

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 30 JULY 2015

REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES

1. BUILDING REGULATION APPLICATIONS AND OTHER BUILDING CONTROL MATTERS DETERMINED BY THE DIRECTOR UNDER DELEGATED POWERS

(a) Building Regulation Applications - Pass

For the information of Members, the following applications have been determined:

2015/0009/PV	AC	Penrhos, Llysworney, Cowbridge	Two storey side extension
2015/0010/PV	AC	1, Grange Avenue, Wenvoe	Rear/side extension
2015/0013/PO	AC	33, Cranbrook Street, Cathays, Cardiff. CF24 4AL	Loft conversion including rear elevation dormer, adding 2 No. additional bedrooms to a HMO
2015/0564/BR	AC	Shangri La, Barry Road, Dinas Powys	Provision for dog facilities inclusive of vet rooms, office and isolation area
2015/0587/BR	AC	Bryn Sych Farm, Morfa Lane, Llantwit Major	Fit sprinkler system, fire doors, shower tray to bathroom, additional lighting and new door
2015/0592/BR	AC	15, Westbourne Road, Penarth	Remove existing rear conservatory, build new single storey extension on the rear side, new bathrooms on the 1st & 2nd floor. Replace all windows, re-wiring and re- plumbing
2015/0595/BN	A	49, Ludlow Street, Penarth	Loft conversion to FF flat
2015/0629/BR	AC	6, Robinswood Close, Penarth	Porch & dormer roof extensions

2015/0642/BR	AC	Currys, Unit 1A, Brooklands Retail Park, Culverhouse Cross	Installation of a mezzanine floor
2015/0643/BR	AC	Unit 1B, Brooklands Retail Park, Culverhouse Cross	Installation of a mezzanine floor
2015/0644/BR	AC	PC World, Unit 4, Brooklands Retail Park, Culverhouse Cross	Installation of a Mezzanine floor
2015/0656/BN	A	Pen Yr Heol Farm, Llysworney	Single storey extension to existing car port for disable car
2015/0657/BR	AC	3, Cefn Mount, Dinas Powis	Two storey and single storey extension. New kitchen ,dining, utility and games room on the ground floor. New bedrooms and family bathroom on the first floor.
2015/0676/BN	A	30, St. Ambrose Close, Sunnycroft, Dinas Powys	Single storey side & rear extension to enlarge kitchen/diner
2015/0678/BN	A	Barry Comprehensive School, Port Road West, Barry	Create two new doorways into existing rooms from reception area and a doorway between two classrooms
2015/0679/BR	AC	10, St. Quentins Close, Cowbridge	Rebuild of bay window, porch, alteration to fenestration and part rendered facade upgrade
2015/0682/BN	A	11 The Larches, Ystradowen	Orangery extension to rear of property measuring 4.4m x 4.35m
2015/0684/BR	AC	Old Mill Cottage, Cog Road, Sully	2 sets of 3 No. Velux roof lights, alterations to existing roof structure and a bathroom refurbishment
2015/0685/BR	AC	26, Cilgant Y Meillion, Rhoose	Single storey rear extension and garage

2015/0686/BR	AC	Llangan Primary School, Llangan	Demolition of an existing demountable and relocated replacement double demountable unit
2015/0688/BN	A	94, Lougher Place, St Athan	Removal of non loadbearing pantry in kitchen. Removal of non loadbearing wall between WC and Bathroom
2015/0690/BN	A	12, Cog Road, Sully	Loft conversion with dormer
2015/0692/BN	A	3, Shearwater Close, Penarth	Removal of exterior wall and installation of bi-fold doors
2015/0693/BR	AC	2, Ridgeway Road, Barry	Internal alterations & a new pitched roof to rear elevation
2015/0694/BR	AC	41, Cog Road, Sully	Single storey rear extension
2015/0695/BN	A	Greenway Cottage, Greenway Lane, Bonvilston	Proposed 2 storey extension to form living room and master bedroom to first floor
2015/0697/BN	A	Middle Stump, Beach Road, Southerndown	Single storey extension to rear of house
2015/0698/BN	A	82 Lougher Place, St. Athan	Removal of non loadbearing pantry in kitchen
2015/0699/BN	A	5, East View, Llandow, Cowbridge	External of property. 90mm insulated render system with a dash finish as per Wetherby specification
2015/0700/BN	A	8 Ceri Avenue, Rhoose	Removal of loadbearing wall in kitchen
2015/0701/BN	A	104, Woodlands Road, Barry	Full Re-Roof
2015/0702/BN	A	3, Bramble Rise, Penarth	Garage conversion
2015/0703/BN	A	94, Cornerswell Road, Penarth	Two rooms into one

