

Briefing Note

Our ref WE/JCO/SG
Date 18 October 2019
To Mumbles Community Council
From Lichfields
Copy

Subject Land at Higher Lane, Thistleboon

1.0 Introduction

- 1.1 An application for the development of the 1.25ha site to the southern side of Higher Lane, Thistleboon, was made in December 2018. The proposals included residential development (up to 33 dwellings) with associated road infrastructure, drainage provision and landscaping. The number of dwellings shown on the current drawings is 31.
- 1.2 This Briefing Note assesses the application submission in terms of process and content and is provided to Mumbles Community Council and local residents for consideration in their representations to the re-consultation exercise currently being undertaken for the proposed application.
- 1.3 As part of this, we have reviewed matters relating to the need for and appropriateness of the EIA 'Screening Opinion' and we have looked the PAC process and post-submission comments and correspondence. We also offer commentary on matters relating to landscape and visual impact and the design of the development.

2.0 EIA Screening Opinion

Overview

- 2.1 Within this section, we address the "need" for an EIA screening opinion and the process followed by Swansea Council in providing a screening opinion. Specifically we give our view on whether the timings of the screening opinion were appropriate and whether sufficient information was (and is) available to allow the Council to come to a proper and informed conclusion on specific environmental aspects.

The Need for a Screening Opinion

- 2.2 The following discussion has been prepared with reference to the Town and Country Planning (Environmental Impact Assessment) (EIA) (Wales) Regulations 2017 (as amended) (hereon referred to as the EIA Regulations), Welsh Office Circular 11/99 'Environmental Impact Assessment' and the Screening Opinion issued by the City and County of Swansea (undated).
- 2.3 EIA is required for all projects that could give rise to significant environmental impacts. EIA development is either defined as Schedule 1 (where EIA is required in every case) or Schedule 2, where EIA is only required if it is likely to give rise to significant environmental effects.

- 2.4 Schedule 2 of the EIA Regulations provides thresholds above which projects are considered more likely to give rise to significant environmental effects. For housing the applicable thresholds on non-sensitive sites are over 150 houses or where the site area is over 5 hectares.
- 2.5 Where any part of a site is in a “sensitive” area there is no minimum applicable threshold on the number of houses or the size of the site. In this instance the site falls entirely within the Gower Area of Outstanding Natural Beauty (AONB). A screening opinion is therefore required.
- 2.6 Screening whether a project requires EIA is not mandatory for the applicant however if a planning application is submitted that is within a sensitive area, and it has not been screened or is not accompanied by an Environmental Statement, the EIA Regulations require that the relevant local planning authority, in this case Swansea Council, adopts a screening opinion. Importantly, the Regulations require that the screening opinion must be adopted within 21 days of receipt of the application or a longer period (up to 90 days) if agreed in writing with the applicant.
- 2.7 In order to adopt a screening opinion the local authority must have sufficient information to allow it to come to a view on whether significant environmental effects are likely. The screening opinion must also state the main reasons for the conclusion, with reference to the criteria listed in Schedule 3 of the EIA Regulations (the characteristics of the development, the location of the development and the types and characteristics of the potential impact). If it is determined that the project is not EIA development the opinion must state any features of the proposed development and measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

