes.

- 3.3 The proposals include two new lengths of path, 400 metres of footpath and 1.4 km of bridleway. The permissive route alongside the road mentioned by the objector could also have been included in these proposals, as could other routes. However, as stated above, the Authority has previously attempted to make a large number of changes in one order and, as this approach has failed, it is now considered that any proposals are more likely to succeed if a small number of changes are proposed at the same time. The Golf Club are also under no obligation to offer any extra public paths as part of this proposal. The Golf Club are keen to maintain the permissive bridleway, as it encourages riders to use an alternative route to the bridleway that crosses the golf course.
- 3.4 There have now been three rounds of consultations regarding changes to the path network across the golf course. After each consultation the proposals have been altered to accommodate, as far as possible, the comments from the users, and therefore the likelihood of objections at the formal stage to orders made under the Highways Act has been mitigated.
- 3.5 Although the proposals have received one objection, the affected paths are used by thousands of people every year and it is therefore unlikely that there would be absolutely no objections to any proposal put forward for these paths. Therefore, it is not possible to guarantee that objections will not be raised at the formal stage.
- 3.6 If objections are received at the formal stage the Authority would need to be confident that the case for the proposed changes is in keeping with the relevant legislation, because, in this case, the orders would be submitted to the Planning Inspectorate.

#### **4.0 Proposed creation and extinguishment orders**

- 4.1 As there are new routes, plus upgrades from footpath to bridleway being proposed, as well as diversions, the changes need to be made using a combination of two orders made concurrently, a creation order (under section 26 of the Highways Act 1980) and an extinguishment order (under section 118 of the Highways Act 1980).
- 4.2 Appendices 2, 3 and 4 describe the legislative background and tests to be applied for concurrent public path orders, extinguishment orders and creation orders.
- 4.3 The proposals would increase the present length of bridleway 6 by 60 metres, from 1450 metres to 1510 metres. There would also be a slight loss of view due to the proposed route following lower ground. However, this would be mitigated to an extent by the creation of the new bridleway between points y and 6e. The section of footpath 5 that crosses the golf course would increase in length by 50 metres from 570 metres to 620 metres. In terms of a straightforward diversion, therefore, there is little difference between the routes proposed to be lost and those to be gained.

4.4 However, overall in these proposals walkers will gain the right to use an additional 700 metres of public path and riders 1.4 kilometres. The additional routes form part of a long term plan for access for riders on land owned by the Golf Club, with further bridleways planned along Pennard Valley and Pobbles Valley, totalling 2.7 km of extra bridleway.

## **5.0 Conclusion**

5.1 It is therefore considered that, taken as a whole, these proposals will be of benefit to the public and that, if necessary, the Authority could defend creation and extinguishment orders if submitted to the Planning Inspectorate.

## **6.0 Equality and Engagement Implications**

6.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

6.2 An EIA Screening Form has been completed with the agreed outcome that a full EIA report was not required as all of our paths are free to use and available to people of all ages, any sexual orientation, marital status, religious belief, financial status or race. Our route change proposals can have an effect on use by less mobile people, but in this case the existing routes of the paths cross the same terrain as the new routes and therefore there will be no loss of access to less mobile people. The new routes will require new signs, and all of our signage has been bilingual for the last 30 years and conform to Welsh Language policy, therefore Welsh language speakers will not be disadvantaged.

## **7.0 Financial Implications**

7.1 The Golf Course have applied for the diversions and will pay for half of the costs, which are mostly advertising. The other half of the costs will be paid for out of the Coast Path fund, as the new paths will form part of the Coast Path. The Authority has been maintaining the proposed routes of the new paths for many years and therefore there will be no additional maintenance costs as a result of these proposals.



**Background Papers:** None

**Appendices:**

|                   |                                      |
|-------------------|--------------------------------------|
| <b>Appendix 1</b> | Plan of proposed changes             |
| <b>Appendix 2</b> | Concurrent Highways Act orders       |
| <b>Appendix 3</b> | Section 118 of the Highways Act 1980 |
| <b>Appendix 4</b> | Section 26 of the Highways Act 1980  |



## **Appendix 2**

### **Concurrent Highways Act orders**

Section 118(5) and Sch 6 para 3(2) allow extinguishment orders to be considered concurrently with creation or diversion orders. However, even if considered concurrently, the orders must each stand on their own.

Guidance given by the Planning Inspectorate to its inspectors (Rights of Way Section, Advice Note No.9, 11<sup>th</sup> Revision April 2019) states “Express provision is made in section 118(5) of the Highways Act 1980 for public path extinguishment orders to be dealt with concurrently with creation and diversion orders. When considering the confirmation of a public path extinguishment order, in particular, the extent to which the highway would be likely to be used by the public apart from the order, regard should be had to the extent that the creation or diversion would provide an alternative to the way being extinguished” (para 33).

Furthermore, “When dealing with such orders concurrently, each order should be considered separately on its own merits and decisions made in each case. Consequently, a decision letter should specifically cover for each order those matters relevant to the consideration of whether it should be confirmed” (para 34).

In the Planning Inspectorate’s Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders (October 2011), where the inspector has considered the two orders, but cannot confirm the extinguishment order, “he/she will not generally confirm the creation or diversion orders” (pg 33, para 6.31) suggesting that should the extinguishment order not be confirmed, neither would the proposed alternative.

## **Appendix 3**

### **s. 118 Highways Act 1980**

#### **Stopping up of footpaths, bridleways and restricted byways**

- (1) Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Welsh Ministers, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

An order under this section is referred to in this Act as a 'public path extinguishment order'.

- (2) The Welsh Ministers shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121 (2) below.
- (3) A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Welsh Ministers and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.
- (4) Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.
- (5) Where, in accordance with regulations made under paragraph 3 of the said schedule 6, proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order, public path diversion order or rail crossing diversion order then, in considering-
  - (a) Under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or
  - (b) Under subsection (2) above to what extent (if any) that path or way would apart from the order be likely to be used by the public;The council or Welsh Ministers, as the case may be, may have regard to the extent to which the public path creation order, public path diversion order, or rail crossing diversion order would provide an alternative path or way.
- (6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of the path or way by the public shall be disregarded.

(6A) The considerations to which-

- (a) The Welsh Ministers are to have regard in determining whether or not to confirm a public path extinguishment order, and
- (b) A council are to have regard in determining whether or not to confirm such an order as an unopposed order,

Include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would extinguish a public right of way.

## **Appendix 4**

### **s.26 Highways Act 1980**

#### **Compulsory powers for creation of footpaths, bridleways and restricted byways**

- (1) Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-
- (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
  - (b) the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in s.28 below,

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Welsh Ministers, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.

An order under this section is referred to in this Act as a 'public path creation order'; and for the purposes of this section 'local authority' means the county council or district council.

- (2) Where it appears to the Welsh Ministers in a particular case that there is a need for a footpath, bridleway or restricted byway as mentioned in subsection (1) above, and they are satisfied as mentioned in that subsection, they may, after consultation with each body which is a local authority for the purposes of this section in relation to the land concerned, make a public path creation order creating a footpath, bridleway or restricted byway.
- (3) A local authority shall, before exercising any power under this section, consult any other local authority or authorities in whose area the land concerned is situated.
- (3A) The considerations to which-
- (a) the Welsh Ministers are to have regard in determining whether or not to confirm or make a public path creation order, and
  - (b) a local authority are to have regard in determining whether or not to confirm such an order as an unopposed order,

include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the proposed footpath, bridleway or restricted byway would be created.

- (4) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order.
  
- (5) A public path creation order shall be in such form as may be prescribed by regulations made by the Welsh Ministers, and shall contain a map, on such scale as may be so prescribed, defining the land over which a footpath, bridleway or restricted byway is thereby created.

Schedule 6 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path creation orders.

# Agenda Item 6

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: 5<sup>th</sup> November 2019

| <b>Bay Area</b><br>Team Leader<br>Liam Jones - 635735                           | <b>Area 1</b><br>Team Leader:<br>Ian Davies - 635714  | <b>Area 2</b><br>Team Leader:<br>Chris Healey - 637424   |
|---|---|--|
| Castle<br>Mayals<br>Oystermouth<br>St Thomas<br>Sketty<br>Uplands<br>West Cross | Bonymaen<br>Clydach<br>Cwmbwrla<br>Gorseinon<br>Landore<br>Llangyfelach<br>Llansamlet<br>Mawr<br>Morryston<br>Mynyddbach<br>Penderry<br>Penllergaer<br>Penyrheol<br>Pontarddulais<br>Townhill | Bishopston<br>Cockett<br>Dunvant<br>Fairwood<br>Gower<br>Gowerton<br>Killay North<br>Killay South<br>Kingsbridge<br>Lower Loughor<br>Newton<br>Penclawdd<br>Pennard<br>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, Members 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 page 83 of Part 3 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

| <b>Item</b> | <b>App. No.</b> | <b>Site Location</b>  | <b>Officer Rec.</b> |
|-------------|-----------------|---|---------------------|
| 1           | 2019/1905/FUL   | 448 Gower Road, Killay, Swansea, SA2 7AL<br><b>Change of use of the ground floor estate agents (Class A2) into cafe/wine bar (Class A3)</b>   | Approve             |
| 2           | 2019/1307/S73   | Land off Summerland Lane, Newton, Swansea, SA3 4RS<br><b>Development of 61 dwellings with associated open space, landscaping, access arrangements, related infrastructure and engineering (Variation of Conditions 1 (Plans), 14 (Tree &amp; Hedgerow Removal), 15 (Soft Landscaping), 16 (Landscaping Works), 18 (Hedgerow Management), 19 (External Surfaces) of planning permission 2019/0450/S73 granted 9th May 2019 to allow for hedgerow to be removed and replaced with suitable planting).</b> | Approve             |



## Planning Committee – 5<sup>th</sup> November 2019

Item 1 (Cont'd)

Application Number:

2019/1905/FUL

| Site History<br>App Number | Proposal   | Status | Decision Date |
|----------------------------|--|--------|---------------|
| 2019/1905/FUL              | Change of use of the ground floor estate agents (Class A2) into cafe/wine bar (Class A3)   | PDE    |               |
| 2019/1905/FUL              | Change of use of the ground floor estate agents (Class A2) into cafe/wine bar (Class A3)   | PDE    |               |
| 97/0184                    | Change of use of first floor flat (class c3) to hairdressing/beauty salon (class a1)   | APP    | 24.03.1997    |
| 94/6104                    | Retention of 2 no. internally illuminated fascia signs and 1 no. projecting sign   | APP    | 14.11.1994    |
| 80/0999/03                 | Extension to betting shop to provide office accommodation  | REF    | 31.07.1980    |
| 75/0393/11                 | Tea rooms on first floor   | APP    | 29.01.1976    |
| 2014/0146                  | Change of Use from Video rental store (Class A1) to Estate Agents (Class A2)   | APP    | 16.06.2014    |
| 2009/0514                  | Part demolition, conversion and extension to existing bakery to form a pair of 1 bedroom semidetached dwelling houses and external alterations including increase in roof height | APP    | 13.01.2010    |
| 2009/0102                  | Change of use from betting shop (Class A2) to hot food takeaway (Class A3)   | REF    | 30.03.2009    |
| 2007/1546                  | Change of use from warehouse (Class B8) to taxi office and parcel delivery service   | WDN    | 31.10.2007    |

## Planning Committee – 5<sup>th</sup> November 2019

Item 1 (Cont'd)

Application Number:

2019/1905/FUL

2006/2571

Retention of use of  
premises as a taxi call  
centre

REF

30.01.2007

### RESPONSE TO CONSULTATIONS

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. 450 (ground and first floor units), 448 (first floor unit & workshop rear of) and 446 Gower Road and through the display of a site notice on 11th September 2019.

Five letters of objection were received which are summarised as follows:

1. There is a problem with parking in the area, especially in Goetre Fach Road;
2. Noise;
3. Adequate number of drinking and eating establishments within area;
4. The proposal will increase the levels of traffic with the need for taxis to bring customers to the café/wine bar and collect them;
5. Concerns with the proposed forecourt seating area;
6. Any external ventilation would be impractical and unsightly;
7. Bin storage at the rear of the premises would impose on car parking; and
8. Impact of residential amenity.

A petition of objection signed by 41 local residents from 39 separate addresses was also received objecting on the following grounds:

1. No parking on site with implications for additional late night noise affecting residential of Goetre Fach Road and flats in the nearby vicinity;
2. No parking facilities affecting residents of Goetre Fach Road and Gower Road;
3. Application factually incorrect as gates and access belong to another property; and
4. Forecourt area will cause clutter and restrict pavement area being in close proximity of the bus stop.

Nine letters of support were also received which are summarised as follows:

1. Love the sound of this. I live just around the corner. Killay is missing something like this;
2. Great, just down the road can't wait!
3. Regularly visit Killay from Gower and feel that this little cafe/wine bar would definitely benefit the community!
4. Great to see a small business be set up in an area which has nothing like it. It will create a positive vibe to the community and would offer support in various community projects;
5. Great to see a small business be set up in an area which has nothing like it. It will create a positive vibe to the community and would offer support in various community projects;
6. I fully support this change of use; I believe this would be very popular with the people of Killay and it will attract people to Killay which would be fantastic. Several businesses have closed in the area and we need to encourage the opening of new ventures in these vacant properties. Killay doesn't have a business like this already and I think it really needs somewhere that passionately sells good coffee, cake, food and wine. It is ideally situated by the bus stop too which would help the trade;

## Planning Committee – 5<sup>th</sup> November 2019

### Item 1 (Cont'd)

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7. This would be a great addition to the Killay square area, somewhere modern to grab a coffee when visiting the shops;
8. Small businesses need to be encouraged in our area not discouraged.

Pollution Control - No response, therefore assumed no objection

Head of Transportation and Engineering - No objection

Killay Community Council - Whilst we welcome the initiative to prevent the premise remaining vacant, and the potential to generate more employment in Killay, we would ask you to take the following aspects into account when you consider this application:

1. The lack of provision for any additional parking for customers of the proposed new wine bar. We consider that, contrary to the entry for item 9 on the application form, parking is relevant to this application.
2. The potential additional noise and disturbance to local residents from customers seated outside the premise in the evenings
3. The proposed outside area in front of the premises would have a potential effect on pedestrian movements. This cannot be assessed in detail given the fact that the plan accompanying the application does not show the limits of the proposed seating area. The applicant should be asked to provide more detail on this aspect of the application.

### APPRAISAL

This application is presented to Committee for determination at the request of Councillor Jeff Jones. The 'objection threshold' of a petition containing a minimum of 30 signatures by persons from 30 different addresses has been passed.

Full planning permission is required for the change of use of a ground floor estate agency (Astleys Residential) into a café/wine bar. The site address is 448 Gower Road, Killay. The submitted Design and Access Statement (DAS) advises that the application property has been vacant for approximately 2 months (as of August 2019) and there has been no interest in the unit for retail use (Use Class A1). However expressions of interest have been received for an A3 use (hot food use).

The following self-explanatory supporting information has been provided by the applicant:

We require change of use of the ground floor (old Astleys office) into A3 suitable for a café wine bar. We wish to provide food and drink including alcohol 7 days a week, with reduced hours Sundays to Wednesdays with exceptions for peak times in holidays and bank holidays. At present the premises is empty, it was being used as Astleys estate agents previously.

This Venture is between myself and my brother, we would like to provide a high end café wine bar experience which we feel is missing from the Killay area.

We would like to use as many local suppliers as possible for every product that we buy and sell. We will hopefully like to use Olives and oils of mumbles for our fresh olives and cheeses etc, N.D John wine merchants as our wine suppliers, we would also like to have locally brewed craft beers and hopefully locally baked breads if we can find a suitable supplier.

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**Item 1 (Cont'd)**

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I currently own my own baking company working from home so I will supply all of the cakes and I will also supply a lot of the salads and savoury foods we are going to serve, I will be delivering fresh every morning therefore our kitchen at 448 Gower road will have minimal equipment (e.g. no fryers or hobs) just an electric grill, panini machine, soup urn, commercial microwaves, fridges and a freezer, dishwasher and adequate sink and hand wash facilities.

We will be needing to employ staff to help run our business with us, we would like to get local staff where possible, we will be needing bar and kitchen staff as well as possibly a cleaner. We hope to create at least 5 part time jobs and 2 full time (including myself and my brother) with possibly more full time positions once we are up and running and hopefully busy!

We would like to refurbish the interior of the premises to suit that of a café wine bar, removing 2 existing stud walls and adding a bar area and extra toilet with disabled access and baby changing facilities. The access to the fire escape at rear will remain the same. We want to tile the floor from front to back including bar area and toilets, and retain the flooring in what will be the kitchen area as it's in excellent condition, clean and non-slip. We are going to use timber to build our bar area with wooden work surface also and scaffolding shelving. We wish to re paint the exterior of the building white/off white and replace Astleys signs with our own.

There is a small exterior area at the front of the building which we would like to utilise as an outdoor seating area with approx. 3/4 tables, we would like to section this area off with a small picket style fence.

There is an access road at the side of the building which is gated, this gate would be unlocked and open during our opening hours to allow access for delivery drivers and also parking for up to 3 cars for staff only. There is also ample external area to the side or rear of the property for recycling bins to store rubbish until relevant collection days.

### Main Issues

The main issues for consideration during the determination of this application relates to the principle of this type of use within the Killay District Centre, the impact of the proposal upon the visual amenities of the area, the residential amenities of the neighbouring properties and highway safety having regard for the provisions of Policies SP2 (Placemaking and Place Management), RC5 ( District Centres) and RC9 (Ground Floor Non-Retail Uses Within Centres) of the Swansea Local Development Plan and the Council's 'District Centres, Local Centres and Community Centres SPG'.

Policy PS2 of Swansea LDP requires development to enhance the quality of places and spaces and should accord with relevant placemaking principles.