2015/0705/BR	AC	28, Broadway, Cowbridge	New shower room
2015/0706/BN	A	24, Fontygary Road, Rhoose	Replacement of roofing felt and roof tiles capping off disused chimney
2015/0707/BN	A	Mooreshead Farm, Siginstone	Two storey rear extension
2015/0708/BN	A	15, Laburnum Way, Dinas Powys	Replacement single storey extension to rear, new pitched roof over garage and entrance hall with associated works
2015/0710/BR	AC	Rear of Amberley House, Llantwit Road, Wick	New two storey dwelling
2015/0711/BR	AC	Glen Cottage, 39, Eastgate, Cowbridge	Proposed single storey kitchen extension & proposed construction of detached single storey garage/store/family room to rear garden area
2015/0712/BN	A	14, Ivy Street, Penarth	Convert loft to bedroom/en suite with velux windows
2015/0713/BN	A	10, Aneurin Road, Barry	Single storey extension
2015/0714/BN	A	63a, Porthkerry Road, Barry	Form external opening in loadbearing wall, plus replacement of 4 no. roof lights
2015/0717/BN	A	2, Greenbanks Drive, Barry	Garage conversion
2015/0718/BN	A	71, Porth Y Castell, Barry	Single storey extension to the kitchen (rear)
2015/0722/BN	A	Apartment 1B, 15, Marine Parade, Penarth	Single storey orangery style extension to rear elevation & forming a new opening
2015/0725/BN	A	45, Montgomery Road, Barry	3 Walled store/extension to rear of property
2015/0727/BN	A	7, East View, Llandow, Cowbridge	External works, Insulated render works using a 90mm board and Wetherby system

2015/0728/BN	A	15, East View, Llandow, Cowbridge	External works. Insulated render using 90mm board and Wetherby system.
2015/0729/BN	A	16, East View, Llandow, Cowbridge	External works. Insulated render using 90mm board with Wetherby system.
2015/0730/BN	A	Boverton Grange, Mill Road, Boverton, Llantwit Major	Demolish existing garage, shower and family room and replacing with a larger family room with new garage and shower room
2015/0731/BN	A	Crawshay Court, Llantwit Major	Widen laundry room doorway to dda regs and upgrade laundry room
2015/0733/BR	AC	Land Rear of Daniel Street, Barry	Erection of 5 detached dwellings plots 5-9 (incl)
2015/0738/BN	A	Beech Court, 69, Broadway, Llanblethian, Cowbridge	Garage conversion, and new detached garage
2015/0739/BN	A	Bryn Sych Farm, Morfa Lane, Llantwit Major	Store shed into day use play/ educational. Not used after 3:30pm
2015/0740/BN	A	Strathespey, 51, Colcot Road, Barry	New roof original slate
2015/0741/BN	A	1, Claude Road, Barry	External Refurbishing works including structural repairs, external rendering, drainage alterations & external wall insulation
2015/0743/BN	A	4, Claude Road, Barry	External refurbishment including structural repairs, external rendering, drainage alteration & external wall insulation
2015/0744/BN	A	1, Irving Place, Barry,	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0745/BN	A	2, Irving Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0746/BN	A	3, Irving Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0747/BN	A	4, Irving Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0748/BN	A	5, Irving Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0749/BN	A	6, Irving Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alteration and external wall insulation.
2015/0750/BN	A	7, Irving Place, Barry,	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0751/BN	A	8, Irving Place, Barry	External works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0752/BN	A	9, Irving Place, Barry	External works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0753/BN	A	10, Irvin Place, Barry	External works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0754/BN	A	11, Irving Place, Barry	External works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0755/BN	A	12, Irving Place, Barry	External works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0756/BN	A	1, Arden Way, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0757/BN	A	3, Arden Way, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0758/BN	A	4, Arden Way, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0759/BN	A	5, Arden Way, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0760/BN	A	11, Wesley Avenue, Rhoose	Remove supporting wall and replace with ceiling binders
2015/0761/BN	A	2, Verona Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0762/BN	A	3, Verona Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0763/BN	A	4, Verona Place, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0764/BN	A	1, Avon close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0765/BN	A	2, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0766/BN	A	3, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0768/BN	A	4, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0769/BN	A	5, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0771/BN	A	6, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0772/BN	A	7, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0773/BN	A	8, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.