Comments on the Screening Opinion Provided by Swansea Council

- 2.8 Turning to the screening exercise undertaken for Higher Lane, whilst the screening opinion is undated it is understood that it was issued during w/c 7th October 2019 and the Council confirmed it had been very recently completed. Given that the application was received on 13th December 2018 and validated on 14th December 2018, the procedure for screening the application within 21 days was not followed and there is no evidence that a time extension of up to 90 days was sought by the Council or agreed with the applicant in writing.
- 2.9 The screening opinion itself does refer to the criteria listed in Schedule 3 of the EIA Regulations and does come to a clear view that EIA is not required. However, there are a number of weaknesses to the document that are summarised below.
- 2.10 The robustness of the Landscape and Visual Statement submitted with the application is questionable. This is a point also raised by Natural Resources Wales in their consultation responses to the application as detailed further below in Section 5. The submitted information provides limited evidence on which a conclusion can be reached on whether impacts are likely to be significant. No visualisations were provided and only limited viewpoints were assessed which does not allow a full appreciation of the potential impacts from all sensitive receptors such as the Wales Coast Path, the coast, the network of adjoining footpaths and/or the existing footpath through the Higher Lane site.
- 2.11 Given that the same concerns have been raised by statutory consultees, we question whether the Council had sufficient information to assess landscape, seascape and visual impacts to allow it to come to an informed view that EIA is not required on these matters. The AONB status and the location of the site in the coastal zone is of particular relevance in this respect.

- 2.12 The screening opinion states that there are no drainage related concerns to the proposals as a SUDS approach would be used. However, ground investigations have confirmed that SUDS is unfeasible at the site due to the protected aquifer status and the presence of solution features, and the application documents do in fact provide for off-site drainage to a drain that discharges into the Langland Bay (Rotherslade) SSSI, above Lambswell Beach. Comments received by the Council’s Senior Drainage Engineer provided in January 2019 confirm the off-site drainage arrangements and raised significant concerns about erosion that was already occurring at the discharge point and within the channel between the discharge point and the cliff edge, which would be further exacerbated by the scheme. This is an issue of concern as the SSSI designation is based on the cliff geology, in particular the glacial deposits that outcrop at this location. It is understood that erosion from the discharge is causing collapses of these deposits and this would be expected to worsen if water volumes increase.
- 2.13 It is understood that additional information has subsequently been provided by the applicant regarding the capacity of the culvert and some limited headworks around the discharge point however no detailed consideration appears to have been made in regard to the suitability of the proposed works or to how the increased drainage (in an unlined channel) will impact on the stability of the cliffs.
- 2.14 This is an important issue and we query whether the Council had access to sufficient information to assess if the SSSI and AONB at this location would be impacted from off-site drainage when coming to the view that EIA is not required. The fact that the Council did not mention the drainage into the SSSI in the screening opinion and suggested on-site approaches to managing surface water discharges within their review further amplifies this concern. Given the need to conserve and enhance the AONB and the SSSI at this location, and the potential for the current drainage strategy to adversely impact on these sensitive receptors, we would suggest that full details should be provided and agreed with relevant agencies before the application is determined.

3.0 Pre-Application Consultation

- 3.1 The Pre-Application Consultation (PAC) Statement, December 2018, which accompanied the application summarised the responses from **Statutory Consultees** at that time as follows:

Point Raised	Response
DCWW – No objection	Noted.
PROW Officer – No comment	Noted.
CADW – No objection	Noted
NRW – Significant Concerns, relating to lack of LVS (absence of photomontages and photographs), and further information relating to a Lighting Plan and Landscape and Hedgerow Management Plan.	Noted and as a result, further visual assessment details are provided as part of the application submissions. The proposed conditions put forward by NRW in relation to a Lighting Plan and Landscape and Hedgerow Management Plan are supported.
Local Highway Authority – No objection, subject to minor amendments.	The suggested minor amendments to the scheme have been explored and will be discussed in further detail with the Authority during the determination of the application.

- 3.2 Appendix 2 of the PAC report also included comments from objectors and centred upon a number of key themes. The following table lists these objections and highlights any responses which have been received since the application was submitted, and resultant actions/ amendments made to the proposals.