Policy RC5 (District Centres) requires proposals to maintain or improve the range and quality of shopping provision, or appropriate complementary commercial and community facilities and be of a scale, type and character that will enhance the future vitality, viability and attractiveness of the Centre.

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Policy RC 9 (Ground Floor Non-Retail Uses within Centres) notes that within District Centres, proposals for non-retail uses at ground floor level must not give rise to an unacceptable loss and dilution of retail frontage, or have a significant adverse impact upon the vitality, viability or attractiveness of the centre, having regard to the specified policy principles. Business (Class B1) and residential (C3) uses will not generally be supported at ground floor level.

**Principle of Development**

There are approximately 50 units within this recognised District Centre, which following the recent adoption of the LDP now extends from the north side of Gower Road at No. 468A (John Francis Estate Agency) to No. 414 Gower Road (Lloyds Pharmacy / Rogers & Co. Accountants).

Policy RC9 of the LDP deals specifically with ground floor non-retail uses within Centres. This policy states that proposals for non-retail uses at ground floor level must not give rise to an unacceptable loss and dilution of retail frontage, or have a significant adverse impact upon the vitality, viability or attractiveness of the centre. Regard should be had to the relationship of the proposal to other existing or approved non-retail uses, the effect upon the shopping function of the centre, the nature and design of the shop front and window, the location and character of the unit and/or site, the impact of the proposed use upon the amenity of adjacent or nearby residents and businesses, whether the development allows for, or retains the effective use of, upper floors and the likelihood of the unit remaining vacant for a significant period of time.

Notwithstanding the above, within Section 2.8.46 of the LDP, it is stated that a range of uses within Centres, in addition to Class A1 retail, can generate footfall and help maintain vibrancy and attractiveness. It is imperative that proposals maintain an appropriate mix and balance of uses, and fundamentally respect the primary shopping function. Further guidance on the appropriate proportions of Class A1 retail uses to be retained within primary and secondary frontages is provided in the adopted District Centres, Local Centres and Community Centres SPG, in the interest of avoiding any unacceptable deadening of the commercial frontage.

The proposal is assessed below having regard to the aforementioned criteria contained within Policy RC9 of the Swansea LDP.

- i. The relationship of the proposed unit to other existing or approved non-retail uses within the centre;

The SPG states that within District Centres, the minimum percentage of A1 shops to be retained within secondary frontages is 35%. The secondary frontage within Killay District Centre is defined between Nos. 458 Gower Road and the rear of No. 436 Gower Road and comprises of 15 units. The breakdown of the current units within this area comprise 4 Class A1 units (27%), 5 Class A2 units (33%), 3 Class A3 units (20%), 2 Class D1 unit (13%) and 1 sui generis use (7%). Whilst it is acknowledged that the percentage of units within this secondary frontage falls below the minimum percentage, the figure required, the approval of this application would not involve the loss of a retail A1 unit as the application property currently has a lawful A2 use. Furthermore, the proposal has the potential to generate high levels of footfall, commensurate with A1 uses that are typically located within the District Centre.



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- ii. The effect upon the shopping function of the centre, either individually or in combination with other non-A1 retail uses;

In this application, whilst it is acknowledged that the application site is located between an opticians (Class D1) and a laundrette (sui generis use), the SPG acknowledges that in general terms A3 uses are appropriate within District Centres. In this case, it is considered that the proposed use which is intended to operate during the daytime and into the evening (08.30 - 23.30 Monday to Friday, 08.30 to midnight on Saturdays and 09.00 to 22.00 on Sundays and Bank Holidays) would contribute to the centre's vibrancy.

- iii. The nature and design of the shop front and window display that is to be provided;

With regard to visual amenity, there are no alterations proposed to the front exterior of the building, apart from painting the front elevation of the ground floor. The existing shop front display window at ground floor level will be retained. It is proposed to provide a forecourt area with a small picket fence with 3 to 4 small tables with seating. No details has been submitted in respect of this part of the proposal. However the proposed boundary treatment to enclose the forecourt area can be controlled via a condition. Any such works would increase the vibrancy of this part of the district centre.

- iv. The impact of the proposed use upon the amenity of adjacent or nearby residents and businesses;

Whilst it is acknowledged that there are residential properties within the vicinity of the application premises, the unit is located within a hub of commercial uses. Therefore, it is considered that the level of activity associated with the proposed use is considered appropriate for the area and would not significantly harm the residential amenity of surrounding properties.

- v. Whether the development allows for, or retains the effective use of, upper floors;

The first floor of the property, which is used as a chiropractic clinic, does not form part of the current planning application and would not be undermined by the proposed development.

- vi. The likelihood of the unit remaining vacant for a significant period of time, to be informed by evidence of appropriate marketing undertaken over a minimum of 12 months to establish a retail occupier.

It was observed at the time of the Planning Officer site visit that the application premises was vacant. Criterion vi requires that marketing particulars including adverts details, offers, interested parties etc. should be submitted with the planning application. The submitted DAS indicates that the unit has been marketed since June 2019 and during this time there has been no interest in the premises as an A1 unit. Only A3 operators have shown an interest in the premises. However no marketing details have been submitted with this application to substantiate this claim.

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It must however be acknowledged that the proposal will not result in the loss of a retail unit, as the last lawful use of the premises was Class A2. With this in mind, and taking a flexible and pragmatic approach, it is considered that the proposed use would attract a high level of footfall akin to a Class A1 retail use or the existing Class A2 use, and retain an active premises frontage. This would ensure that the proposal would not result in an adverse impact upon the retail function of the secondary frontage that would be so harmful to warrant a recommendation of refusal on the failure to satisfy criterion vi alone.

**Visual Amenity**

As noted above, no external alterations are being proposed to the application building. However a forecourt area with a small picket fence with 3 to 4 small tables with seating is being proposed. No details have been submitted in respect of this part of the proposal. However the proposed boundary treatments (to enclose the forecourt area) can be controlled via a condition. As such, it is not considered that the proposed development would have any serious adverse impact on the character and appearance of the host building or the street scene.

**Residential Amenity**

As noted above, whilst there are some residential properties within the vicinity at the premises, the unit is located within a hub of commercial uses. Therefore, it is considered that the level of activity associated with the proposed use is considered appropriate for the area and would not significantly harm the residential amenity of surrounding properties, in terms of increased levels of noise and disturbance. However, it is also considered appropriate to condition the hours of opening in line with surrounding A3 late night uses.

**Access and Highway Safety**

The submitted DAS indicates that two car parking spaces would be provided at the rear of the application property for employees. However this land does not fall within the defined application site and therefore the use of this land for staff parking cannot be controlled by means of a planning condition.

The Head of Transportation and Engineering has therefore provided his comments on the basis that no parking provision would be provided as part of the application. These (summarised) comments are provided below.

The lawful use of the application property as an Estate Agent (Class A2) would have had a theoretical demand for car parking associated with it and thus the proposals for a café/ wine bar (Class A3) must be viewed in relation to that use with its associated deliveries/customers/staff movements. The site is in close proximity to a private car park (The Black Boy Public House) which operates as a pay and display car park and is also next to a bus stop which prohibits any car parking (and can be enforced against). The site is in the district centre of Killay which is well served by access to public transport routes and other varied local amenities.

Parking on street is not available immediately fronting the site but as mentioned there is a pay and display adjacent to the site (in the Black Boy Car Park) and also a short walk away is the main car park that serves the commercial units in Killay, and provides free car parking for up to 2 hours.

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Whilst it is unclear whether there is any dedicated car parking available to the rear of the site, this is the case with most of the other shops on Gower Road and in the shopping precinct. Customers rely on the available public facilities. There is no reason to consider that the use of the unit as a wine bar will give rise to any highway safety issues over and above the current lawful use.

It is noted from the DAS that the proposal comprises a small forecourt area for tables and chairs. Whilst the land appears to be in private ownership, it is adjacent to adopted highway and hence there is the potential to impact on the available space for pedestrians to pass.

On the basis that the Head of Transportation and Engineering has not raised any objections to the proposal (subject to a condition in respect of the extent of the forecourt area, to ensure that pedestrian movements are not compromised) it is considered that the proposal is not detrimental to highway safety.

**Response to points of objection**

The concerns raised in respect of car parking provision / highway safety, noise, number of existing A3 uses in the vicinity, the proposed forecourt seating area, fume extraction and ventilation and impact on residential amenity have been dealt with in the above sections of this report.

**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 principles 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 proposal is considered to represent an acceptable form of development that would complement the existing offer in Killay and result in an increase of visitors throughout the day increasing footfall which will help improve the vitality, viability and attractiveness of Killay in compliance with Policies PS2, RC5 and RC9 of the Swansea LDP and the Supplementary Planning Guidance Document entitled 'District Centres, Local Centres and Community Facilities'.

**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.

## Planning Committee – 5<sup>th</sup> November 2019

### Item 1 (Cont'd)

Application Number:

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- 2 The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan, received 14th August 2019. Proposed Floor Plans, received 27th August 2019.

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

- 3 This permission relates to the use of the ground floor as a cafe/wine bar only and for no other purpose including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order (1987), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In the interests of the vitality and viability of the District Shopping Centre and the amenity of the area.

- 4 The proposed cafe/wine bar use hereby approved shall be restricted to 8.30am to 11.30pm Mondays to Fridays, 8.30am to midnight on Saturdays and 9am to 10pm on Sundays and Bank Holidays. No customers shall be allowed to remain on the premises outside of these times.

Reason: In the interests of the residential amenities of the occupiers of nearby residential properties.

- 5 Before the café/wine bar use hereby approved commences, full details of the boundary enclosures to be used to enclose the forecourt seating area to the front of the application building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of boundary enclosures shall thereafter be implemented before the proposed use commences. The approved scheme of boundary enclosures shall be maintained as such at all times whilst the forecourt area is in use as a seating area serving the café/wine bar use.

Reason: In the interest of pedestrian safety and general amenity.

### Informatives

- 1 The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: PS2, RC5 and RC9.
- 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 Developer must contact the Highway Management Group , The City and County of Swansea , c/o The Guildhall, Swansea SA1 3SN before carrying out any work adjacent to adopted highway. Please email [networkmanagement@swansea.gov.uk](mailto:networkmanagement@swansea.gov.uk)
- 4 Any external ventilation and fume extraction equipment may require the benefit of planning permission.



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**Item 2 (Cont'd)**

**Application Number:**

2019/1307/S73

LDP - ER11 - Trees, Hedgerows and Development

Trees, Hedgerows and Development - Development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted. Ancient Woodland, Ancient Woodland Sites, Ancient and Veteran trees merit specific protection and development that would result in specified outcomes will not normally be permitted.

Where necessary a tree survey; arboricultural impact assessment; an arboricultural method statement; tree protection plan and/or scheme for tree replacement, including details of planting and aftercare will be required in support of a planning application.

### Site History

| App Number    | Proposal  | Status     | Decision Date |
|---------------|---|------------|---------------|
| 2017/0663/PRE | (PRE APP) for 4 detached dwellings with access to public open space   | NEGP<br>RE | 09.06.2017    |
| 2017/1948/FUL | Development of 61 dwellings with associated open space, landscaping, access arrangements, related infrastructure and engineering works  | S106       | 01.08.2018    |
| 2018/1761/DOC | Discharge of conditions: 6 (drainage), 8 (management and maintenance of streets), 10 (CEMP), 11 (SWMP), 12 (CMS), 15 (tree & hedgerow protection), 16 (landscaping), 17 (hard & soft landscape works), 18 (Ecology), 19 (hedgerow management) & 20 (materials) of Planning Permission 2017/1948/FUL granted on 1st August 2018. | APP        | 23.11.2018    |
| 2018/1870/NMA | Non-Material Amendment to Planning Permission 2017/1948/FUL granted 1st August 2018 to allow removal of all chimneys, all drawings revised to show 225mm (from finished floor level)stone work plinth, revisions to Pembroke house type roof span, revisions to screen wall designs and revised finishes to Plot 1.             | APP        | 12.10.2018    |
| 2019/0302/DOC | Discharge of condition 15 (tree and hedgerow protection) of Planning Permission 2017/1948/FUL granted 1st August 2018   | APP        | 12.03.2019    |



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| Item 2 (Cont'd) | Application Number:  | 2019/1307/S73 |
|-----------------|--|---------------|
| 2019/0450/S73   | Development of 61 dwellings with APP associated open space, landscaping, access arrangements, related infrastructure and engineering works (Variation of condition 2 of planning permission 2017/1948/FUL granted 1st August 2018 to allow for an amendment to the proposed highway works)   | 09.05.2019    |
| 2019/1307/S73   | Development of 61 dwellings with PDE associated open space, landscaping, access arrangements, related infrastructure and engineering (Variation of Conditions 1 (Plans), 14 (Tree & Hedgerow Removal), 15 (Soft Landscaping), 16 (Landscaping Works), 18 (Hedgerow Management), 19 (External Surfaces) of planning permission 2019/0450/S73 granted 9th May 2019 to allow for hedgerow to be removed and replaced with suitable planting).   |               |
| 2019/1446/DOC   | Discharge of condition 13 (Street APP Lighting) of Planning Permission 2019/0450/S73 granted 9th May 2019  | 17.07.2019    |
| 2019/2094/NMA   | Non-Material Amendment to Planning PCO Permission 2017/1948/FUL granted 1st August 2018 to revise boundary treatments (fencing), revised finish materials to plots 7 and 53 (changed to stonework frontage) and plot 31 (timber cladding), revised boundary location to plot 37 with boundary finish to pumping station; revised fence type and position to plot 01 (from mesh fence to close boarded fence; housetype revision to plots 38 (Caernarfon stone clad) and 39 (Pennard timber clad) and revision of boundary treatment to the side of plot 58 (from fence to wall). |               |
| 75/0185/01      | TEMPORARY CARAVAN (WHILE APP REPAIRS AND ALTERATIONS ARE CARRIED OUT TO HOUSE)   | 24.04.1975    |

## Planning Committee – 5<sup>th</sup> November 2019

| Item 2 (Cont'd) | Application Number:  | 2019/1307/S73 |
|-----------------|--|---------------|
| 74/0906/01      | DEMOLISH EXISTING COTTAGE WDN AND ERECT DWELLING   | 08.11.1974    |
| 2012/0800       | Single storey side extension and APP addition of pitched roof to existing single storey side extension | 31.07.2012    |

### RESPONSE TO CONSULTATIONS

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 adjacent neighbours on 14th June 2019. The application was also advertised by means of a site notice.

Twelve letters of objection have been received which are summarised below:

- Loss of habitat
- Planning regulations need to recognise the climate emergency declaration by the council
- Developers are ignoring the planning conditions
- The hedgerow acted as green buffering as the new houses are intrusive and overbearing.
- Object to the removal of the green buffer
- We were categorically assured that the hedgerow would remain along the length of the lane with two openings to allow access onto the housing development.
- The lane has lost its original character as pleasant lane
- Effect on the wildlife, nesting birds and hedgehogs.
- The whole development has changed the semi-rural character of the area and retention of the hedges is essential to maintain the rural corridor to Caswell woods and beach
- Adverse effect on local wildlife and biodiversity
- The Environment Act (Wales) 2016 requires all public authorities in Wales to seek to maintain and enhance biodiversity - includes the stepwise approach which requires that environmental impacts are at first avoided, then minimised, mitigated and as a last resort compensated for Therefore, existing hedgerows and other natural features should be retained wherever possible and be incorporated into the design of the site. The current planning application refers to replacement planting, but under this stepwise approach this should be an absolute last resort and therefore should not happen unless there really is no other option.

### Ward Councillor

I must object to the removal of the hedgerow. The developer was aware of the protection of this hedgerow when they purchased the site. This is an ancient hedgerow and popular with birds and other wildlife and must be kept.

### Gower Society

1. It is essential that as much of the original habitat is retained in this contentious development.



**Item 2 (Cont'd)**

**Application Number:**

2019/1307/S73

2. The nibbling away of the imposed conditions should be given the utmost scrutiny as from our experience it can often increase the impact of a development.
3. The hedge in question provides a green screen of the new housing and we are informed that locals were assured that it would be retained and enhanced.

### **Head of Highways and Engineering**

Application is submitted in relation to the hedgerow located along the south-eastern boundary fronting the highway to Summerland Lane. There are no highway objections to the variation subject to approved visibility splays being preserved as indicated on the submitted plans.

### **Tree / Hedgerow Officer**

#### Initial Comments

The s73 application seeks to change the approved plans as it has been found that the retention of the south-east hedgerow is not possible. The required vision splay along the road necessitates part of the hedge to be removed. From the original plans this looked feasible but during construction it can be seen that the current hedge is no longer viable. Whilst the removal of the hedge will affect the local amenity in the short term, the replacement planting will result in a good quality hedge in the medium term and will provide mitigation. The proposed species composition is suitable for the hedge.

#### Final Comments

An amended Planting Plan & Hedgerow Management Plan was received.

The approved plans require 'half' of the hedge to be removed due to the vision splay. Removal to the rear of Plot 58 seems reasonable. This has been started on site and the effect on the hedge is evident. It should be noted that the existing hedge is poor. It is sparse and the woody species present have been cut to a short length, with species like bramble cut out. The remaining few woody species are at risk of dying and the proposed planting will improve and enhance the current hedge, notwithstanding the approved excavation. Although the existing hedge is poor it will contain a seed bank that should be retained wherever possible.