2015/0774/BN	A	9, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0775/BN	A	10, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0776/BN	A	11, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0777/BN	A	13, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0778/BN	A	14, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0779/BN	A	15, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0780/BN	A	16, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0781/BN	A	17, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0782/BN	A	18, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0783/BN	A	19, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0784/BN	A	20, Avon Close, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0789/BN	A	36, Park Road, Barry	Single storey extension to enlarge kitchen
2015/0791/BN	A	St. Helens Infants R.C. School, Maes Y Cwm Street, Barry	Enlarge Classroom and erect partitions to form new office and store
2015/0792/BN	A	6, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0793/BN	A	8, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0794/BN	A	10, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0796/BN	A	12, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0797/BN	A	14, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0798/BN	A	16, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0799/BN	A	18, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0800/BN	A	20, Elm Grove, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0802/BN	A	5, Holmes Street, Barry	Remodel of property into 2 No. dwellings
2015/0807/BN	A	1 - 3, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0808/BN	A	5 - 7, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0809/BN	A	6 - 8, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0810/BN	A	10 - 12, Jenner Road	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation
2015/0811/BN	A	Plwca Lodge, Tredodridge	Installation of new sewerage treatment plant (replacing old system)

2015/0812/BN	A	9 - 11, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0813/BN	A	13 - 15, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0814/BN	A	14 - 16, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0815/BN	A	18 - 20, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0816/BN	A	17 - 19, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0817/BN	A	21 - 23, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0818/BN	A	22 - 24, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0819/BN	A	26 - 28, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0820/BN	A	25 - 27, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0821/BN	A	29 - 31, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0822/BN	A	30 - 32, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0823/BN	A	34 - 36, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0824/BN	A	37 - 39, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0825/BN	A	33 - 35, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0826/BN	A	38 - 40, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0827/BN	A	42 - 44, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0828/BN	A	41 - 43, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0829/BN	A	45 - 47, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0830/BN	A	46 - 48, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0832/BN	A	50 - 52, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0833/BN	A	49 - 51, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0834/BN	A	53 - 55, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0835/BN	A	54 - 56, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0836/BN	A	58 - 60, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0837/BN	A	62 - 64, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0838/BN	A	66 - 68, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0839/BN	A	70 - 72, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.

2015/0840/BN	A	74 - 76, Jenner Road	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0841/BN	A	78 - 80, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0842/BN	A	82 - 84, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0843/BN	A	86 - 88, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0844/BN	A	27, St. Davids Avenue, Dinas Powys	Single storey side extension
2015/0845/BN	A	90 - 92, Jenner Road, Barry	External refurbishment works including structural repairs, external rendering, drainage alterations and external wall insulation.
2015/0857/BN	A	2, The Crescent, Pontypridd Road, Barry	Internal alterations & loft conversion

(b) Building Regulation Applications - Reject

For the information of Members, the following applications have been determined:

(c) The Building (Approved Inspectors etc.) Regulations 2000

For the information of Members the following initial notices have been received:

2015/0119/AI	A	16, Rae Rex, Llanblethian, Cowbridge	Proposed single storey rear extension, construction of first floor dormer window, erection of detached two storey domestic garage/storage area. Works to include
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			material alterations to structure, controlled services, fittings and thermal elements.
2015/0120/AI	A	72, Coleridge Avenue, Penarth	Proposed loft conversion to create one bedroom with en-suite, works to include material alterations to structure, controlled services, fittings and thermal elements
2015/0121/A	A	29, Tair Onen, Cowbridge	Proposed single storey rear extension, works to include material alterations to structure, controlled services, fittings and thermal elements
2015/0122/A	A	Greggs, 32, Windsor Road, Penarth	Re-fit and new shop front to existing retail bakers
2015/0123/AI	A	Yr Ysgubor, Llandow, Cowbridge	Proposed formation of internal structure openings (works to include material alterations to structure, controlled services fittings and thermal elements
2015/0124/AI	A	Lloyds Pharmacy, Cowbridge	Internal alterations
2015/0125/AI	A	19, Plymouth Road, Penarth	Single storey rear extension and associated works
2015/0126/AI	A	58, Plassey Street, Penarth	Loft conversion with dormer and balcony and associate works
2015/0127/A	A	BAMC, Dragon Fly Drive	Erection of three storey side extension and internal alterations
2015/0128/AI	A	75, Lewis Road, Llandough	Stabilisation of external walls of main property and rear extension
2015/0129/AI	A	Foxes Ridge, 3, The Nurseries, Fontygary Road, Rhoose	Proposed extension to attached garage, works to include material alterations to structure, controlled services, fittings and



			thermal elements
2015/0130/AI	A	23, Kenilworth Road, Barry	Proposed loft conversion, internal alterations and associated works
2015/0131/AI	A	118, Windsor Road, Penarth	Internal renovation of flats and associated works

(d) Section 32 Building Act, 1984

It is proposed to implement the above section of the Building Act with a view to remove from the filing system, building regulation plans relating to work which has not commenced. This section of the Building Act makes provision for the Local Authority to serve notice in respect of plans which are three or more years old. Where such notices have been served (when the proposal has not commenced), it means that the plans are of no further effect and can be destroyed.

It is proposed to serve notices in respect of the following Building Regulations applications.

3. PLANNING APPLICATIONS DETERMINED BY THE DIRECTOR UNDER DELEGATED POWERS

If Members have any queries on the details of these applications please contact the Department.

**Decision Codes**

A	-	Approved	O	-	Outstanding (approved subject to the approval of Cadw OR to a prior agreement)
C	-	Unclear if permitted (PN)	B	-	No observations (OBS)
EB	-	EIA (Scoping) Further information required	E	-	Split Decision
EN	-	EIA (Screening) Not Required	G	-	Approved the further information following "F" above (PN)
F	-	Prior approval required (PN)	N	-	Non Permittal (OBS - objections)
H	-	Allowed : Agricultural Condition Imposed : Appeals	NMA	-	Non Material Amendments
J	-	Determined by NAFW	Q	-	Referred to Secretary of State for Wales (HAZ)
L	-	Approved <u>AND</u> refused (LAW)	S	-	Special observations (OBS)
P	-	Permittal (OBS - no objections)	U	-	Undetermined
R	-	Refused	RE	-	Refused (Enforcement Unit Attention)
			V	-	Variation of condition(s) approved

2014/00869/FUL	A	Barns at West Aberthaw Farm, Aberthaw	Conversion of redundant barns to provide four residential units
2014/00880/FUL	A	99A, Plymouth Road, Penarth	Demolish existing 3 bed semi-detached residential dwelling and construct 4 bed sustainable dwelling (semi-detached) Amendment to application 2012/00910/FUL
2014/00886/CAC	A	99A, Plymouth Road, Penarth	Demolish existing 3 bed semi-detached residential dwelling and construct 4 bed sustainable dwelling (semi-detached) Amendment to application 2012/00911/CAC