Objection	Post submission responses/actions
<p>PPW's guidance that major development should not be permitted within AONBs unless there are exceptional circumstances, and that such development in a coastal zone can only be permitted if it "must be" at that specific location.</p>	<p>Letter from Tom Evans: Strategic Planning Team Leader, CCS (dated 28 January 2019) Site is allocated as a 'Local Needs Housing Exception Site H5.6' (under Policy H5 of the adopted LDP). The site is located within the West Strategic Housing Policy Zone (SHPZ) and in close proximity to the Gower Fringe SHPZ – and will help to meet demand in both zones.</p> <p>The sensitive location of the site was acknowledged as part of the LDP site selection process. This resulted in modifications being made following the plan examination – 'having regard to the sensitive location and potential visual impacts of development, emphasising that scheme design should not unacceptably impact on the nature of the AONB and coastal features.'</p>
<p>Proposals do not conserve or enhance the natural beauty of the AONB, as required by CROW Act 2000, PPW, UDP and 'emerging' LDP</p>	<p>This issue does not seem to have been addressed, as illustrated by the comment provided on the landscape and visual assessment, and issues regarding the SSSI – as discussed previously.</p>
<p>Landscape and Visual Assessment is not in accordance with best practice, and does not provide a robust assessment</p>	<p>Letter from Aled Roderick, NRW (dated 8 October 2019) Responding to initial pre-application response – noting that 3 photographs submitted as part of the Landscape and Visual Statement do not appear to have been taken in accordance with accepted guidance. Photomontages, previously requested by NRW have not been prepared.</p>
<p>Loss of PRoW (MU5) and associated open green space would be a significant loss of amenity, and impact upon well being</p>	<p>Design Response PRoW MU5 now retained (albeit re-routed) through development. A new footpath link has been shown from the southern boundary of the development to link to MU3</p>
<p>Poor accessibility to services and facilities by non-car modes of travel and does not support sustainable modes of travel – therefore not a sustainable location</p>	<p>Transport Statement submitted by Vectos (24 September 2019)</p>
<p>Site access and improvements to neighbouring highway infrastructure are inappropriate, and traffic impact on public health underestimated</p>	<p>Transport Statement submitted by Vectos (24 September 2019)</p>
<p>Significant potential for land instability from construction and management of drainage</p>	<p><i>Refer to response to managing surface water</i></p>

<p>Insufficient evidence to rule out unacceptable impact on habitats – inappropriate site clearance</p>	<p>Land at Thistleboon Swansea: Extended Phase 1 Habitat Survey and Bat Assessment submitted by Soltys Brewster (8th November 2018)</p> <p>Land at Thistleboon Swansea: Badger Survey submitted by Soltys Brewster (February 2019)</p> <p>Letter from Aled Roderick, NRW (dated 8 October 2019) highlights that bat activity was recorded along the eastern and (in particular) western hedgerows – advising that these should be retained and strengthened. This should be delivered via a Landscape and Hedgerow Management Plan. It is not clear whether this document has been prepared or submitted, though it could be covered by a planning condition.</p>
<p>Significant loss of privacy of neighbouring residents</p>	<p>Scheme designed in accordance with relevant offset distances and reduced development height adjacent to neighbouring property – with some exceptions, as highlighted within the ‘Design Critique’</p>
<p>Form and nature of the proposed development is inappropriate for its location within the AONB</p>	<p>Refer to 5.0 AONB Design Guide/ Design Quality below</p>
<p>No viable solution for managing surface water</p>	<p>Design Response: Drawing Ref 18051-150B Outfall Details (19/09/19)</p> <p><i>Refer to the comments above in relation to the off-site drainage to the SSSI</i></p>
<p>Local schools are already at full capacity</p>	<p>Education Assessment submitted by Turley (July 2019) illustrated that primary pupils generated by the proposed development could reasonably be expected to be accommodated within existing provision. Also that there is sufficient forecast secondary and sixth form capacity to accommodate demand from the Proposed Scheme if DfE’s recommended spare capacity for operational flexibility is applied</p> <p>CCS Education provided updated figures on 3 October 2019</p>
<p>Site conflicts with many core LDP ‘Sustainability Objectives’</p>	<p>The site is allocated so we assume no conflict identified as part of plan preparation.</p>