### **Ecology Officer**

#### Initial Comments

Hedgerows are protected under Section 7 of the Environment (Wales) Act 2016, as habitats of primary importance for the purpose of maintaining and enhancing biodiversity in relation to Wales. Further:

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

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- The Ecological Management Plan (D Clements Ecology, Oct 2018) clearly states that the mature hedgerows bordering the site can be classified as 'important hedges' under the Hedgerow Regulations and also qualify as SINC habitat.
- In addition, 3.1.1 states that peripheral hedgerows will be retained as habitat corridors to ensure connectivity.
- As the hedgerow is 'Important', the LPA usually decide if the circumstances justify removal of an 'Important' hedgerow. Unless satisfied that removal is justified, the LPA must refuse permission and issue a hedgerow retention licence.
- New species rich hedgerow planting is proposed but the details are vague, other than a species list. Further details should be provided in an Outline Landscape and Ecology Mitigation Strategy.
- Timing of works - No timeline has been provided regarding the works to hedgerows.
- Efforts should be made to retain hedgerows within developments and this is the preferred option for this site. These retained hedgerows should be buffered from the surrounding development, and not incorporated into domestic boundaries. Where retention is not possible, a reasoning must be discussed with the LPA. If this is accepted then native, species rich hedgerows should be provided in compensation.
- When planting new hedgerows, it is important that the number and type of species planted are similar to other hedgerows locally. Ideally they should connect with existing hedgerows or woodland as this may help the movement of some species of wildlife. Once the development is complete, the way in which the hedgerow is managed will determine its value for wildlife and this should be considered in the overall design of the development.
- The ecological value of the site, could be significantly increased by hedgerow reinstatement / new planting within the existing gaps left along H1. This will mitigate for removal of sections of the hedgerow that have been undertaken already, and assist in improving habitat connectivity / create an ecological corridor between the site and other nearby hedgerows or woodland. Full details are required of the works that have been undertaken and the proposed hedgerow mitigation, together with a hedgerow management plan.

Further Ecology Officer Comments

An amended Planting Plan & Hedgerow Management Plan was received.

The proposals seem acceptable, although I am not clear who would be monitoring the success of the planting and carrying out the management plans. In terms of the proposed hedgerow species, I would like to see around 70% stock as hawthorn, inter-planted with approx. 25% whips/transplants of the other 8 proposed species with the addition of spindle (*Euonymus europeae*) and wild privet (*Ligustrum vulgare*). My preference would be for burnet rose (*Rosa pimpinellifolia*) to replace dog rose (*R. canina*). The remaining approx. 5% planting should be of hedgerow trees which hold their leaves e.g. oak planted in groups of 3-5 and elder in singles. Holly and rose should be planted in groups of 3.

Final Ecology Comments

Further information regarding the proposed hedgerow species was provided.

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There will be a gain in habitat, not a loss, and there should be biodiversity benefits in terms of more habitat available for various species. The hedgerow in question was species poor and consisted of mostly bramble which was cut back. This is being planted up with a good range of specified native species which, once established, will create a species-rich hedgerow habitat. Therefore there will be biodiversity gain and denser habitat provision.

## **APPRAISAL**

The planning application is presented to Planning Committee for determination, as the original planning permission to which this variation relates, has a site area exceeding 2 hectares.

Planning permission is sought to vary Conditions 2 (approved plans), 14 (Tree & Hedgerow Removal), 15 (Soft Landscaping), 16 (Landscaping Works), 18 (Hedgerow Management), 19 (External Surfaces) of planning permission 2019/0450/S73 (granted 9th May 2019) to allow for a hedgerow to be removed and be replaced with suitable planting.

The application relates to the hedgerow located along the south-eastern boundary of the site, fronting Summerland Lane and part of a hedgerow that runs perpendicular to the site frontage.

The previously approved plans showed that the original frontage hedgerow would be required to be partially removed, in order to ensure a suitable visibility splay could be provided in a westerly direction for vehicles leaving the site. Since the determination of the original application, it has become apparent that the extent of the hedgerow being proposed to be removed, in order to provide the required visibility splay would leave the hedgerow unviable.

The proposed replacement hedgerow will be maintained at a height of 0.6m within the western visibility splay serving the main site egress and then 1.5 metres outside of this visibility splay. The perpendicular hedgerow can be of an unstricted height, which will be specified within a Management Plan.

The main issues for consideration in this instance therefore are the impacts of the proposed development on the ecology of the area having regard to the provisions of policies ER8 and ER11 of the adopted Local Development (Feb 2019). There are no overriding matters with regard to the provisions of the Human Rights Act.

## **Section 73 procedure**

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

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

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

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

**Ecology / Trees / Hedgerows**

The application relates to the hedgerow located along the south-eastern boundary fronting Summerland Lane, and part of the hedgerow which extends between plots 58 and 59 (perpendicular to Summerland Lane)

The submitted Planting Plan and Hedgerow Management Plan states that the former hedge bank will be reinstated, to be built up with subsoil reused from the original bank and finished with top soil. This will include the seed bank from the original hedge.

A number of the existing plants (hawthorn and blackthorn) will be translocated into the new hedgerow. New native planting will be planted to fill in the gaps. The proposed replacement hedgerow fronting Summerland Lane will be maintained at a height of 0.6m within the visibility splays and then 1.5 metres outside of the visibility splays.

The Council's Ecologist and Tree Officer have confirmed that the proposed new hedgerow and bank are acceptable and will sufficiently mitigate for the loss of the original hedgerow. It is considered that there will be a gain in habitat, not a loss, and there should be biodiversity benefits in terms of more habitat available for various species. The hedgerow in question was species poor and consisted of mostly bramble.

The proposed hedgerow will be planted up with a good range of specified native species which, once established, will create a species-rich hedgerow habitat. Therefore there will be biodiversity gain and denser habitat provision.

Whilst it is considered that the loss of the original hedge is regrettable, the new hedgerow will eventually grow to provide a suitable replacement hedgerow which will provide an enhanced habitat for the local wildlife, and is considered to be a nett gain in terms of biodiversity and habitat provision, and as such, meets the requirements of the 2016 Environment Act.

The new hedgerow will be managed by the Management Company responsible for the completed development. The details of the management plan are required via the S106 agreement which states that *"the owner covenants with the council to submit and implement the management plan for the retained trees, new trees and planting, existing hedgerows, local areas of play, open spaces and sustainable urban drainage system (SUDS) including soakaways and pumping station prior to the occupation of the first residential unit"*.

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The visual impact of the loss of the hedge is highly noticeable, however, the proposed hedge is considered to be suitable to mitigate against the loss and, once planted, it will grow over time to become an asset to the locality and will provide a suitable habitat to accommodate additional species, and will result in a net gain in terms of biodiversity.

As such, the application is considered to be acceptable in this regard.

### Response to Consultations

Matters relating to the loss of habitat, biodiversity, wildlife, visual impacts, loss of the existing hedge have been addressed in the proceeding paragraphs of this report.

Any matters relating to the developer ignoring planning conditions are an enforcement matter and have no bearing on the determination of this application. However, it should be noted that this application seeks to remedy a breach of planning control.

Any climate emergency declaration by the Council is not a material planning consideration with regard to this application.

### Conclusion

Having regard to all material planning considerations, including the provisions of the Human Rights Act, the proposal to allow for hedgerow to be removed and replaced with suitable planting is considered to be acceptable in terms of its impact upon the ecology of the area and complies with the provisions of policies ER8 and ER11 LDP.

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

### RECOMMENDATION

**APPROVE** subject to the following conditions and the applicant entering into a S106 Planning Obligation (or deed of variation) to provide S106 Planning Obligation to provide:

- 31 Affordable housing units (51%) on the site comprising 12 social rent units (38%) provided at 42% ACG and DQR compliant, and 19 low costs home ownership (intermediate) (62%) provided at 70% ACG and DQR compliant. The design and specification of the AH units shall be of equivalent to those used in the local needs open market units. The AH shall be dispersed across the site in accordance with the layout shown on the approved plan: 17023(05) 102 Rev G - Proposed Site Plan received on the 1 December 2017.

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- Maintenance and Management plans for the retained trees, new trees and planting, hedgerows, LAPS, open spaces, and sustainable urban drainage system (SUDS) (including soakaways and pumping station).
  - Highways:
    - a) Prior to any works commencing on site, the access only signage at either end of Caswell Avenue shall be erected.
    - b) At 50% occupation of the dwelling houses, the remainder of the works as outlined on Vectos drawings W17032\_A06 and 18\_P\_017 - Summerland Lane / Newton Highway Improvements Section 106 T CPA 1990 Variation Plan to be implemented and brought into beneficial use.
  - A Management and monitoring fee of £4,020 (based on 20% of the planning application fee).
  - The Council's legal fees of £1000 relating to the preparation of the S106 agreement
- 1 The development shall be carried out in accordance with the following approved plans and documents:
- 17032(05) 100 Rev B - Site Location Plan  
17032(05) 106 - Boundary Type A Details  
17032(05) 107 - Boundary Type B Details  
W173072-AT\_B01 Rev A - Refuse Vehicle Swept Path Analysis, received on 1st September 2017.
- W173072\_AT\_C03 Rev D - Refuse Swept Path Analysis For private Drive Access from Summerland Lane, received on 3rd October 2017.
- W173072\_AT\_D01- Site Internal Swept Path Analysis\_Refuse vehicle site spine road swept path analysis  
17032(05) 215 Rev D - Cennen House Type – Timber, received 15th November 2017.
- 2979\_220 Rev A - Setting Out Information  
2979\_211 Rev A - Long Sections - Sheet 2  
2979\_210 - Long Sections - Sheet 1  
2979\_100 Rev D - Drainage Schematic  
17032(05) 108 Rev A - Refuse Strategy, received 21st November 2017.
- 17032(05) 105 Rev D - Materials and Enclosures Layout  
17032(05) 102 Rev G - Proposed Site Plan, received 1st December 2017.
- W173072\_A06 - Newton Road Zebra Crossing, received 6th December 2017.
- 17032(05) 109 - Boundary Type C Details, received 11th December 2017.



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Drawing No. NB55.C.S Caernarfon House Type, Stone,  
Drawing No. NB55.C.R Caernarfon House Type, Render,  
Drawing No. NB55.PL.CS1 Camrose House Type, Gable Fronted,  
Drawing No. NB55.PL.CS2 Camrose House Type,  
Drawing No. NB55.PL.CW.S Carew House type, Stone,  
Drawing No. NB55.PL.CW.T Carew House Type, Timber,  
Drawing No. NB55.CE.S Cennen House Type, Stone,  
Drawing No. NB55.CE.T Cennen House Type, Timber,  
Drawing No. NB55.D Dinefwr House Type,  
Drawing No. NB55.PL.H1.S Harlech (with integ) House Type, Stone,  
Drawing No. NB55.PL.H1.T Harlech (with integ) House Type, Timber,  
Drawing No. NB55.PL.H2.S Harlech House Type, Stone,  
Drawing No. NB55.PL.H2.T Harlech House Type, Timber,  
Drawing No. NB55.O.R Oystermouth House Type, Render,  
Drawing No. NB55.O.R Oystermouth House Type, Render,  
Drawing No. NB55.PL.PB Pembroke House Type,  
Drawing No. NB 55.P.02 Pennard House Type Elevations,  
Drawing No. NB55.P.01 Pennard House Type Plans,  
Drawing No. NB55.PL.1B2P 1B2P Apartments,  
Drawing No. NB55.PL.2B3P 2B3P Bungalow,  
Drawing No. NB55.3B5P.R 3B5P House Type, Rendred,  
Drawing No. NB55.3B5P.T 3B5P House Type, Timber,  
Drawing No. NB55.PL.G.01 Garages (Sheet 1),  
Drawing No. NB55.PL.G.02 Garages (Sheet 2) received 28 August 2018

18\_P\_017 - Summerland Lane / Newton Highway Improvements Section 106 TCPA 1990 Variation Plan, received 26th February 2019.

Drawing Number NB55.90.001 Rev E External Finishes Plan, received 7th June 2019

NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan - Hedge line to Summerland Lane, received 17th July 2019

399.01 REV E - Planting Plan and Hedgerow Management, received 8th October 2019.

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

- 2 The dwelling-houses identified as "local needs housing" shall not be occupied otherwise than by a person with a local connection, or the widow or widower of such a person and any dependents of such a person living with him or her, unless the property has been marketed for sale for a period of at least 16 weeks at market value price and at the end of the 16 week period a person with a local connection has not been identified as a purchaser.

This process must be repeated for every successor in title (repeat sale) to each individual dwelling. In this condition the following definitions apply:

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'Person with a Local Connection' means an individual who before taking up occupation of the dwelling satisfies one of the following conditions:

(1) The person has been in continuous employment in the Locality defined for at least the last 9 months and for a minimum of 16 hours per week immediately prior to occupation;

or

(2) The person needs to live in the Locality defined because they need substantial care from a relative who lives in the Locality defined, or because they need to provide substantial care to a relative who lives in the Locality defined. Substantial care means that identified as required by a medical doctor or relevant statutory support agency; or

(3) The person has been continuously resident in the Locality defined for three years immediately prior to the occupation of the dwelling and is in need of another dwelling resulting from changes to their household as detailed in informative 1 below:

- The 'Locality' is defined as the Council's administrative wards of Newton, Bishopston, West Cross, Mayals, Oystermouth, Gower, Pennard and Penclawdd.

The obligations contained in this condition shall not be binding or enforceable against any mortgagee or chargee or any receiver appointed by such a mortgagee or chargee or any person deriving title through such a mortgagee, chargee or receiver provided always that a successor in title of such a person will be bound by the obligations contained in this condition.

Reason: To ensure that the proposed market housing (dwellings not defined as affordable homes) meet an identified local social or economic need.

- 3 The dwelling-houses identified as "local needs housing" shall only be occupied by a person as his or her Only or Principal Home. The Occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request so to do) such information as the Authority may reasonably require in order to determine whether this condition is being observed. In this condition, the following definition applies:

An 'Only or Principal Home' is a dwelling house that is occupied continuously for a minimum period of six months in every twelve month period. For the avoidance of doubt the dwelling shall not be occupied as a holiday home, second home or for short term let accommodation.

Reason: To ensure that the proposed market housing (dwellings not defined as affordable homes) is used as the occupier(s) only or principal home.

- 4 Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made within the foul water public sewer at manhole SS59876901 located in Summerland Lane (as indicated on Welsh Water's Sewerage Network Plan).

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.



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- 5 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

2979-251c - Section 104 Layout  
2979-232 - Catchpit Detail  
2979-231a - Drainage Construction Details  
2979-225 - Manholes Schedules - Surface (Sheet 2)  
2979-224 - Manholes Schedules - Surface (Sheet 1)  
2979-223a - Manholes Schedules - Foul (Sheet 3)  
2979-222b - Manholes Schedules - Foul (Sheet 2)  
2979-221 - Manholes Schedules - Foul (Sheet 1)  
2979-214a - Rising Main Long Section  
2979-213a - Drainage Sections - Foul (Sheet 2)  
2979-212d - Drainage Sections - Foul (Sheet 1)  
2979-211c - Long Sections - Sheet 2  
2979-211a - Long Sections - Sheet 2  
2979-210a - Long Sections - Sheet 1  
2979-202 - Drainage Layout - Sheet 2  
2979-201a - Drainage Layout - Sheet 1  
2979 252a - Pumping Station Details & Access  
Pump Station Design Specification, received 9th August 2018

2979\_202b - Drainage Layout Sheet 2  
2979\_201c Drainage Layout - Sheet 1  
Terra Firma Letter Re Soakaway Drainage, received 5th November 2018

Soakaway Drainage Calcs, received 16th November 2018

Management Proposal, received 19th November 2018

The agreed drainage scheme shall be implemented before the dwellings hereby approved are brought into beneficial use. The drainage scheme shall be retained and maintained as approved.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or amending that order), Classes A, D and E of 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.

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- 7 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

Cyclical Maintenance Landscaping & Roads  
Cyclical Maintenance & Inspections Guidance  
Received 9th August 2018

NB55.MC.002 - Management Company Controlled Areas Plan 02  
NB55.MC.001a - Management Company Controlled Areas Plan 01  
Extract From Title Transfer Doc  
Companies House - Management Company Registration  
Management Proposal  
Received 19th November 2018

Intervention Levels and Response Times received 20th November 2018

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 that the development is provided with satisfactory vehicular access in the interests of public safety.

- 8 All garages shall be made available for the parking of vehicles at all times and shall not be used as or converted to domestic living accommodation.

Reason: To ensure adequate on-site car parking provision in the interests of highway safety.

- 9 The development shall be completed in accordance with the details approved under Discharge of

Condition application 2018/1761/DOC approved on 23rd November 2018, namely:  
Construction Environmental Management Plan (CEMP)  
Utilities (Existing & Proposed), received 5th November 2018

The development shall be implemented in accordance with the details thereby approved. Any drains laid must also be protected in a way that prevents dirty water from the construction site entering them.

Reason: In the interests of prevention pollution to controlled waters and the wider environment.

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- 10 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

Site Waste Management Plan  
Overall Programme  
Traffic Management  
SWMP Review Stages  
SWMP Design Stage Decisions  
SWMP Waste Groups  
SWMP Waste Record  
SWMP Mid Job Review  
SWMP End of Job Review  
Waste Management Policy, received on 9th August 2018

The development shall thereafter be carried out in accordance with the details contained within the approved SWMP.

Reason: To ensure waste at the site is managed in line with the Waste Hierarchy in a priority order of prevention, re-use, recycling before considering other recovery or disposal option.

- 11 The development shall be completed in accordance with the details approved under Discharge of

Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

NB55.TM.03 - Drainage Traffic Management Plan  
NB55.TM.02 - Traffic Management Plan  
NB55 TM 01 - Temp Traffic Management Plan  
Utilities (Existing & Proposed)  
Public Liability Insurance Letter  
CMS (CTMP)  
Vehicular Access to Site  
Overall Programme, received 5th November 2018

The approved statement shall be adhered to throughout the construction period.

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 of the area.

- 12 Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no fences, gates or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.

Reason: To ensure that the overall open plan housing layout is not prejudiced by uncontrolled development, and also in the interests of highway visibility.