2015/00133/FUL	A	Pwll Y Min Farm, Main Avenue, Peterston Super Ely	Variation of Condition 1 to renew planning permission 2008/01138/FUL for the conversion of buildings to a single residence with ancillary uses including class B1 business use and stables
2015/00134/FUL	R	2, Railway Cottages, Grove Road, Llandow	Demolition of a single garage and two garden sheds and the erection of a two storey two bedroom detached house on land currently used as a garden.
2015/00255/FUL	A	1, Crescent Close, Cowbridge	Two storey side extension, associated works and amended parking arrangement
2015/00321/FUL	A	20, St. Cyres Road, Penarth	1 No. two storey replacement dwelling, for existing 1.5 storey dwelling
2015/00352/LBC	A	Tymaen Barns, Near Ewenny	Proposed to take up and remove a section of the existing cobbled floor in barn and concrete
2015/00353/FUL	A	Bassett General Store, 286, Holton Road, Barry	Conversion of two floors of HMO accommodation above shop into two self contained flats
2015/00355/FUL	A	Glen View, 99, Penlan Road, Llandough	Construction of new two storey, four bedroom, detached house in garden of existing residential dwelling house
2015/00375/FUL	A	3, Bridgeman Road, Penarth	Variation of condition 1 of 2005/00104/FUL to extend time
2015/00411/FUL	A	Willowbank Cottage, Barren Hill, Penmark	Construction of a conservatory on the side of existing dwelling
2015/00428/FUL	A	7, Vale View Close, Llandough	Proposed extension to rear, new pitched roofs over 2 No. garages and balcony over entrance

2015/00429/FUL	A	North Lodge, Duffryn Lane, Dyffryn	Change of use from office to residential use
2015/00436/FUL	A	31, Marine Drive, Ogmore By Sea	Single storey extension above existing structure, balcony to structure, new access driveway and associated works
2015/00440/FUL	R	116, High Street, Barry	Conversion of house to three flats
2015/00442/FUL	A	5, 6 and 7, Denbigh Court, Salisbury Close, Penarth	Provide tarmacadam footpath from 5, 6 and 7 Denbigh Court leading to pavement of Victoria Road
2015/00443/FUL	A	Presbyterian Church of Wales, Fontygary Road, Rhoose	Change of use from church to a family domestic dwelling with new detached garage and alterations to existing rear extension
2015/00446/FUL	A	29, Masefield Road, Penarth	Demolish existing garage/toilet and construct new two storey extension to side of dwelling
2015/00453/FUL	A	Ael y Castell, Porth y Green Close, Llanblethian, Cowbridge	New rooflights, amending windows to the south and addition of new flue and chimney
2015/00454/FUL	A	Halifax Farm, Ystradowen	Private use manege - 50m long 25m wide surrounded by post and rail timber fence at 1.22m high. Ground construction and integrated drainage system to meet current building regulations
2015/00461/FUL	A	Cabot Carbon Ltd., Sully Moors Road, Sully	Retention of temporary storage building
2015/00469/FUL	A	89, Cornerswell Road, Penarth	Single storey rear extension
2015/00479/FUL	A	18, Spitzkop, Llantwit Major	Subdivision of property to create new dwelling and erection of front porch and creation of hardstanding

2015/00481/FUL	A	60, Holton Road, Barry	Proposed new shopfront with security shutter and front elevation repairs
2015/00484/FUL	A	1, Cwrt Yr Iolo, Flemingston	Construction of office building for home working in rear garden
2015/00485/FUL	A	31, Dyserth Road, Penarth	Rear single storey extension and relocation of garage
2015/00490/FUL	A	Stourbridge House, Llysworney	Proposal to adjust the location of a previously approved dwelling house, together with the provision of a new storey and a half garage/ study outbuilding,
2015/00492/FUL	R	85, Jenner Road, Barry	Proposed alterations and extension to form kitchen and bathroom - to rebuild existing single storey garage at rear
2015/00497/FUL	A	26, Westward Rise, Barry	Demolition of existing semi-detached garage and construction of new detached garage
2015/00498/FUL	A	Dial-y-Hydref, 3, The Lanes, Colhugh Street, Llantwit Major	Two storey and single storey extension to existing property, and siting of prefabricated sectional garage on existing hardstanding concrete slab within garden curtilage
2015/00501/RG3	A	Ysgol Gymraeg Dewi Sant, Ham Lane East, Llantwit Major	Installation of two flagpoles at entrance of Ysgol Gymraeg Dewi Sant
2015/00502/FUL	A	43, Heol Tre Forys, Penarth	Construct an open side veranda to rear of dwelling
2015/00504/FUL	A	13, Pembroke Close, Dinas Powys	First floor side extension, single storey and two storey rear extension
2015/00505/FUL	A	Co-op/Texaco Filling Station, Port Road, Barry	The replacement of a refrigeration condenser and redecorations