Insufficient consultation by developer	<p>Pre-Application Consultation Process: JCR Planning informed Council on 14 November 2018 – for comments by no later than 12 December 2018</p> <p>Public Exhibition Held 4th December 2018 at Ostreme Centre, Mumbles from 12 noon to 5:30pm</p> <p>Documentation available online and at Oystermouth Library</p> <p>It is noted that over 1000 objections have been lodged in regard to the proposals, which highlights the extent of local interest and emphasises the need for a transparent and appropriate consultation and design development process.</p>
Unnecessary loss of Best and Most Versatile (BMV) land	Agricultural Considerations Report submitted by Kernon Countryside Consultants Ltd (June 2019)

4.0 Post Submission Comments/ Correspondence

4.1 The table below indicates comments which have been received from statutory consultees since the initial submission, in chronological order. The developer's response to these comments have also been included, where relevant. There is a degree of overlap between this table and the table above.

Consultee	Date	Comment
CCS Education	03/01/19*	<p><i>*resubmitted on 21/02/19 and updated on 03/10/19 due to change in number of dwellings</i></p> <p>£82,976 contribution requirement for English Medium Primary (no requirement for Welsh Medium)</p> <p>£79,240 contribution requirement for English Medium Secondary (no requirement for Welsh Medium)</p> <p>£17,013 contribution requirement for English Medium Post 16 provision (no requirement for Welsh Medium)</p>
CCS Drainage	07/01/19	<p>No objection in principle however recommended application withdrawn or deferred as insufficient consideration given to some aspects, namely:</p> <ol style="list-style-type: none"> 1. Erosion of outfall of existing watercourse at coastal end 2. Capacity of existing concrete /culvert to take proposed new flows <p>There is no evidence to suggest that '1' has been addressed.</p> <p>Developer Response: Drawing Ref 18051-150B Outfall Details (19/09/19)</p>
CCS Planning	28/01/19	See copy of letter from Tom Evans: Strategic Planning Team Leader, CCS
Mumbles Community Council	Feb 2019	Concerns included within 'Objectors' table

Cnlr. M Langstone	Feb 2019	Concerns included within 'Objectors' table
GGAT	22/03/19	Confirmation of an archaeological constraint – whilst proposals have taken into account intervisibility with SAMs, no consideration has been given to the impact of development on potential archaeological remains.
		Developer Response: Written Scheme of Investigation for Archaeological Investigation submitted June 2019
Designing Out Crime Officer	16/07/19	Concerns regarding lack of overlooking of footpath to western side of site (behind plots 1-11). (Note, this is an existing path outside of the application site). Lack of visibility of parking bays to rear of plots 1-7
CCS Countryside Access Officer	27/09/19	In agreement so long as diverted footpath MU5 (through site) ensures continued access to coastal footpath MU2. New dedicated footpath link provided from southern end of development to MU3. Drainage from development will not impact PROWs. Works to prevent coastal erosion towards MU2 will be undertaken by developer. £25k s106 contribution towards coast path (MU2) improvements.
NRW	08/10/19	Highlights that additional information provided following previous comments on 14/01/19 (photographs from 3 viewpoints) do not appear to have been taken in accordance with best practice as laid out in Landscape Institute Advice Note 01/11 Furthermore the photomontages requested previously have not been provided – therefore unclear as to whether the amended scheme will have a negative impact on AONB. Also highlights concerns regarding potential effects of increased lighting on AONB – recommends that a detailed lighting plan/ strategy is provided as a condition of any permission. Notes the submission of 2 further documents namely, Badger Survey (February 2019) and Extended Phase 1 Habitat Survey and Bat Assessment (08/11/19)

5.0 Landscape and Visual Statement

- 5.1 The statement prepared by Soltys Brewster provides a 'concise summary' of the baseline issues. Initially submitted in November 2018 it is accompanied by:
- 1 ZTV and Visual Envelope Plan
 - 2 Sensitive Landscape Receptors Plan
 - 3 3 Representative Viewpoints
- 5.2 There have been no additional landscape or visual statements provided, so the scheme considered is not the existing scheme, which is subject to re-consultation.
- 5.3 As indicated above NRW (in their letter of 08/10/19) raises concerns over the methodology of the photography, and the lack of 'photomontages' illustrating the proposals. There appears to

have been no response to these concerns and no reasoning behind the choice of the three viewpoints addressed by the assessment.