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- 13 The development shall be completed in accordance with the details approved under Discharge of Condition application 2019/1446/DOC approved on 16th July 2019, namely
- 14.66.305 - STREET\_LIGHTING\_DESIGN, received 21st Jun 2019  
SD\_G027\_1 - Cable and duct trench and trench reinstatement, received 21st June 2019
- Reason: In the interests of pedestrian and highway safety.
- 14 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, and 2019/0302/DOC, namely
- Tree Survey  
Tree Constraints Plan, received 5th November 2018
- Cellweb 75~200mm Gravel Overfill Surface Standard Detail  
Cellweb-Trp-Ams (1) Tree Root Protection  
Cellweb Trp - Key Details, received 9th November 2018
- Email from Martin Pretty to Lucy Kelly & Alan Webster dated 19 November 2018 entitled Tree Protection Plan, (including text of email dated 12th November 2018)
- Temp Access Root Plan received 23 November 2018.
- AND
- Tree & Hedgerow Protection Plan  
Tree Protection Plan, received 7th June 2019
- NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan, received 17th July 2019
- 399.01 REV E - Planting Plan and Hedgerow Management, received 8th October 2019.
- No development or other operations shall take place other than in complete accordance with the approved tree and hedgerow protection scheme.
- Reason: To ensure that reasonable measures are taken to safeguard trees and hedgerows in the interests of local amenity and biodiversity.
- 15 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:
- 2979-200B - External Works received on 9th August 2018  
Received 13th November 2018
- AND
- NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan - Hedge line to Summerland Lane received 17th July 2019

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399.01 REV E - Planting Plan and Hedgerow Management received 8th October 2019.

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.

- 16 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

2979-200B - External Works received on 9th August 2018

AND

Drawing Number NB55.90.001 Rev E External Finishes Plan received 7th June 2019

NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan - Hedge line to Summerland Lane received 17th July 2019

399.01 REV E - Planting Plan and Hedgerow Management received 8th October 2019.

The landscaping works shall be carried out in accordance with the approved details during the first planting season immediately following the completion of the development. The completed scheme shall thereafter be managed and maintained in accordance with a scheme of management/maintenance to be agreed in writing by the Local Planning Authority before development commences on site.

Reason: In the interest of protecting visual amenity.

- 17 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

Biodiversity Management Plan Received 5th November 2018 and Ecological Management Plan received 9th November 2018.

The development shall be implemented in strict accordance with Section 6 (Recommendations) and specifically section 6.13, of the Ecological Assessment by David Clement Ecology received on the 1st September 2017, and Section 7 (Protected Species Mitigation Plan) of the Dormouse Survey and Protected Species Plan Mitigation by Hawkswood Ecology received on 1st September 2017 and the Addendum to Dormouse Survey and Protected Species Mitigation Plan by Hawkswood Ecology received on the 13th November 2017.

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Reason: In the interests of protecting retained habitats and wildlife on the site during the construction process.

- 18 The development shall be completed in accordance with the details shown on 2979-200B - External Works, received 9th August 2018 (approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018)

AND

NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan - Hedge line to Summerland Lane received 17th July 2019

399.01 REV E - Planting Plan and Hedgerow Management received 8th October 2019.

The hedgerow works shall be implemented in strict accordance with the approved details within the first planting season following the date of this decision notice. The translocated and enhanced sections of the hedgerows shall thereafter be maintained in accordance with the agreed Hedgerow Management Plan.

Reason: In the interests of visual amenity of the streetscene.

- 19 19 The development shall be completed in accordance with the details approved under Discharge of Condition application 2018/1761/DOC approved on 23rd November 2018, namely:

2979-200B - External Works received on 9th August 2018

AND

Drawing Number NB55.90.001 Rev E External Finishes Plan received 7th June 2019

NB55.PL.201 Cross Sections - Hedgerow; NB55.PL.200 - Block Plan - Hedge line to Summerland Lane received 17th July 2019

399.01 REV E - Planting Plan and Hedgerow Management received 8th October 2019.

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.

### Informatives

- 1 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.
- 2 The development plan covering the City and County of Swansea is the Swansea Local Development Plan. The following policies were relevant to the consideration of the application: ER 8 and ER 11.

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3 Local Needs Housing information in association with conditions 2 and 3:

1. The circumstances where a person needs another dwelling resulting from changes to their household are (but not limited to), getting married, divorced, having children, requiring more space for a growing family, downsizing to a more manageable home or adult children forming new households and purchasing a property for the first time, or where a person is returning to the Locality defined within 12 months of the completion of undertaking full-time post-secondary education or skills training.
2. If after a period of 16 weeks of marketing of a local needs dwelling at an estate agents in the Locality (as defined in the Condition) and advertising on a well-used property agency website, there are no appropriate offers of purchase from a person with a local connection, the property may be marketed to, and subsequently purchased by, a person that does not meet the local need criteria. Any subsequent re-sale of the local needs dwelling will be subject to the local needs occupancy restriction in order to ensure that the property will continue to provide a potential opportunity to address any future local need in the Locality.

4 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.

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.

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.



**Item 2 (Cont'd)**

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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](http://www.ile.org.uk)] recommendations.

**5 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.

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 Team Leader (Development), e-mails to [mark.jones@swansea.gov.uk](mailto:mark.jones@swansea.gov.uk). Tel no: 01792 636091

S278 Agreement - The new accesses/new footpath will need to be constructed to Highways Authority Standards and Specification under a Section 278 Agreement with the Highways Authority.

**6 Natural Resources Wales (NRW)**

In relation to condition 9 (CEMP), in addition, prior to commencement of works (particularly before stripping the land) NRW request that the applicant / developer contacts; Mr Chris Palmer (NRM Officer) to discuss pollution prevention measures. He can be reached via email at: [Chris.Palmer@cyfoethnaturiolcymru.gov.uk](mailto:Chris.Palmer@cyfoethnaturiolcymru.gov.uk), or telephone on: 0300 0653 293.

In relation to condition 10 (SWMP), any waste materials that are generated on site 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.

In relation to condition 17 - Ecology - if any roosts or nests are found on the site, then work must stop immediately and NRW contacted for further advice.

**7 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).



**Item 2 (Cont'd)**

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The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com).

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

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# Agenda Item 7

Electoral Division:  
Upper Loughor

## **Report of the Head of Planning & City Regeneration**

### **Planning Committee – 5 November 2019**

### **Planning Application Ref: 2019/1906/106**

## **Residential development comprising of up to 92 dwellings with associated access, drainage and public open space Land South Of Glebe Road, Loughor, Swansea**

### **1.0 Purpose of the Report**

- 1.1 To see authorisation to modify the Section 106 Agreement made pursuant to S106 of the Town and Country Planning Act 1990 (as amended) that relates to the outline planning permission granted for the residential development of land South of Glebe Road (outline planning permission 2013/0617 refers).
- 1.2 The request has been submitted under S106A(1)(a) of the Town and Country Planning Act 1990 (as amended)
- 1.3 The applicant has sought the inclusion of a Mortgagee in Possession (MIP) Clause pertaining to the social rented units referred to in the S106 agreement, as this provides Registered Social Landlords (RSL) with greater options to finance developments

### **2.0 Background / Planning History**

- 2.1 Outline planning application (2013/0617) was granted on the 30<sup>th</sup> October 2017 for residential development comprising of up to 92 dwellings with associated access, drainage and public open space on the site. This outline planning permission is subject to a S106 agreement. The S106 agreement (along with other contributions) secured the provision of 15% of the proposed dwellings as being social rented affordable dwellings.
- 2.2 Reserved Matters application (2018/0930/RES) - relating to the 2013/0617 outline planning permission - was approved on the 5<sup>th</sup> September 2018. This reserved matters application only provided details of the proposed access serving the proposed development.
- 2.3 Reserved Matters application (2018/1537/RES) - relating to the 2013/0617 outline planning permission - was granted on the 6<sup>th</sup> December 2018. This reserved matters application provided details of access, appearance, landscaping, layout and scale.
- 2.4 A copy of the Committee report pertaining to 2013/0617 planning application is attached as Appendix A.

### **3.0 Consultation**

3.1 The Local Ward Member and the Housing Officer were consulted on this application to vary the s106

3.2 The Council's Housing Officer has commented as follows:

"I can confirm that the Housing Service agree with the modification of the Section 106 agreement relating to outline planning permission 2013/0617 to include a Mortgage in Possession clause on the social rented units only."

### **4.0 Main Issues**

4.1 On an application for modification by agreement pursuant to section 106A(1)(a) of the 1990 Act the Courts have considered the matters that a Council must have regard to (see R(Bachelor Enterprises Ltd) v North Dorset District Council [2003] EWHC 3006 and in R(Millgate Development Ltd) v Wokingham DC [2011] EWCA Civ 1062).

The Council has to ask itself:

- a. Does the existing planning obligation still serve a useful planning purpose?;
- b. If it does and modification is proposed, then the question is whether that planning purpose could be equally served by the proposed modification?
- c. If it would, then the Council should agree to the modification;
- d. If it would not then the Council should refuse the application to modify.

4.2 Any decision by the Council to agree to a modification of the S106 agreement could be the subject of a challenge via Judicial Review. However the decision cannot be appealed.

4.3 The Outline Planning Permission granted consent for residential development comprising of up to 92 dwellings, of which 15% were social rented affordable housing, which equates to 14 affordable houses.

4.4 The applicant has requested that a Mortgagee in Possession (MIP) Clause is inserted into the S106 agreement for the affordable houses. These are clauses that allow a (commercial) lender who has repossessed the property to operate free of restrictions which are placed upon individual properties. Essentially, a MIP occurs when a borrower defaults on their repayments and the lender subsequently takes possession of, and sells, the property.

4.5 In the first instance, it should be noted that repossessions are a relatively rare event and that the RSL who owned the affordable houses would need to become insolvent before this would come into effect.

4.6 In addition, the MIP Clause would state that the MIP mechanism can only operate freely (and unencumbered by the affordable housing restriction) after a 3 month period. These clauses were previously resisted by Local

Planning Authorities as there is a chance, albeit very small, that the affordable housing unit(s) could be lost permanently.

- 4.7 Since the financial crisis, and tighter lending requirements, lenders are increasingly looking at S106 agreements to ensure that there is provision to recoup their money in the event of default. RSLs have discussed this issue directly with the Welsh Government. Welsh who have indicated their support for this approach. Welsh Government have advised that they would likely intervene if an RSL faced financial difficulties, in order to avoid the loss of affordable housing stock. This 3 month period is considered sufficient time to resolve the issue and is reasonable.

## **5.0 Recommendation**

- 5.1 It is recommended that:

**Members authorise the modification of the S106 agreement (planning obligation) to provide a MIP clause for the affordable houses to be provided within the proposed development**

## **Background Papers**

### **Local Government Act 1972 (Section 100) (As Amended)**

The following documents were used in the preparation of this report:  
Application file, together with the files and documents referred to in the background information section of the appended Development Management committee report.

**Contact Officer:** Lucy Kelly

**Extension No:** 5163

**Date of Production:** October 2019

**Document Name:** Glebe Road  
106 report

### **Appendices:**

**Appendix A** – 2013/0617 Committee Report

## **Appendix A – 2013/0617 Committee Report**

Electoral Division:  
Loughor

### **Report of the Head of Planning & City Regeneration**

**To Planning Committee – 5<sup>th</sup> September 2017**

**Planning Application Ref: 2013/0617**

**Residential development Residential development comprising up to 92 dwellings with associated access, (outline)  
Land South of Glebe Road, Loughor**

#### **1.0 Background**

1.1 The application was reported to Planning Committee on the 10<sup>th</sup> November 2015 with a recommendation that planning permission be approved subject to conditions and subject to the applicant entering into a S106 Planning Obligation to provide:

- 19 units of affordable housing on the site;
- an education contribution of £100, 000
- a highways contribution of £92,100;
- Management plans for the future maintenance and management of the attenuation ponds and the maintenance, management and public access to the public open space and the play areas;

Members also resolved that a S106 management and monitoring fee shall be paid in accordance with the requirements of the Council's adopted SPG entitled "Planning Obligations" (2010).

1.2 It was resolved to provide 19 units of affordable housing on the site (with the units being provided at 42% ACG, social rented tenure and pepper potted throughout the site. The AH should include a range of DQR compliant house types. The design and specification of the affordable units should be of equivalent quality to those used in the Open Market Units.

1.3 A copy of the report to the Planning Committee and Action Sheet of the 10<sup>th</sup> November 2015 is attached as Appendix A.

1.4 Since the committee resolution to approve the proposal subject to conditions and signing of S106 Legal Agreement, the Council received notification from the applicants' advisors of the challenges of meeting the affordable housing commitment detailed within the draft S106 while safeguarding the viability of the scheme.

- 1.5 on this basis a report to the Planning Committee on the 4<sup>th</sup> April 2017 recommended that planning permission be approved subject to the applicant entering into a S106 Planning Obligation to Provide:
- 15% of affordable housing on the site; comprising a 50/50 mix of 2 and 3 bedroom properties provided at 42% ACG
  - an education contribution of £100, 000
  - a highways contribution of £92,100;
  - Management plans for the future maintenance and management of the attenuation ponds and the maintenance, management and public access to the public open space and the play areas;
  - Monitoring fees shall be paid in accordance with the requirements of the Council's adopted SPG entitled "Planning Obligations" (2010).
- 1.6 The recommendation was accepted (subject to the first bullet point of paragraph being amended as set out below) and application APPROVED subject to a S106 agreement.
- 15% of affordable housing on the site; comprising a 50/50 mix of 2 and 3 bedroom properties provided at 42% ACG, of social rented tenure and DQR compliant. The design and specification of the AH should be of equivalent quality to those used in the Open Market Units.
- 1.7 A copy of the report to the Planning Committee and Action Sheet of the 4<sup>th</sup> April 2017 is attached as Appendix B.
- 1.8 Since the committee resolution to approve subject to conditions and with the revised terms to the S106, the Council has received notification from the applicants' legal advisors that a small portion of the application site as edged red within the planning application does not fall with the applicants' ownership thus causing extreme difficulties in finalising the S106.
- 1.9 on this basis, a revised red line plan has been submitted omitting the land in question, which is a small area some 35m long and some 25m deep situated some 85m south of the junction of the existing footpath located along the western site boundary with Glebe Road.
- 1.10 as the revision effectively reduces the site area; the application description has been amended to refer to residential development of "up to" 92 dwellings, in the event that the loss of this area compromises the ability of the site to comfortably accommodate 92 units.
- 1.11 The current proposed amendment has been advertised on site and no response received.

## **2.0 Conclusion**

2.1 My original report to Planning Committee on the 10<sup>th</sup> November 2015, and subsequent report dated 4<sup>th</sup> April 2017 recommended approval of the application, and the revised viability studies and resultant revised Affordable Housing provision within the site. This current revision does not compromise or prejudice all other issues relating to visual impact, impact upon residential amenity and highway safety standards as considered and addressed in detail in my report to Planning Committee on the 10<sup>th</sup> November 2105. The complexities of finalising a legal agreement which currently requires signatures from several parties is fully acknowledged and approval of this revision will ensure the completion of the S106 Agreement can be expedited and is therefore justified such that there is no reason to change this recommendation.

## **3.0 Recommendation**

3.1 The application be approved subject to the applicant entering into a S106 Planning Obligation to provide:

- 15% of affordable housing on the site; comprising a 50/50 mix of 2 and 3 bedroom properties provided at 42% ACG, of social rented tenure and DQR compliant. The design and specification of the AH should be of equivalent quality to those used in the Open Market Units
- an education contribution of £100, 000
- a highways contribution of £92,100;
- Management plans for the future maintenance and management of the attenuation ponds and the maintenance, management and public access to the public open space and the play areas;
- Monitoring fees shall be paid in accordance with the requirements of the Council's adopted SPG entitled "Planning Obligations" (2010).

And in accordance with the conditions set out in the original committee report below.

ITEM

APPLICATION NO. 2013/0617

WARD: Upper Loughor  
Area 2

**Location:** Land south of Glebe Road, Loughor, Swansea

**Proposal:** Residential development comprising 92 dwellings with associated access, drainage and public open space (outline)

**Applicant:** Trustees of T J Thomas

### **BACKGROUND INFORMATION**

#### **POLICIES**

| <b>Policy</b> | <b>Policy Description</b>  |
|---------------|--|
| Policy AS1    | Accessibility - Criteria for assessing location of new development. (City & County of Swansea Unitary Development Plan 2008)   |
| Policy AS2    | Accessibility - Criteria for assessing design and layout of new development. (City & County of Swansea Unitary Development Plan 2008)  |
| Policy AS6    | Provision of car parking in accordance with adopted standards. (City & County of Swansea Unitary Development Plan 2008)  |
| Policy EV1    | New development shall accord with a defined set of criteria of good design. (City & County of Swansea Unitary Development Plan 2008).  |
| Policy EV2    | 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).   |
| Policy EV3    | 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)  |
| Policy EV33   | 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) |



|             |   |
|-------------|---|
| Policy EV34 | 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)  |
| Policy EV35 | Development that would have an adverse impact on the water environment due to:<br>i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere; and/or,<br>ii) A reduction in the quality of surface water run-off.<br>Will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented. (City & County of Swansea Unitary Development Plan 2008) |
| Policy HC1  | Allocation of housing sites for 10 or more dwellings. (City & County of Swansea Unitary Development Plan 2008)  |
| Policy HC3  | Provision of affordable housing in areas where a demonstrable lack of affordable housing exists. (City & County of Swansea Unitary Development Plan 2008)   |
| Policy HC17 | 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)  |
| Policy HC24 | Provision of public open space within new residential developments. (City & County of Swansea Unitary Development Plan 2008)  |

## SITE HISTORY

| App No.   | Proposal  |
|-----------|---|
| 2015/0088 | Two storey side extension and single storey rear extension<br>Decision: Refuse<br>Decision Date: 16/03/2015 |

## Response to consultations

The application was advertised on site and in the local press. 5 letters of objection were received which can be summarised as follows:

- As a result of its role in the 140-5 religious revival and association with the evangelist Evan Roberts, Moriah Chapel is an internationally important centre of pilgrimage for tens of thousands of visitors, for this reason there is concern over the impact of the proposed development on parking in the vicinity.