2015/00507/LAW	R	2, Heol yr Ysgol, St Brides Major	Erect a single storey rear extension
2015/00508/FUL	A	10, Park Road, Penarth	Proposed alterations and extensions to existing dwelling
2015/00509/ADV	A	Greggs the Bakers, 32, Windsor Road, Penarth	Install new shopfront and signage
2015/00511/FUL	A	20, Glyn Y Gog, Rhoose	Conversion of the existing integral garage into a bedroom/shower room. Inclusive of wall insulation, drainage, electric, windows and finishes
2015/00512/FUL	A	25, Maes Lindys, Rhoose	Single storey rear extension and new detached garage
2015/00516/FUL	R	2, Henefail Cottages, Ruthin Road, St. Mary Hill	Alterations and extension
2015/00517/FUL	A	18A, Park Road, Barry	Proposed double storey side extension bedroom en-suite/walk in wardrobe, car parking under at ground floor
2015/00524/FUL	A	Paddock at rear of Amberley House, Llantwit Road, Wick	Detached two/single storey 4 No. bedroom dwelling and garage
2015/00530/FUL	A	Greggs the Bakers, 32, Windsor Road, Penarth	Install new shopfront and signage
2015/00531/FUL	A	108, Stanwell Road, Penarth	Demolition of rear single storey flat roof extension, erection of rear single storey pitched roof extension. Works to existing doors and windows to the rear of property
2015/00533/ADV	A	Lloyds Pharmacy, The Broad Shoard, Cowbridge	One internally illuminated folded aluminium fascia, one internally illuminated folded aluminium projecting sign

2015/00538/FUL	A	Fairfield Primary School, Dryden Road, Penarth	Demolition of existing classroom unit, installation of four classroom unit
2015/00539/FUL	A	Old Mill Barn, Penllyn	Two storey house extension to provide additional accommodation
2015/00544/LAW	A	3, Mountjoy Close, Penarth	The proposal is to uplift the existing property by replacing an existing rear lean-to, with an extension on the same footprint but also a wrap around extension to the side elevation in accordance with criteria outlined in permitted development. Access to the property remains the same and there are no alterations to driveways/hard standings
2015/00550/LAW	A	8, Caer Ty Clwyd, Llantwit Major	Take down conservatory and erect single storey rear extension
2015/00551/FUL	A	1, Regent Street, Barry	Replacement of shop front and residential dwelling above commercial premises, including new windows, shutters, roof and brickwork
2015/00558/FUL	A	3, Hastings Avenue, Penarth	Rebuild existing garage with slight addition in length
2015/00559/FUL	A	12, Brig y Don Hill, Ogmore By Sea	Proposed new detached garage and driveway
2015/00560/FUL	A	Fox House, Penylan Road, St. Brides Major	Proposed single storey extension
2015/00561/FUL	A	C. and H. Plumbing Supplies, 60, Broad Street, Barry	Changes to facade
2015/00562/FUL	A	18, Clos Cradog, Penarth	Conversion and extension to single garage to study, shower room and gym