- 5.4 We also note that within the visual envelope, defined as *'indicative areas of land visible from locations within the site'*, there are two public rights of way which are likely to have views into the site, namely MU4 to the north western extent of the cricket ground, and MU5 which runs through the development site. Also importantly views into/ across the site from Higher Lane have not been considered. The site's northern boundary marks a distinct change in character between the suburban estates and coast beyond and, as such the potential effect upon this area would have expected to have been carefully considered as part of the Landscape and Visual appraisal work.
- 5.5 Whilst not formerly adopted as supplementary design guidance the Local Seascape Character Assessment (Carmarthen Bay, Gower and Swansea Bay) November 2017, should be referenced as part of the assessment, with particular reference to the intervisibility of the land with the sea. This was highlighted as a requirement in the LDP report (and informative) for the Higher Lane site.
- 5.6 The site lies within Seascape Character Area 7: Pwlldu to Mumbles Head. One of its key characteristics is that *'development impinges on the accessible bays and some clifftops, giving it a suburban character in places towards the east'*. It is therefore important that this matter is considered, as part of the landscape and visual assessment, which it isn't at present.
- 5.7 It should be noted that the landscape and visual appraisal pre-dates the adopted plan and as such should be updated to assess the proposals against the current adopted plan, namely the Swansea Local Development Plan (LDP) 2010-2025.
- 5.8 At present we consider that the current landscape and visual appraisal provides a 'light touch' assessment of the potential effects of the proposals. This seems inappropriate for such a sensitive environment in the AONB. Appraisal of additional viewpoints which address the current intervisibility between the site and the sea would be expected and robust reasoning given as to the choice of the specific viewpoints chosen for assessment. Further modelling of the proposals would provide a degree of certainty as to the actual visual effects resulting from the proposals, allowing for a more robust assessment.
- 5.9 The above points justify our opinion that the Council does not have sufficient information to adequately assess landscape, visual and seascape impacts or, as discussed within Section 2, come to the view that that EIA is not required on this basis. This is especially relevant for this site given the AONB status and the location in the coastal zone. The fact that the present assessment does not actually assess the scheme that is being consulted on underlines this point.

6.0 Policy and Design Guidance

- 6.1 Key design policies and guidance are highlighted below, followed by a brief critique of the proposals.

LDP Policy PS2: Placemaking and Place Management

- 6.2 The LDP's key placemaking policy states that,

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

6.3 The policy then lays out 17 criteria which proposals should consider.

LDP Policy H5: Local Needs Housing Exceptions Sites

6.4 Site is allocated as a 'Local Needs Housing Exception Site H5.6. This results in a requirement for a minimum of 51% Affordable Housing for Local Needs. The sensitivity of the site, due to its location within the AONB was highlighted throughout the LDP process. Following the plan examination modifications were made to Policy H5, and within the site-specific guidance (Appendix 3) a preference for 'low lying' development is highlighted (see below):

A Landscape and Visual Impact Assessment will be required at planning application stage to ensure careful integration of site into landscape and consider wider seascape impact and impact on Wales Coast Path. Preferable 'low lying' buildings with suitable landscaping to ensure minimal adverse impact on landscape/seascape.