- The proposal is likely to result in reduced parking opportunity in the vicinity, leading to a poor visitor experience, fewer tourists and less income for the local economy.
- Moriah Chapel is widely used and often attracts large numbers of visitors. All visitors currently park along Glebe Road.
- Coaches often visit – stopping outside the chapel
- It is imperative that the Christian Heritage of the area is safeguarded.
- The proposal will have a significantly harmful effect on the local environment
- The proposal does not comply with one of the key principles of ‘planning for nature conservation’ in that development should provide a net benefit for biodiversity conservation with no significant loss of habitat or population of species ( TAN 5)
- The submitted Planning Statement “did not highlight any specific wildlife rarity or exception, but the existence of many hedgerows with intermittent trees add biodiversity value to the site and these have been integrated into the development so that over time they will increase their environmental benefits” – these two statements are considered untrue and misleading
- The development site supports a significant number of birds
- Bats are present on the development site
- The detailed aboricultural report shows the rural nature of this site with an abundance of trees, hedges and wildlife.
- The state of nature report 2013 provides stark warning that far more species are declining than increasing in the UK and if this residential development of 92 houses is permitted then the City and County of Swansea will be contributing to this decline.
- The proposal will disturb the tranquillity currently afforded by this Greenfield site to the detriment of nearby residents.

**Llwchwr Town Council** – No Objection

**Glamorgan Gwent Archaeological Trust** – No Objection subject to standard condition.

**Dwr Cymru/Welsh Water** – No Objection subject to standard conditions and advisory notes.

**Natural Resource Wales** – No Objection subject to standard conditions and advisory notes.

**The Coal Authority** – No Objection subject to standard condition

**Head of Environmental Management and Protection** – No Objection subject to standard conditions

**Head of Transportation and Engineering** -

1 Background

1.1 This proposal is for the erection of up to 92 dwellings on land south of Glebe Road, Loughor. This is one of 3 sites that have been considered in Transport Assessments for developments along the Glebe Road/Loughor Road corridor. Each of the sites has included the impact of all others so that the combined impact of traffic from all 3 sites can be properly assessed.

1.2 The site has a frontage to Glebe Road of approximately 50m opposite the Moriah Chapel and it is intended to provide a mini roundabout at the access junction which will assist in keeping vehicle speeds low along that section of the highway.

## 2 Traffic Impact

2.1 Whilst this proposal is for up to 92 dwellings, the transport assessment has assumed to test the impact of up to 120 dwellings. This indicates a traffic generation of 13 arrivals and 50 departures in the am peak with 45 arrivals and 24 departures in the pm peak. The impact of this number of movements has then been assessed at a number of key junctions along the Loughor Road corridor.

2.2 The junctions assessed include;

### Site Access

Loughor Road/Belgrave Road  
Loughor Road/West Street

These are the junctions where impact is considered to be highest especially when combined with the other development sites on the corridor.

2.3 All junctions are shown to operate within their theoretical capacity. There are indications that the ratio to flow capacity at Belgrave Road and West Street junctions will approach 0.9 and therefore some queuing will take place. This concurs with the assessments submitted on the other development sites.

## 3 Site Access

3.1 Access would be from Glebe Road opposite Moriah Chapel. Road realignment is indicated and a mini roundabout installed. The realignment of the road to accommodate the necessary geometry for a mini roundabout would result in spare road space outside the chapel. Part of the road works therefore will include a bus layby that will accommodate the dropping off and picking up of church goers. The application is in outline form and therefore detailed design will be required. However indicative plans show that this scenario can be accommodated.

3.2 An indicative layout plan also indicates a possible internal road layout and whilst some minor amendment would be necessary, the proposal to serve the indicated number of dwellings is feasible.

## 4 Accessibility

4.1 There are footways along Glebe Road and Loughor Road that adequately serve the development. In addition there are two public footpaths present. Footpath LC39 runs along the western boundary of the development and LC 40 which runs through the site. LC 40 will need to be rerouted to follow the internal road alignment. Both footpaths connect to Culfor Road.

4.2 Bridleway LC 38 traverses east/west to the south of the site joining Culfor Road with Waun Road. The bridleway emerges opposite a proposed footpath from the Cae Duke development.

4.3 The National Cycle Network Route 4 utilises Culfor Road and is within reasonable distance of the site.

4.4 There is a 30 min frequency bus service past the site.

## 5 Road Safety

5.1 The allocated development sites on Glebe Road/Loughor Road have been required to contribute to a range of road safety enhancements in the area. These were identified as requirements under the safer routes in the community scheme and included, traffic calming, a pedestrian crossing and TROs in the wider area. The school drop off facility was a separate issue required to enable improvement to traffic flow along the Loughor Road corridor. This development could generate traffic movements along Waun Road which is in need of traffic calming and there needs to be better linkage with the public rights of way through and adjacent to the site. To that end, the developer is offering a contribution of up to £92,000 and this sum should be apportioned appropriately towards the range of works identified in mitigation of the additional traffic being generated.

5.2 The site access works, which includes the provision of a mini roundabout and bus layby I consider to be a separate issue and a consequence of providing access to the site. These works therefore will require full funding by the development in addition to the indicated contribution towards safer routes in the community.

## 6 Conclusions and Recommendation

6.1 The impact of the development traffic when added to existing and proposed traffic flows in the area is shown to be able to be accommodated on the surrounding highway network. Access improvements will be of general benefit to through traffic and potentially improve highway safety. Highway safety improvements in the area will ensure that development traffic does not have an adverse affect on identified issues and to that end a developer contribution towards mitigating the effects of additional development traffic is recommended.

6.2 I recommend no highway objection subject to the following;

i. Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Local Planning Authority.

ii. The site shall not be brought into beneficial use until a contribution towards local road safety enhancements has been made. This will require a sum of £92,000 to be deposited with the City and County of Swansea Council secured through a Section 106 Agreement.

iii. The site shall not be brought into beneficial use until the access works, including a mini roundabout and associated lay-by have been completed in accordance with engineering details to be submitted and approved.

iv. 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].

#### Management and Maintenance of Estate Streets - Note

The applicant is advised that to discharge this condition, 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.

v. All internal roads, footpaths and public areas shall be laid out and constructed to Highway Authority standards and Specification.

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

## **Appraisal**

### **Introduction**

Outline planning permission is sought for the construction of 92 residential units. Although the application is in outline form with all matters reserved, some significant supporting information has been submitted relating to amount of development, layout, access and landscaping arrangements.

The application is supported further by:

- Extended Phase 1 Habitat Survey
- Aboricultural Survey and Hedgerow Assessment
- Aboricultural Implications Assessment
- Transport Assessment
- Drainage Strategy

## **Site and Surroundings**

The site is located centrally within the urban settlement of Loughor and is accessed via one vehicle access point from Glebe Road. The northern site boundary backs onto houses and a petrol station, the western boundary is heavily wooded and runs along a public footpath, the eastern boundary abuts an area of open land and the southern boundary adjoins an area of green wedge. The application site extends to five fields, four of which benefit from a land allocation for housing development, the fifth is not allocated and lies within the adjoining green wedge and will be used to provide an attenuation pond and wetland habitat for the development.

Capel Moriah, the adjacent School building and the railings, are all Grade II listed with separate records (LB 479/479/480) and face Glebe Road directly opposite the site. They are constructed of local pennant stone with slate roofs and are largely unaltered and provide a heritage anchor to an area otherwise lacking in features of interest. Much of the significance of these buildings lies in the connection to Evan Roberts and the Welsh Revival in the early 1900's, and for this reason the Chapel attracts many visitors.

The general built character of the area is of irregular suburban blocks with dwellings fronting the street but with some instances of internal road and cul-de-sacs. The variety of block forms coupled with the difference in architectural styles found in the locality suggests an area which has grown incrementally in phases over time. This is further supported by the variety of housing types which range from traditional stone fronted Victorian terraces and public buildings through to larger, more recent house types incorporating modern suburban features such as shallow pitched or hipped roofs with overhangs and integrated garages.

The 3.81 ha site is irregular in shape and falls steadily downwards in a southerly direction providing vistas out from the site to the hillsides on the opposite side of the estuary. As the land slopes down from Loughor, it meets the railway line and A484 bypass at the bottom of the valley where the Afon Lliw River flows out to the Loughor Estuary to the west.

The patchwork of fields which make up the site is defined by well-established trees and hedgerows which are in themselves a significant constraint. A group Tree Preservation Order has been placed on a number of hedgerows and trees that cross the site.

A former mine shaft sits in the North West corner of the site and no development is intended within this area.

The site is allocated as a housing site under Policy HC1 (105) of the City & County of Swansea Unitary Development Plan 2008 (UDP) and although this land allocation

extends to an adjoining additional enclosure, this is in separate ownership and the owners have no immediate inclination to bring the site forward for development. Notwithstanding this, the application site forms the majority of the land allocation.

## **The Proposal**

The proposal seeks a residential development of up to 92 dwellings and associated infrastructure. It is acknowledged that the proposal are largely indicative due to the application being in outline form, however, it is considered that any consent issued should inform any future development that the design concept contained within the information submitted with this application should inform any detailed application. A suitably worded informative will be used to communicate this.

The application site layout includes 90 dwelling comprising a mix of 6 different house types. The scale parameters range from 7m – 10m in length; 5m -10m in width and 7m – 10.5m in height.

## **Main Issues**

The main issues for consideration with regard to this application relate to the acceptability of residential development at this greenfield site in terms of the impacts of the development on the character and appearance of the area, residential amenity impacts on neighbouring occupiers, impact of the development on access, parking, highway safety and impacts upon environmental interests having regard to the provisions of the policies of the City and County of Swansea Unitary Development Plan 2008 (UDP). There are in this instance no additional overriding issues for consideration under the provisions of the Human Rights Act.

## **Principle of Development**

The site forms part of an allocated housing site within the current UDP under Policy HC1 (Housing Sites) (105) 'Land South of Glebe Road, Loughor Road' where the potential for 110 homes is indicated. This site represents approximately 3.8ha of the wider allocation and with up to 92 homes being proposed, it has a density of approximately 24 homes per hectare.

It is allocated within the Greater North West Swansea housing policy zone. The amplification to the policy confirms that it is not necessary to phase the release of Greenfield land given the relatively low levels of release proposed. These Greenfield sites (including this site) are all within this housing policy zone where there would otherwise be a housing land shortage due to the lack of available alternative sites within existing settlements. Having regard to Policy HC1, the principle of residential development on this Greenfield site is acceptable and in accordance with the UDP housing strategy.

It is noted however that the scheme does not include the whole of the housing allocation site HC1 (105) as it excludes a smaller area of land to the east of the allocation. However it is noted that within the proposed layout, provision is made for future access to this land.

## Visual Amenity and Urban Design

The submitted design proposals show the scheme in its wider context which helps to show its relationship to the existing settlement pattern. The site currently comprises open fields lying to and accessed from the southern side of Glebe Road, behind existing properties and with very limited connections in other directions. Given these constraints the scheme integrates as well as possible into the existing community to the north. Given the limited connectivity of the site, it is well served by local facilities (within 175m distance) including 2 pubs, a chapel and petrol station with some local shop facilities. In addition to this there are a number of facilities within half a mile of the proposed site entrance which include Tre Uchaf Primary Scholl as well as a large green space for recreation nearby, Loughor RFC, Gower College Swansea (Gorseinon Campus) and Penuel Chapel. Further afield both Pontybrenin Primary School and Ysgol Gynradd Gymraeg Pontybrenin (Welsh Medium) are located less than a mile from the site. Public transport is within a short walk of the site entrance. It is also intended to provide a pocket park within the scheme for residents' use. Given the limited connections around the site boundaries, as well as the proximity to local facilities, the approach of a single vehicular access point to connect to the existing community is considered acceptable.

The site layout plan presents a scheme which has a mixture of house types and sizes, as well as varying plot sizes, which is a welcomed approach to a housing scheme of this size, as it helps create a mixed community with a good range of housing options as well as visual interest with an increase legibility and sense of place. The area around the site entrance to the north presents a higher density than the remainder of the scheme as a result of the use of terraced dwellings in this location. This succeeds in maximising access to the local facilities and allows for lower density detached houses on the edges which aids integration with the surrounding landscape. Some terraces are present elsewhere within the site but are generally short in nature. The remainder of the site appears suburban in scale and layout with detached or semi-detached properties in plots of varying sizes. Overall the proposal represents a scheme which incorporates a mixture of dwellings types and densities which helps create small character areas. Although the scheme is wholly residential, the proximity of the site entrance to a number of established local facilities offsets this.

The indicative layout scheme provides a hierarchy of streets with a main access street running through the scheme, supplemented by minor and shared streets coming off this to serve smaller groups of dwellings. The winding nature of the streets within the scheme respond to the natural/suburban location on the edge of the settlement abutting the countryside, and also aids in reducing traffic speeds whilst providing interest and legibility to the scheme. The proposed shared space areas around the linear green neighbourhood (a landscaped area of retained trees and hedgerows within the site) will also help to reduce traffic speeds and create a more pedestrian friendly environment. The building layout is well structured with perimeter blocks and dwelling fronting the streets. Also plots 1 and 13 address Glebe Road at the site access creating a gateway to the site and positive relationship to the established street scene.

Overall the scheme provides well defined streets and spaces as a result of the structure of the building layout providing a visually interesting townscape. Generally



views along the street are terminated well at the front elevation of houses, a notable exception to this however, is the initial view into the site from the entrance at Glebe Road which terminates at a row of parking spaces. However, this area is acknowledged as the connecting access point to the future development land to the east. The layout of the scheme appears to be well considered and the proposal presents good definition between the public and private realm with natural surveillance overlooking most publicly accessible areas.

There are no details of the facing materials of the dwellings, but this could draw on a wide palette. Given the proximity of the site entrance to the listed chapel opposite as well as the adjacent pennant stone pub, the character of these buildings will be significant in terms of stitching the character and appearance of the scheme to the wider area. It will therefore be important to ensure a high quality approach at the site entrance, possibly utilising natural stone in order to respond to the setting of the listed chapel.

Overall the indicative scheme is a well thought out response to the site location and its constraints and displays many good principles of urban design, and as such it is considered that the proposed indicative design and layout of the estate is acceptable and complies with the provisions of Policy EV1 and EV2 of the UDP.

### **Residential Amenity**

On the basis that this is an outline application with all matters reserved, the true impact of the proposal on individual households can only be assessed at reserved matters stage. However, some consideration is given below to the indicative layout scheme provided. However, when the reserved matters application is submitted, this issue can be addressed in detail at that stage.

With regard to the amenity of existing residents along Glebe Road, the closest property within the indicative scheme would be Plot 33, however this achieves a separation distance in excess of 40m from the rear of 101 Glebe Road. Whilst Plot 32 is situated closer to the site boundary, it is neighboured by the commercial petrol filling station/garage and as such residential amenity is not a consideration.

In terms of the residential amenities of the future occupiers of the development, overall the proposed garden size for most plots are sufficient for the size of the proposed dwellings, with more generous gardens provided to the larger dwellings in the southern part of the site and less significant gardens for the smaller dwellings to the north around the site entrance. It is in this northern area that some of the plots fall marginally below minimum separation distances

Having regard to the above, it is considered that the proposed development would not result in any significant impacts on the amenities of existing residents in Glebe Road and would not raise adverse impacts in respect of the residential amenities of the future occupiers of the proposed development. The proposal would therefore be in accordance with Policy EV1 of the UDP.

## Highways Impacts

The following self-explanatory comments have been made by the Head of Transportation and Engineering

### 1 Background

This proposal is for the erection of up to 92 dwellings on land south of Glebe Road, Loughor. This is one of 3 sites that have been considered in Transport assessments for developments along the Glebe Road/Loughor Road corridor. Each of the sites has included the impact of all others so that the combined impact of traffic from all 3 sites can be properly assessed.

The site has a frontage to Glebe Road of approximately 50m opposite the Moriah Chapel and it is intended to provide a mini roundabout at the access junction which will assist in keeping vehicle speeds low along that section of the highway.

### 2 Traffic Impact

Whilst this proposal is for up to 92 dwellings, the transport assessment has assumed to test the impact of up to 120 dwellings. This indicates a traffic generation of 13 arrivals and 50 departures in the am peak with 45 arrivals and 24 departures in the pm peak. The impact of this number of movements has then been assessed at a number of key junctions along the Loughor Road corridor.

The junctions assessed include;

- Site Access
- Loughor Road/Belgrave Road
- Loughor Road/West Street

These are the junctions where impact is considered to be highest especially when combined with the other development sites on the corridor.

All junctions are shown to operate within their theoretical capacity. There are indications that the ratio to flow capacity at Belgrave Road and West Street junctions will approach 0.9 and therefore some queuing will take place. This concurs with the assessments submitted on the other development sites.

### 3 Site Access

Access would be from Glebe Road opposite Moriah Chapel. Road realignment is indicated and a mini roundabout installed. The realignment of the road to accommodate the necessary geometry for a mini roundabout would result in spare road space outside the chapel. Part of the road works therefore will include a bus layby that will accommodate the dropping off and picking up of church goers. The application is in outline form and therefore detailed design will be required. However indicative plans show that this scenario can be accommodated.

An indicative layout plan also indicates a possible internal road layout and whilst some minor amendment would be necessary, the proposal to serve the indicated number of dwellings is feasible.