LDP Policy ER4: Gower Area of Outstanding Natural Beauty (AONB)

6.5 The LDP policy concerned with development within Gower states

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

- i *Not have a significant adverse impact on the natural assets of the AONB or the resources and ecosystem services on which the local economy and well-being of the area depends;*
- ii *Contribute to the social and economic well-being of the local community;*
- iii *Be of a scale, form, design, density and intensity of use that is compatible with the character of the AONB;*
- iv *Be designed to an appropriately high standard in order to integrate with the existing landscape and where feasible enhance the landscape quality; and*
- v *Demonstrate how it contributes to the conservation and enhancement of the natural beauty of the AONB.*

Development proposals that are outside, but closely interlinked with the AONB must not have an unacceptable detrimental impact on the natural beauty of the AONB.

Gower AONB Design Guide (November 2011)

6.6 The purpose of the Gower AONB Design Guide (November 2011) is to raise the standard of building and landscape design within the AONB. It applies to all parts of the AONB including the more suburbanised areas and 'Gower Fringe'.

6.7 In terms of residential development the guidance states that proposals will need demonstrate that:

- 1 They are of the highest design quality
- 2 Sensitive to their surroundings in terms of layout, scale and massing
- 3 The choice of materials and detailing is appropriate to its context, form and function

6.8 The guide confirms that certain approaches will not be considered appropriate anywhere within the AONB, including *'Executive or suburban style houses'*. It also highlights that *'whilst it is important to take note of a site's context, new development should respect only the best qualities of neighbouring properties whilst aiming to enhance the settlement's character'*.

Design Critique

6.9 We have not conducted a detailed critique of the design and layout, nor have we prepared alternative schemes, so our comments below are generic and high level. The abiding impression is that the layout is unimaginative and the house designs uninspiring. Certainly, they add little to the landscape of the AONB and sit uneasily at the juxtaposition of the built environment and countryside.

6.10 The fact is, the exception site policy sits uneasily in an area where special care should be taken to achieve the very best quality of development. Notwithstanding this, we have considered the policy position and the following design issues are raised by the current proposals:

- 1 The house types are standard pattern book designs and could, essentially, belong anywhere – there is little attempt to achieve local distinctiveness. The standard design of the dwellings is an economic approach driven undoubtedly by viability issues. There is scope to improve this – the removal of the 'future proofing' hammerhead could free up space which would enable a more subtle transition between development and countryside
- 2 There will be a significant change in character of Higher Lane along the boundary of site, with the replacement of a continuous hedgerow with open views beyond, by built development.
- 3 The replacement/translocated hedgerow results in fractured appearance, due to visibility splay requirements. Beyond this the proposed wall and piers (External Works Layout Drwg. No.102) create a formal entrance to the site – an inappropriate suburban feature.
- 4 The development layout is centred around a cul-de-sac and series of shared drives and parking courts – again this results in a very suburban feel to the development. A less formal more organic layout could encourage an alignment of buildings which respond more sympathetically to the edge of fringe location and take greater advantage of views to the south of the site.
- 5 The current road layout strongly suggests a future phase of development to the south of the existing development site, with development strung along the road. Little consideration appears to have been given to the relationship of the southernmost properties with the site's southern boundary (and views).
- 6 We question the minimum distances between Plot 28 and the neighbouring detached property at 104 Higher Lane. Whilst not strictly a back to back or a back to side, the 13m distance as currently proposed seems inadequate and there are some overlooking issues here to be resolved.

6.11 A Planning Design and Access Statement (DAS) was prepared in December 2018 prior to the pre-application, the January 2019 submission and the current proposal. Design and Access Statements are 'living' documents and should be used to *'demonstrate the design process that*

has been undertaken to reach the final proposal. As such a DAS should clearly and logically lead the reader through the design process so that the rationale behind the final proposal can be understood. The current iteration of the DAS fails to do this and should be updated, through the submission of an addendum to ensure that it relates to the current proposals and assesses them against current policy and guidance.

- 6.12 The character assessment included within the 2018 DAS is limited and the section regarding appearance generic. Referencing the surrounding development as precedent for both the general design approach and detailed finishes, given the sensitivity of the application site and the requirement for high quality design, is inappropriate and the resultant conclusions, inadequate. There should be a much greater degree of rigour applied to this key document.