#### 4 Accessibility

There are footways along Glebe Road and Loughor Road that adequately serve the development. In addition there are two public footpaths present. Footpath LC39 runs along the western boundary of the development and LC 40 which runs through the site. LC 40 will need to be rerouted to follow the internal road alignment. Both footpaths connect to Culfor Road.

Bridleway LC 38 traverses east/west to the south of the site joining Culfor Road with Waun Road. The bridleway emerges opposite a proposed footpath from the Cae Duke development.

The National Cycle Network Route 4 utilises Culfor Road and is within reasonable distance of the site.

There is a 30 min frequency bus service past the site.

#### 5 Road Safety

The allocated development sites on Glebe Road/Loughor Road have been required to contribute to a range of road safety enhancements in the area. These were identified as requirements under the safer routes in the community scheme and included, traffic calming, a pedestrian crossing and TROs in the wider area. The school drop off facility was a separate issue required to enable improvement to traffic flow along the Loughor Road corridor. This development could generate traffic movements along Waun Road which is in need of traffic calming and there needs to be better linkage with the public rights of way through and adjacent to the site. To that end, the developer is offering a contribution of up to £92,000 and this sum should be apportioned appropriately towards the range of works identified in mitigation of the additional traffic being generated.

The site access works, which includes the provision of a mini roundabout and bus layby I consider to be a separate issue and a consequence of providing access to the site. These works therefore will require full funding by the development in addition to the indicated contribution towards safer routes in the community.

#### 6 Conclusions and Recommendation

The impact of the development traffic when added to existing and proposed traffic flows in the area is shown to be able to be accommodated on the surrounding highway network. Access improvements will be of general benefit to through traffic and potentially improve highway safety. Highway safety improvements in the area

will ensure that development traffic does not have an adverse effect on identified issues and to that end a developer contribution towards mitigating the effects of additional development traffic is recommended.

I recommend no highway objection subject to the following;

- i. Prior to any works commencing on the site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved traffic management plan shall be implemented and adhered to at all times unless otherwise agreed by the Local Planning Authority.
- ii. The site shall not be brought into beneficial use until a contribution towards local road safety enhancements has been made. This will require a sum of £92,000 to be deposited with the City and County of Swansea Council secured through a Section 106 Agreement.
- iii. The site shall not be brought into beneficial use until the access works, including a mini roundabout and associated lay-by have been completed in accordance with engineering details to be submitted and approved.
- iv. 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].

#### **Management and Maintenance of Estate Streets – Note**

The applicant is advised that to discharge this condition, 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.

- v. All internal roads, footpaths and public areas shall be laid out and constructed to Highway Authority standards and Specification.

Note: The Developer must contact the Highway Management Group , The City and **County of Swansea , Penllergaer Offices, c/o The Civic Centre , Swansea SA1 3SN** before carrying out any work . Please contact the Senior Engineer (Development) , e-mails to, tel. no. 01792 636091.

#### **Affordable Housing**

UDP Policy HC3 (Affordable Housing) highlights that where a demonstrable lack of affordable housing exists, the Council will seek to negotiate the inclusion of an

appropriate element of affordable housing on suitable sites. The evidence base for this need is the Local Housing Market Assessment which assessed the dynamics of the housing market in Swansea and underpins the Council's Housing Strategy. The affordable housing provisions has been subject to extensive negotiations which has resulted in a total of 19 affordable housing units being agreed equating to 20% provision rather than the 30% advocated within adopted Policy and SPG. However, there are a number of unknown costs associated with this development site. As host to a disused mineshaft there is an inevitable degree of grouting going to be required on the site which is currently unquantified but is estimated to be a minimum of £350,000. This figure is considered to offset the slightly exaggerated land value of £1,493,579,000 and the estimated cost per dwelling of sprinkler systems (likely to be a mandatory requirement on all new dwellings from 2016 onwards) of £3,075.00 per unit (£282,000 total). Having regard to this, on balance the provision of 20% affordable housing is considered acceptable and can be secured by a S106 planning obligation.

## **Education**

The Director of Education has requested a financial contribution. The following schools are within the catchment of the application site:

English Medium Primary – Tre Uchaf Primary  
English Medium Secondary - Penyrheol Comprehensive  
Welsh Medium Primary - YGG Pontybrenin  
Welsh Medium Secondary - Ysgol Gyfun Gwyr .

The development will generate the following pupils with the associated cost:

Primary – 28.52 (£295.810)  
Secondary – 20.24 (£320.764)

In January 2013, the surplus capacity at Tre Uchaf Primary was 59 with the projection figures for September 2019 being 59 also. However the Welsh Medium primary school YGG Pontybrenin is already over capacity with the projection figures for September 2019 indicating an overcapacity of 65.

In terms of secondary education English medium Penyrheol Comprehensive currently has capacity and the projection figures up to 2019 indicate a surplus capacity of 122. However, YG Y Gwyr has a 2019 projection figure of 168 overcapacity. On this basis a request of £295,810 has been made towards YGG Pontybrenin and £320,764 towards YG Y Gwyr.

The applicant has however contested these figures, based on there being sufficient English medium places and only a shortfall of Welsh medium places, and therefore the contribution should be linked to the anticipated number of Welsh Medium places required. The draft 'Welsh in Education Strategic Plan 2014-17' issued in December 2013 cites the Welsh Medium percentage in the City growing from 10.5% in 2013 to 16.4% in 2019 (year 6 pupils) or staying around the 14% level for Year 2 pupils. It is therefore argued that a fair and reasonable related contribution would be in the order of:

**92 dwellings x 0.31 primary aged children x 14% requiring Welsh Medium Places x £10,372 = £41,413.**

A similar argument is applied in terms of secondary education, namely that the contribution should only apply to the likely proportion of children that will require Welsh medium provision. The draft 'Welsh in Education Strategic Plan 2014-17' cites Welsh medium percentages in the City growing from 9.45% in 2013 to 13.4% in 2019 (year 9 pupils) . Therefore it is argued that a fair and reasonable contribution would be in the order of:

**92 dwellings x 0.22 secondary aged children x 13.4% requiring Welsh medium places x £15,848 = £42,982.**

The Director of Education has been provided with the above figures for consideration but to date has provided no response or comment. The applicant's rationale that it cannot be accepted that 100% of pupil generated by the proposal will require Welsh medium education is considered reasonable and the estimated figures for Welsh medium education take-up in the City are based on sound Welsh Government Guidance. On this basis, the applicant's suggested contribution of £100, 000.00 is considered acceptable and can be secured by a S106 planning obligation.

### **Open Space / Play Space Provision**

UDP Policy HC24 (Play Areas / Public Open Space) requires new housing developments where the level and nature of open space provision in the locality is inadequate, to: make provision for open space within or near to the development or: to contribute towards the provision or improvement of existing off-site facilities.

A request was received from the Parks Department requesting a contribution of £75,000 towards capital construction costs for the upgrading and increasing the size and items of play equipment at Childrens Corner, Loughor Road and Parc William, west of Loughor Road.

In justifying requests for Section 106 Obligations, the Authority is required to have regard to the following tests:

- Necessary to make the development acceptable in planning terms,
- Directly related to the development and
- Fairly and reasonably related in scale and kind to the development

Welsh Office Circular 13/97 (Planning Obligations) also advises that "developers may reasonably be expected to pay for or contribute to the cost of infrastructure which would not have been necessary but for their development. The effect of such infrastructure investment may be to confer some wider benefit but payments should be directly related in scale to the benefit which the proposed development will derive from the facilities to be provided. Developers should not be expected to pay for facilities which are needed solely in order to resolve existing deficiencies".

To meet the aforementioned tests, the facility needs to be accessible to young families from the proposed development. It is considered that upgrading existing play facilities mores than 1km distant from the site would not achieve this. Additionally, the scheme

includes two designated play areas as well as significant green corridors/neighbourhood greens. The adopted residential Design Guide seeks to ensure that the starting point for public spaces and play areas is an on-site provision within 5 minutes' walk or 400m from homes, which this scheme provides. As such the request for £75,000 towards improving existing facilities within the wider community is considered unjustified.

The play and open space provision within the application site is considered to be acceptable and complies with the provisions of Policy HC24 of the UDP.

## **Ecological Issues**

The applicant has submitted an extended Phase 1 Habitat Survey which highlights that the trees and hedgerows have an intrinsic interest in a local context and are likely to function as important sources of shelter and corridors for both bats and birds. Additionally the site provides appropriate habitat for terrestrial mammals. The Council's Ecologist has confirmed that the loss of a number of the trees and hedgerows within the site is acceptable as long as measures are taken to mitigation for this loss. As such it is considered appropriate to recommend conditions ensuring habitat species enhancement, the retention and protection of trees, and that hedgerows are not removed as part of the scheme. It is considered that the recommendations in section 6 of the ecological report should be followed.

## **Trees**

Due to the presence of a number of TPO trees on the site, the proposed indicative site layout incorporates a number of areas of existing vegetation to be retained. These areas relate to historic field boundaries and are well integrated into the scheme and provide character and a level of maturity to the scheme. Retained trees and hedgerows help to create 'green corridors' for ecology, provide structure to the development and highlight and create focal areas for open space. These retained features also help to soften views of the development from the wider countryside to the south. The retention of individual trees hedgerows as well as the existing vegetation covering the mineshaft provides good opportunities for biodiversity which helps to partially offset the impact of the development.

The submitted Arboricultural Survey and Hedgerow Assessment provides clear and accurate details regarding the quality, condition and constraints of the trees and hedgerows. Further to this, the Arboricultural Implication Assessment provides a detailed impact assessment of the trees and hedgerows.

Overall the proposal provides adequate space for many of the trees and hedgerows on this site and many of the high quality trees are retained, an example of which is the high quality native oak tree retained as part of the "Pocket Park." It is considered that the proposal is acceptable in arboricultural terms subject to the inclusion of the planning conditions and informatives.

## **Coal Mining Issues**

The Coal Authority considers that the content and conclusions of the submitted Mining and Contamination Assessment are accurate and recommend that a planning condition should be imposed requiring that further intrusive investigation works be undertaken, to confirm shallow coal mining condition within the southern part of the site prior to commencement of development. Subject to this, the Coal Authority has no objection to the proposed development.

### **Archaeological Issues**

Glamorgan Gwent Archaeological Trust have confirmed that they have no objection to the positive determination of this application, provided a condition be attached to any consent granted requiring the applicant to commission an archaeologist to conduct a watching brief during ground works, as there is still the potential to encounter as yet unrecorded remains of Roman date.

### **Drainage**

This development will separate surface water and land drainage from foul water, so the only drainage impact on the existing sewerage drainage system to Llannant WWTW will be a foul connection. Surface water will be managed and the proposal includes for an attenuation pond in the adjoining enclosure

Dwr Cymru Welsh Water has not objected to this scheme. Whilst Natural Resources Wales raised concerns last autumn regarding the impact of new residential development on the water quality of the estuary, there is no conclusive evidence that supports this view, and the application will discharge between manhole numbers SS57987001 and SS57985101 located in Glebe Road, which ultimate discharges via Llannant WWTW, which is unaffected by the ongoing issues surrounding water quality and surface water discharge in the area. In any event, as indicated above, foul and surface water discharges will be separated.

The arrangements for surface water drainage have been submitted and have been considered by the Council's Drainage Officer and NRW. Surface water from the roofs, hard surfaces and roads will be discharged via an attenuation pond and reed bed system at Greenfield rates.

The details provided are considered to be satisfactory in principle, but it is considered necessary to secure further details of the drainage arrangements via conditions, prior to the commencement of development on site, to ensure there is no potential future harm to the water environment of the estuary or the amenities of existing and future residents.

The current application if approved will be subject to planning conditions controlling drainage, including the use of SUDs. On this basis, there is no known evidence to justify refusal on drainage grounds. Subject to further control by conditions, it is considered that the drainage arrangements for this scheme are acceptable and can meet the overarching aims of sustainable development in this area, and satisfy the provisions of Policies EV33, EV34, and EV35 of the UDP.

### **Other Material Considerations**



The concerns raised by third parties are summarised above and have been addressed within the above appraisal. This includes reference to the current status of this Greenfield site, its acceptability for development and impacts upon the highway access, parking and public safety concerns relating to traffic, all of which are considered in the Highways section above. The indicative design and layout considerations have been carefully assessed and amendments have been made to the indicative scheme to ensure that the design and layout would be acceptable. The impact on trees, local wildlife and ecology has been properly assessed by NRW, the Council's Ecologist and the Council's Arboricultural Officer and subject to conditions are considered to be satisfactory in this respect.

Additionally, the site is crossed by a Public Right of Way, the initial part of which currently runs through a narrow un-lit alleyway. As part of the scheme, it is proposed to realign the public footpath which is considered acceptable in principle however, upon planning approval a formal submission to obtain both temporary and permanent diversion will be necessary.

## **Conclusion**

The proposal is for residential development of up to 92 dwellings on a site allocated for housing in the UDP. The proposal is considered to be acceptable in terms of its impacts on the character and appearance of the area, impacts on residential amenity and impacts on access, parking and highway safety.

The indicative layout and design of the development will create a distinctive development that has had regard to the hedgerows bounding the site and will enable land not previously accessible to the public to be used as open space / informal recreation, and will provide connections to the wider sections of the allocated housing site.

The drainage proposals have been considered in the above report including the foul connections and the hydraulic capacity issues, as well as the land / surface water drainage issues.

## **RECOMMENDATION**

**APPROVE**, subject to the following conditions and the applicant entering into a S106 Planning Obligation to provide:

- 19 units of affordable housing on the site;
- an education contribution of £100, 000
- a highways contribution of £92,100;
- Management plans for the future maintenance and management of the attenuation ponds and the maintenance, management and public access to the public open space and the play areas;

## **CONDITIONS**

1 Details of the access, 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.

Reason: To ensure that the development is carried out in an orderly and satisfactory manner.

2 Detailed plans and drawings with respect to the matters reserved in condition 01 shall be submitted for approval by the Local Planning Authority not later than the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that the development is determined within a reasonable period.

3 The development to which this permission relates shall be begun either before the expiration of 5 years from the date of this outline permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act, 1990 and to ensure that development is begun within a reasonable period.

4 The development shall be carried out in accordance with the following approved plans and documents: Drwg No 1107-TP01 Rev A - Existing Site Plan, received 1st May 2013.

Reason: To define the extent of the permission granted.

5 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: n the interests of the ecology and amenity of the area. dfasdfdsaf

6 Notwithstanding the Mining and Contamination Assessment (Ref 10986/PB/12) submitted in support of this planning application, before development works commence on site, a more detailed investigation of the contamination within the site shall be conducted and the results of this (in the form of a Phase 2: Detailed Investigation Assessment Report) shall be submitted to and approved in writing by the Local Planning Authority.

This Phase 2 Assessment shall;

a. Provide detailed site-specific information on substances in or on the ground, geology, and surface/groundwater

b. Provide for a more detailed investigation (Human Health Risk Assessment) of the site in order to confirm the presence or absence of those potentially significant

source-pathway-receptor pollutant linkages identified in the originally submitted Mining and Contamination Assessment.

Note; where any substance should be encountered that may affect any controlled waters the applicant, or representative, must contact the Environment Agency in order to agree any further investigations required.

In the event that the need for remediation is identified, the applicant/developer shall submit a subsequent detailed report (Phase 3 - Remediation Strategy Options Appraisal) to the Local Planning Authority for its written approval before development works commence on site.

This Phase 3: Remediation Strategy Options Appraisal shall indicate all measures to be taken to reduce the environmental and human health risks identified in the Mining and Contamination Assessment and Phase 2 Assessment, to an acceptable level, in a managed and documented manner, to best practice and current technical guidance.

The agreed remediation measures shall be implemented in full.

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

- 7 Prior to the occupation of any residential unit, a verification report demonstrating completion of the works set out in the approved remediation strategy required by Condition 6 and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and the reporting of this to the Local Planning Authority.

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

- 8 If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

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

- 9 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 to be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only materials approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and

Guidance Notes. Subject to approval of the above, verification sampling of the material received at the development site is required to verify that the imported soil is free from contamination and shall be undertaken in accordance with a scheme agreed in writing by the Local Planning Authority.

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

- 10 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 to 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 relevant Code of Practice and Guidance Notes. Subject to approval of the above, verification sampling of the material received at the development site is required to verify that the imported material is free from contamination and shall be undertaken in accordance with a scheme agreed in writing with the Local Planning Authority.

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

- 11 Prior to the commencement of demolition/construction works on the application site (including all access roads) a Construction Pollution Management Plan (CPMP) should be submitted to and approved in writing by the LPA. The CPMP is to include the following:

- a) Demolition/Construction programme and timetable
- b) Detailed site plans to include indications of temporary site offices/ compounds, materials storage areas, proposed compounds, delivery and parking areas etc
- c) Traffic scheme (access and egress) in respect of all demolition/construction related vehicles;
- 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 regard to best practicable means (BPM);
- 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 proposed crushing/screening operations); and
- k) Notification of whether a Control of Pollution Act 1974 (Section 61) Notice is to be served by Principle Contractor on Local Authority.
- l) A community and stakeholder liaison process.

Note: items g - j inclusive need to take particular account of the potential for statutory nuisance from site related activities [see Informatives].

Reason: To ensure minimal nuisance impact on local residents/businesses from construction activity.

- 12 Prior to the beneficial occupation of any building the appropriate basic Radon protective measures shall be installed and appropriate validation reports provided to the Local Planning Authority.

Reason: In the interests of ground stability and safety.

- 13 Prior to commencement of works on site, further intrusive investigation works shall be undertaken to confirm shallow coal mining conditions within the southern part of the site. In the event that the site investigation confirms the need for remedial works to treat any areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the proposed development, any such works should be undertaken prior to commencement of any works on site.

Reason: In the interests of ground stability and safety.

- 14 No development including demolition works shall commence on site until a scheme for the retention and protection of trees of British Standard 5837:2012 - Trees in relation to design, demolition and construction has been submitted to and approved in writing by the Local Planning Authority. This shall include full details on all works that impact on the original ground conditions within the root protection areas, as detailed in BS5837:2012 and in particular details of protective fencing, ground protection and construction method, required tree surgery operations, service trenching positions and any changes in ground level within the root protection areas of all retained trees. No development shall take place except in complete accordance with the approved scheme, and the works required by that scheme are in place. All protective fencing, ground protection etc shall be retained intact for the full duration of the construction phase of the development hereby approved, and shall only be removed, or altered in that time with the prior written approval of the Local Planning Authority.

Reason: To ensure the protection of retained trees on site during construction works.

- 15 No development including demolition work shall commence until all tree protection measures as detailed in the approved scheme have been implemented, inspected and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of retained trees on site during construction works.

- 16 No retained trees shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner with 5 years from the date of the first occupation of any building for its permitted use, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority.

Reason: To ensure as possible that the landscaping scheme is fully effective.

- 17 If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such a size and species and planted at such a time as may be specified in writing by the Local Planning Authority.  
Reason: To ensure as far as is possible that the landscaping scheme is fully effective and in accordance.
- 18 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 sustainable drainage system (SuDS) for surface water drainage and/or details of any connections to a surface water drainage network. The development shall not be brought into beneficial use until the works have been completed in accordance with the approved drainage scheme, and this scheme shall be retained and maintained as approved unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To ensure that a satisfactory comprehensive means of drainage is achieved and that no adverse impact occurs to the environment or the existing public sewerage system and to minimise surface water run-off.
- 19 Prior to the commencement of any development, a scheme relating to the maintenance of the surface water system shall be submitted and agreed in writing with the Local Planning Authority. The surface water system shall be maintained in accordance with the agreed scheme thereafter.  
Reason: To ensure the satisfactory long-term operation to prevent the increased risk of flooding.
- 20 Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made between manhole reference numbers SS57987001 and SS57985101 located in Glebe Road as indicated on the extract of the Sewerage Network Plan (attached to this decision notice).  
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.
- 21 Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.  
Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.
- 22 The development shall be carried out in accordance with the recommendations contained within Section 6 of the approved Extended Phase 1 Habitat Survey Report by Middlemarch Environmental received on the 30th July 2013.  
Reason: In the interest of protecting the ecology of the site and surrounding area.
- 23 Any open excavations during construction phase shall either be covered or fitted with ramps to prevent any terrestrial mammals that may be present from becoming

trapped in open excavations. Details of any ramps or covers to be used shall be submitted to and approved in writing by the Local Planning Authority prior to their use on site.

Reason: In the interest of protecting the ecology of the site and surrounding area.

- 24 Before the development hereby permitted is commenced, details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) together with any changes proposed in the levels of the site shall be submitted to and agreed by the Local Planning Authority in writing.

Reason: To ensure that the work is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, and the amenities of adjoining occupiers.

- 25 No part of the development hereby permitted shall be occupied until street lighting has been installed in accordance with a detailed scheme to be agreed with the Local Planning Authority.

Reason: To ensure a convenient and safe form of development.

- 26 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.

Reason: In the interest of highway safety.

## **INFORMATIVES**

- 1 The reserved matters application shall have regard to the urban design principles, development strategy and structural landscaping principles of the development, as set out in the information submitted in support of this application.
- 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 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 AS1, AS2, AS6, EV1, EV2, EV3, EV33, EV34, EV35, HC1, HC3, HC17 and HC24 of the Swansea Unitary Development Plan 2008.
- 4 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2010. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the

breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.

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

- 5 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
  - Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest in use or being built
  - Take or destroy an egg of any wild birdCare should be taken when working on buildings particularly during the bird nesting season March-August.
- 6 It is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
  - Kill, injure or take any wild bird
  - Take, damage or destroy the nest of any wild bird while that nest is in use or being built
  - Take or destroy an egg of any wild birdYou are advised that any clearance of trees, shrubs, scrub (including gorse and bramble) or empty buildings should not be undertaken during the bird nesting season, 1st March - 31st August and that such action may result in an offence being committed.
- 7 Care should be taken during development, and should anything be uncovered likely to be associated with mining, this should be reported to the Coal Authority.
- 8 Any culverting of a watercourse requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936, and the prior written consent of the Environment Agency under the terms of the Land Drainage Act 1991/Water Resources Act 1991. The Environment Agency seeks to avoid culverting, and its consent for such works will not normally be granted except for access crossings. The Environment Agency has no knowledge of flooding in this vicinity. However, you are also advised to consult with your Engineers Department, who may hold records/additional information, prior to the granting of planning consent.
- 9 The Environment Agency and the Local Authority have permissive powers to maintain watercourses depending on the watercourse's definition as "Main River" or "Ordinary Watercourse". The responsibility for general maintenance of the river and its banks rests with the riparian owner. Any bankside trees or vegetation within 3 metres of the watercourse should be protected from development in order to promote conservation and preserve visual amenity.
- 10 Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.



- 11 Any waste excavation material or building waste generated in the course of the development must be disposed of satisfactorily and in accordance with Section 34 of the Environmental Protection Act 1990. Carriers transporting waste must be licensed waste carriers.
- 12 The activity of importing waste into the site for use as, for example hardcore, must re-registered by the Environment Agency Wales as an exempt activity under the Management Licensing Regulations 1994.
- 13 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under over or within 7 metres of the top of a main river i.e. Nant-y-Fendrod & Nant Bran.
- 14 Any culverting of a watercourse requires the prior written approval of the Local Authority under the terms of the Public Health Act 1936, and the prior written consent of the Environment Agency under the terms of the Land Drainage Act 1991.
- 15 The applicant or his contractor should follow the advice given in BS 3998 (2010) 'Recommendations for Tree Work'.
- 16 The developer is advised to contact Dwr Cymru (Welsh Water) Telephone Swansea 772200 Ext. 2562 with regard to adequacy of water supply and position of water distribution mains in the area.
- 17 To protect the integrity of the Public Sewerage System, foul water and surface water discharges shall be drained separately from the site.
- 18 To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment, no surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.
- 19 To prevent hydraulic overload of the public sewerage system and pollution of the environment, land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
- 20 If connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.
- 21 The developer is advised that the Welsh Government are planning to introduce new legislation that will make it mandatory for all developers who wish to connect to the public sewerage to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW) (Mandatory Build Standards). Further information on the Mandatory Build Standards can be found on the Developer Services Section, DCWW at [www.dwrcymru.com](http://www.dwrcymru.com) or on the Welsh Government's website [www.wales.gov.uk](http://www.wales.gov.uk).

- 22 The developer is advised that some public sewers and lateral drains may not be recorded on Dwr Cymru Welsh Water's (DCWW) maps or 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. DCWW advise that the applicant contacts their Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.
- 23 All internal roads, footpaths and public areas shall be laid out and constructed to Highway Authority standards and Specification.
- 24 The developer is advised that the Council's Highways Dept will require a Construction Traffic Management Plan prior to construction works commencing on site. The developer must therefore contact the Highway Management Group , The City and County of Swansea , Penllergaer Offices, c/o The Civic Centre , Swansea SA1 3SN before carrying out any work . Please contact the Senior Engineer (Development) , e-mails to mark.jones@swansea.gov.uk , tel. no. 01792 636091.
- 25 Under the Flood and Water Management Act 2010 the City and County of Swansea is now classed as the Lead Local 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 a watercourse may be required irrespective of any other permission given and we encourage early engagement to avoid any issues.
- 26 It is an offence under the Town and Country Planning Act 1990 to:  
Cut down, uproot, top, lop, wilfully destroy or wilfully damage a tree protected by a Tree Preservation Order.  
Wilful damage to a protected tree includes damage to its surrounding rooting area by; excavation work, storage of materials or machinery, parking of vehicles, deposit of soil or rubble, disposal of liquids, or the mixing of cement.
- 27 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 Monday 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.
- 28 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.

# Agenda Item 8

## Report of the Head of Planning and City Regeneration

Planning Committee – 5 November 2019

### Approval of Mumbles Conservation Area Review Addendum for Public and Stakeholder Consultation

|                            |   |
|----------------------------|---|
| <b>Purpose:</b>            | This report provides an overview of the Mumbles Conservation Area Review Addendum and seeks authorisation to undertake public and stakeholder consultation.   |
| <b>Policy Framework:</b>   | City and County of Swansea Local Development Plan (2018).   |
| <b>Consultation:</b>       | Legal, Finance, Access to Services.   |
| <b>Recommendation(s):</b>  | 1) That the Mumbles Conservation Area Review Addendum document is approved for public and stakeholder consultation;<br><br>2) A schedule of responses to the representations received is reported back to Planning Committee for consideration and final approval as SPG. |
| <b>Report Author:</b>      | Krystyna Williams, Placemaking & Heritage Advisor   |
| <b>Finance Officer:</b>    | Aimee Dyer  |
| <b>Legal Officer:</b>      | Jonathan Wills  |
| <b>Access to Services:</b> | Ann Williams  |

#### 1.0 Introduction

- 1.1 This report seeks authority to undertake an additional 6 week public and stakeholder consultation exercise on the Mumbles Conservation Area Review Addendum. A copy is attached as Appendix A.
- 1.2 This follows the initial public and stakeholder consultation exercise undertaken during the summer of 2018. During this consultation there was strong support for the enlargement of the conservation area and many respondents suggested the inclusion of the 'northern seafront approach' along Mumbles Road (no's 420 – 488, even numbers only) into the expanded Conservation Area.

- 1.3 As a result of this, it is necessary to undertake an additional 6 week public and stakeholder consultation exercise to ensure that those with interests within the additional area have the chance to consider the proposals.
- 1.4 Once the consultation process is concluded, a schedule of responses to all representations received will be reported to this Committee for consideration, along with an amended version of the guidance document.

## **2.0 Background and Legislative/ Policy Context**

- 2.1 Conservation Areas are designated by the Local Planning Authority under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The principal considerations are the architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.
- 2.2 Designation as a Conservation Area does not mean that no change can occur or that only traditional designs are allowed, rather that there is a greater level of design and development control linked to policies HC1 and HC2 of the Swansea LDP (2010-2025), and the main consideration is whether any change 'preserves or enhances' the character of the conservation area.
- 2.3 In order to be effective a Conservation Area Appraisal needs to comprise:
  1. A 'Character Appraisal' which is an up to date record of the character of buildings and spaces including positive and negative features.
  2. A 'Management Plan' which indicates how the character of the area will be preserved and enhanced by a variety of means including Development Control, management of the public realm and spaces, plus possible environmental enhancements.
- 2.4 The City and County of Swansea has 31 Conservation Areas in a variety of rural and urban locations. Whilst the legislation sets out a duty to review the Conservation Areas from 'time to time', this has not occurred and as a result the only published information available are informal notes which comprise boundary plans and a very limited description of the area (often less than a single side of text). As a result there is a lack of up to date information on the character and appearance of the Conservation Areas to guide those preparing and assessing development proposals in these sensitive and historic areas.
- 2.5 The Mumbles Conservation Area Review has been prepared to provide an up to date assessment of the character and issues affecting the designated Mumbles Conservation Area. It will be used to help assess and determine planning applications in this area and may allow for the commencement of the process of introducing Article 4 Directions to provide greater control of various permitted development rights for selected properties.

### **3.0 Mumbles Conservation Area Review Addendum**

3.1 Mumbles Conservation Area was first designated in 1969. Since this time the area has never been reviewed or updated.

3.2 The Draft Mumbles Conservation Area Review seeks to:

- Define the special interest of the area and identify the issues which threaten its special qualities; and
- Provide guidelines to prevent harm and achieve the enhancement of the area.

3.3 As a result of the initial public and stakeholder held during the summer of 2018, there was strong support for the inclusion of an area defined as the 'northern seafront approach' and subsequently it is a requirement to undertake a further 6 week public and stakeholder consultation exercise.

3.4 The Addendum seeks to include the 'Northern Seafront Approach' comprising 420-488 (even numbers) Mumbles Road within the expanded conservation area boundaries. The area is considered to have a character and special interest similar to the area around Southend Gardens that meets the test for designation as a conservation area.

3.5 The 'Northern Seafront Approach' comprises traditional buildings that line the west side of Mumbles Road facing Swansea Bay on the approach into Mumbles and are considered to have a positive character. These linked buildings display a pleasant variety of scale from low two storey cottages to more grand three storey town houses all joined into a continuous frontage. Whilst many of these buildings have modern windows they retain traditional patterns of fenestration and whilst they have been re-roofed they retain a traditional roofspace punctuated by some remaining chimneys.

3.6 The area has many similar characteristics as the adjoining 'Seafront' character area defined in the draft Mumbles Conservation Area Review. Therefore this area comprising 420-488 Mumbles Road (even numbers) is considered to warrant inclusion within the enlarged Mumbles Conservation Area and further consultation will be required.

3.7 The implications of expanding the Conservation Area to include the 'northern seafront approach' is principally a greater level of design and development control to assess whether proposals preserve or enhance the area, as explained in paragraph 2.2. It should be noted that designation will not stop change.

### **4.0 Additional consultation**

4.1 The additional consultation will last 6 weeks and will include a drop-in opportunity for residents and stakeholders within the area to discuss the proposals (in the same manner as the main consultation). Comments made during the summer of 2018 on the Mumbles Conservation Area Review will stand.

- 4.2 The public and stakeholder consultation process will make use of a variety of consultation methods and will be focussed on the relatively small area proposed to be added to the Conservation Area review. This will include direct notification via letter, posting on the Council web page, publication of a press notice, etc. A drop in session will be organised in an accessible venue within Mumbles conservation area, most likely in Oystermouth Library, and will be timed to maximise attendance.
- 4.3 Following on from this additional consultation, the responses will be reviewed and incorporated into the engagement report for the conservation area review document including the final expanded boundary to be reported to Planning Committee as Supplementary Planning Guidance to the LDP.
- 4.4 The council website will be updated to reference the Mumbles Conservation Area Review Addendum.
- 4.5 All comments received will be recorded, evaluated and incorporated into the draft documents where considered appropriate. A summary of the consultation will be incorporated into the final SPG documents once adopted and a full detailed schedule of representations will be made available on request.

## **5.0 Financial Implications**

- 5.1 As noted in the original committee report for the initial consultation exercise, there are no financial implications arising from the publication of this SPG, as the cost of the public consultation process can be accommodated within existing budgets and staff resources. The consultation will, as far as possible, utilise electronic means of publicity and distribution.
- 5.2 The increase in size of the conservation area will result in greater scrutiny of planning applications that currently lie outside the area to ensure that they preserve or enhance the special character of the conservation area. Whilst this will result in an increase in the workload of the development management service and the Design and Placemaking Team, it is essential to properly manage the area. Any additional workload will be met from the existing team structures and budget.

## **6.0 Legal Implications**

- 6.1 The designation and proposed enlargement of the Mumbles Conservation Area will need to comply with national legislation set out in the Planning (Listed Building and Conservation Areas) Act 1990. The Mumbles Conservation Area Review Addendum will be consulted upon against the adopted Local Development Plan (2010-2025). The Supplementary Planning Guidance document will need to be taken into account as a material consideration in evaluating future planning applications.

6.2 The additional consultation for the addition of the area into the Conservation Area review was not approved as a recommendation on the original (3<sup>rd</sup> April 2018) Planning Committee Report authorising the 2018 consultation, hence this further report to Planning Committee. It is envisaged that future Conservation Area reviews will include a recommendation approving any additional/ re-consultation.

6.3 The final Mumbles Conservation Area Review incorporating the initial and additional consultation exercises will be reported to the Planning Committee for adoption as Supplementary Planning Guidance in due course.

## **7.0 Equalities and Engagement Implications:**

7.1 An EIA screening was undertaken for the 2018 consultation to assess whether a full EIA is required. It should be noted that the conservation area review provides a heritage framework for managing change and future projects:

- Where changes are proposed within commercial buildings these will also be subject to national requirements such as Part M of the Building regulations and the Equality Impact Assessment process.
- The potential public realm strategy for the promenade is a separate project that will be subject to a separate EIA screening and will require further consultation and engagement.
- It is not considered that the additional consultation focussing on a small area of properties and businesses raises any new EIA issues.

### **Background Papers:**

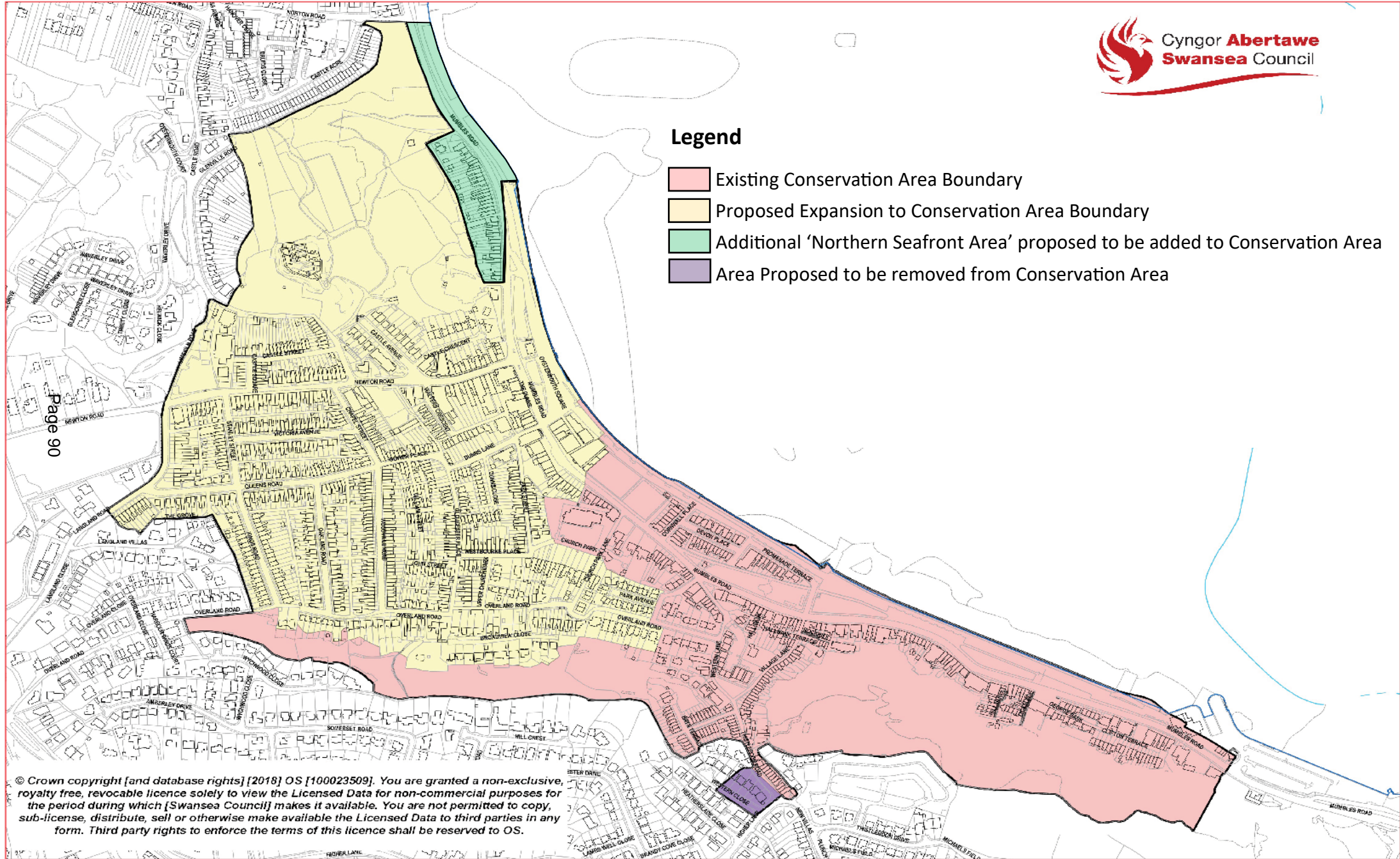
None

### **Appendices:**

**Appendix A:** Plan showing initial extended conservation area boundary and area of additional consultation.

**Appendix B:** Mumbles Conservation Area Review Addendum







## Mumbles Conservation Area Review Addendum

September 2019

During the summer of 2018 Swansea Council consulted on the review of Mumbles Conservation Area. This included proposals for an enlarged Conservation Area and definition of distinct character areas. The consultation draft document can be found at [www.swansea.gov.uk/mumblesconservationarea](http://www.swansea.gov.uk/mumblesconservationarea)

During the public and stakeholder consultation there was strong support for the enlargement of the conservation area and many respondents suggested the inclusion of the northern seafront approach along Mumbles Road into the expanded Conservation Area.



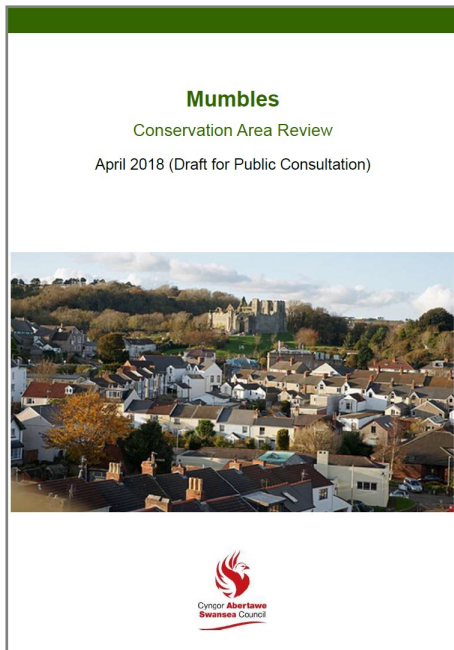
As a result, this short document is being sent to all occupants of properties in the 'Northern Seafront Approach' comprising 420-488 (even numbers) Mumbles Road (see area highlighted in yellow in plan to the left) to consult on the designation of this area as part of the expanded Mumbles Conservation Area.

### **Northern Seafront Approach**

This area is considered to have a character and special interest that meets the test for designation as a conservation area. The traditional buildings that line the west side of Mumbles Road facing Swansea Bay on the approach into Mumbles have a positive character. These linked buildings display

a pleasant variety of scale from low two storey cottages to more grand three storey town houses all joined into a continuous frontage. Whilst many of these buildings have modern windows they retain traditional patterns of fenestration and whilst they have been re-roofed they retain a traditional roofscape punctuated by some remaining chimneys.

This area has many similar characteristics as the adjoining 'Seafront' character defined in the Mumbles Conservation Area Review. Therefore this area comprising 420-488 Mumbles Road (even numbers ) is considered to warrant inclusion within the enlarged Mumbles Conservation Area and further focussed consultation will be needed with the occupants of this area.



## **Proposed amendments to Conservation Area Review Document**

The aspects of special character and architectural interest relating to the northern seafront approach will be highlighted as additions to the existing 'seafront' character area as set out on the following pages.

### **Focussed re-consultation**

The additional consultation will last six weeks. This will include a drop in opportunity for occupants to discuss the proposals (in the same manner as the main consultation).

Comments made during summer 2018 on the Mumbles Conservation Area Review will stand.

Following the conclusion of the focussed re-consultation the responses will be reviewed and incorporated into the engagement report for the conservation area review document including the final expanded boundary to be reported to Planning Committee as Supplementary Planning Guidance to the LDP.

You can look at the draft consultation documents online. Paper copies of the amended draft document will be available to view at Oystermouth Library.

If you wish to comment on the proposed expansion of the conservation area boundary, or if you want to look at and comment on any element of the above documents, then please visit:

[www.swansea.gov.uk/mumblesconservationarea](http://www.swansea.gov.uk/mumblesconservationarea)

**or contact:**

**Placemaking and Heritage Team**

**Swansea Council**

**Civic Centre**

**Oystermouth Road, SA1 3SN**

**Telephone: 01792 636320**

The following pages set out proposed changes (red text) to the Mumbles Conservation Area Review document to incorporate the northern approach (420-488 Mumbles Road, even numbers) into the seafront character area.

## 5.0 CHARACTER AREAS

### Identification of Character Areas

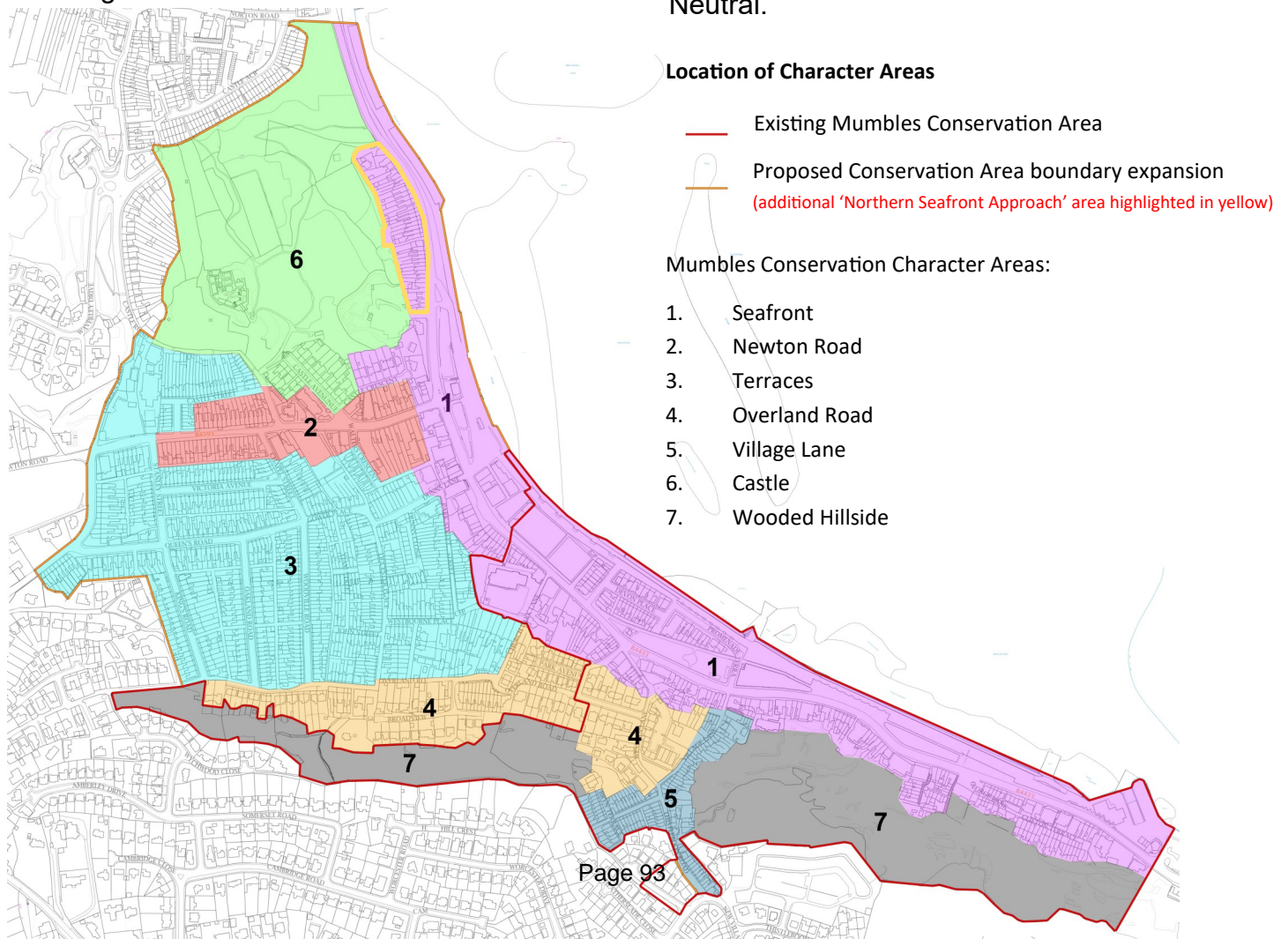
5.1 This appraisal of the Conservation Area identifies several distinctive character areas, including the proposed extension area, that are based on the periods and design of development, the density of development and their use. These Character Areas are indicated and described below.

5.1.2 The purpose of describing the key characteristics of each Character Area is to provide guidance for the consideration of any renovation or redevelopment proposed for that area, and to ensure it is appropriate within its local heritage context and does not damage its historic townscape.

5.1.3 The policy guidance and design principles described in Section 7.0 provide a recommended approach for both owners and local authority officers reviewing proposals for change in the built environment with an emphasis on the protection of the heritage.

5.1.4 The brief appraisals of each Character Area identify the main development forms, their layouts and the principle details that need to be respected. Section 5 provides an overall assessment of the conservation issues and lists the main positive and negative issues with the assets and problems which relate to all Character Areas.

5.1.5 Within each Character Area, notable buildings of historic or architectural interest are identified as Focal Buildings; all other heritage buildings and terraces that contribute to the streetscape are identified as Positive Buildings – though some display significant damage through inappropriate repairs and alterations; and those buildings that are of inappropriate scale, materials or design and damage the historic character of the Conservation Area are shown as Negative Buildings. All others are considered as Neutral.





## Seafront Character Area

5.2 Mumbles seafront provides the 'public face' of the town and as such, its townscape qualities and character are particularly important to protect, improve and enhance. The development along much of its length has a long history. The seafront was fully built up by Victorian times when many of the current terraces replaced earlier buildings. Edwardian buildings followed and it was not until the later C20th and early C21st when significant further changes occurred.

5.2.1 Within this Character Area, the long line of sea facing development on the western side of the Mumbles Road – **from the long row of sea facing buildings which form the northern seafront gateway to Mumbles Road, past the Newton Road junction to the narrowing of the developable land past Verdi's restaurant to the south**, presents the main townscape.

5.2.2 Two 'islands' of buildings breaks the almost continuous sea views:

- the commercial group that starts at the Dunns Lane junction with a striking two storey brick corner building with horizontal plaster banding, followed by brick and rendered properties, and ends with the recently built, 'Oyster Wharf' development; and
- a residential area including Cornwall Place, Devon Place and Promenade Terrace opposite the Western Lane junction with Mumbles Road. The late Victorian properties are terraced, mostly three storey and built in brick, with a row of lower two-storey C20th semi-detached houses. A few of the Victorian houses at the Mumbles Road junction have commercial uses.



The Dunns with the Methodist Church and commercial unit opposite on Mumbles Road



Oyster Wharf, Mumbles Road facing elevation (above) and seafront facing elevation (below)



5.2.3 Otherwise, the area between the Mumbles Road and the sea wall is public open space:

- at the northern end, **the area between the Norton Road/Mumbles Road junction running past the sea facing dwellings to the east of the Castle and up to the Mumtaz restaurant comprises of the promenade and buffering areas of grass between this and the highway**. The area opposite the Newton Road junction has proposals for a new development called 'Oystermouth Square' development which is subject to a development brief and is approved as a SPG. Currently used for car parking, this site is screened by a small area of trees and grass. Though the designs are not finalised, they retain the view from Newton Road to the sea.
- between the two built-up areas are tennis courts and bowling greens lined with trees. An attractive small sports pavilion provides a heritage note which should be protected;

- between the Mumbles Road and Devon Place, and to the south is a public park area defined by low railings. The two plots of land with mature trees and grass provide an important public facility and visual interest. A small shelter and store room provides another attractive heritage note;
- to the south of the parks, hard surfaces prevail with car parking areas and a boat park, owned and operated by the Council, that are screened by a low wall; and
- at the end of the Conservation Area is the attractive modern design of the single storey Verdi's restaurant with outside seating and a view over the slipway and across the Bay to Swansea.
- Linking these spaces is the sea wall promenade – a hard surfaced pedestrian and cycling route which follows the line of the historic tramway line.

5.2.4 Behind the line of the sea facing terraces on the west side of Mumbles Road, and on higher land, is the parish church. All Saint's Church is Listed Grade II and is notable for its medieval fabric and interior detail. The higher position, within its churchyard, provides views of its stumpy castellated tower from the sea.

5.2.5 The significant townscape characteristics of this Character Area are created by the lengths of three storey terraces interposed by a variety of buildings on the west side of Mumbles Road. Though they maintain common qualities, the different designs and mixture of commercial and residential uses introduce variety and visual interest.

5.2.6 Key townscape characteristics to be respected include:

- The mix of two and mainly three storey Victorian and Edwardian terraces that provide a consistent visual theme to the continuous frontage.
- Within this format, although there is a variety of design, most buildings are rendered with light or pastel colours and slate or slate effect roofing. Other materials are occasionally used, with the

later properties tending to have more gable-ends facing the road.

- The fenestration mainly follows a vertical C19th pattern which adds to the rhythm and qualities of the heritage streetscape.
- The numerous public houses scattered along the Mumbles Road create important focal points for the local economy and visual qualities of the continuous frontage. Most are notable buildings – eg. The George, the Village Inn and the Antelope (though now empty and in need of renovation), and provide variety and interest to the streetscape.
- Further north from All Saint's, nearer to the Newton Road junction, the mix of uses becomes more commercial and introduces public buildings. Other than an inappropriate late C20th brick development with ground floor shopping, the buildings are of historic interest. The old Post Office is next to the Methodist Church Listed Grade II, and after Dunn Street are a mixture of two storey buildings including a corner Edwardian shop, Mount Zion Hall, a group of shops with a variety of heritage designs, and older, lower buildings leading up to the Newton Road corner three storey White Rose inn and a late Victorian group of two storey brick shops on the facing corner. **To the north of this lies a long row of 2 & 3 storey buildings which define the seafront approach to Mumbles from the north.** **These frontages** present an important heritage streetscape that is a gateway on arrival in Mumbles.

5.2.7 Throughout the length of the seafront there are notable buildings that have qualities or characteristics that make them **focal points** and important heritage features in the streetscape. On the Mumbles Road these include:

- The White Rose Inn; the Methodist Church; the former Post Office; the Village Inn; the recently converted Conservative Club, The George Inn; 722 Mumbles Road; and the Bristol Channel Yacht Club building.





The White Rose Inn on the junction of Mumbles Road &



Recently converted and extended Conservative Club, 672



Bristol Channel Yacht Club (grade II listed building)



Northern approach buildings into the seafront character area with differing scale and linked frontage overlooking Swansea Bay

5.2.8 There are few **negative** buildings which are of inappropriate scale, materials, design or massing and create a negative effect on the historic character of the Conservation Area. The outstanding examples are:

- the late C20th row of six shops to the south of the Post Office built in brick with unsympathetic fenestration and flat roofs;
- 664 – 668 Mumbles Road, a two–storey terrace which introduces new materials, fenestration and roof lines which do not accord with their neighbours;

5.2.9 Neutral buildings are mainly C20th and are unobtrusive because they respect the scale, materials and detail of surrounding properties, though some are older properties that have been heavily altered and no longer preserve the character of the Conservation Area. There are a number of examples on the Mumbles Road where improved attention to design using heritage forms and details would improve their appearance in the townscape.

5.2.10 The major concerns along the Mumbles Road are the gradual replacement of heritage details with inappropriate designs and materials, and examples of poor maintenance. Many of the historic terraces display examples of these issues that are changing their historic character and altering the townscape.

5.2.11 The protection, improvement and enhancement of the long Mumbles Road frontage should follow the guidance set out in section 7 – Policy Guidance and Design Principles. Of particular importance will be the need to recognise that the scale, height and massing of any development accords with the historic characteristics of the area.

For full details of the Mumbles Conservation Area review document please see [www.swansea.gov.uk/mumblesconservationarea](http://www.swansea.gov.uk/mumblesconservationarea)