2015/00563/FUL	A	51, Porth y Castell, Barry	Extend existing lower ground floor, form new dormers/verandahs to roofs to first and second floor. Form new (extended) verandah to ground floor. Carry out external works - new drive/crossover, form new patio/raised grassed area to rear garden. (Amendments to 2014/00838/FUL)
2015/00565/LAW	A	45, Spencer Drive, Llandough, Penarth	Proposed single storey rear extension
2015/00567/FUL	A	118, Lavernock Road, Penarth	Ground floor extended kitchen, family room, utility and store rooms
2015/00571/FUL	A	2, St. Teilo Close, Dinas Powys	A single storey extension to the side of the property comprising of a cloakroom, entrance porch and an extended kitchen
2015/00575/FUL	A	5, Cosmeston Drive, Penarth	Orangery style extension to side elevation
2015/00576/LAW	A	36, Park Road, Barry	Proposed construction of rear single story extension with all associated drainage and external works
2015/00577/FUL	A	2, Castlewood Cottages, Highwalls Road, Dinas Powys	Flat roof currently on rear first floor extension to be replaced with a pitched roof. Existing tile hanging to same extension to be replaced with a render finish
2015/00581/FUL	A	Flat 1B, 15, Marine Parade, Penarth	Erect orangery style conservatory 3300 wide x 2700 projection
2015/00595/LAW	A	62, Blackberry Drive, Barry	Single storey extension to rear and one side of existing domestic dwelling, foul and storm to existing



2015/00597/LAW	A	27, Grove Terrace, Penarth	Ground floor rear extension
2015/00598/LAW	A	28, Grove Terrace, Penarth	Single storey rear extension
2015/00610/FUL	A	8, Plassey Square, Penarth	Single storey rear kitchen
2015/00612/FUL	A	214, Gladstone Road, Barry	Single storey extension to rear of property
2015/00614/LAW	A	78, Lavernock Road, Penarth	Attic conversion with dormer and rooflights
2015/00615/PNA	A	Woodlands Farm, Sutton Road, Llandow	Steel portal framed building
2015/00616/FUL	A	The Vines, Llanbethery	Single storey side/rear extension and external alterations
2015/00624/FUL	A	Derlwyn, Cross Common Road, Dinas Powys	Ground floor extension to provide enlarged bedroom, and single storey rear addition to provide an additional reception room
2015/00625/FUL	A	3, Meliden Road, Penarth	Single storey rear extension

Agenda Item No.

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 30 JULY, 2015

REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2014/01306/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 15/3010677  
Appellant: Mrs. Susan Joseph,  
**Location:** **Court House, Tair Cross, Ewenny**  
Proposal: Proposed first floor extension to form master bedroom and bathroom  
Start Date: 9 July 2015

L.P.A. Reference No: 2015/00187/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 15/3067612  
Appellant: Mr. Geoff Lages,  
**Location:** **7, Adenfield Way, Rhoose**  
Proposal: New timber fence - panels and posts applied to existing rockfaced low level wall. Removal of existing diseased hedgerow  
Start Date: 16 June 2015

L.P.A. Reference No: 2015/00123/LAW  
Appeal Method: Public Local Inquiry  
Appeal Reference No: X/15/3065757  
Appellant: Mr. Mark Boland,  
**Location:** **28A, The Yard, Station Road, Penarth**  
Proposal: Lawful use of workshop as B2 use  
Start Date: 8 July 2015

L.P.A. Reference No: 2015/00242/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 15/3049270  
Appellant: Mr. Shaun Cuddihy,  
**Location:** **Brackendene, Burdonshill Lane, Wenvoe**  
Proposal: Proposed lodge building on redundant rural buildings  
Start Date: 23 June 2015

L.P.A. Reference No: 2014/01358/FUL  
Appeal Method: Hearing  
Appeal Reference No: 15/3119189  
Appellant: Barry Island Property Ltd  
**Location: The Dolphin, Friars Road, Barry**  
Proposal: Demolition of the existing Dolphin bar/restaurant and redevelopment for 25 residential units, commercial uses and associated works  
Start Date: 3 July 2015

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(b) Enforcement Appeals Received

None

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(c) Planning Appeal Decisions

L.P.A. Reference No: 2014/01484/ADV  
Appeal Method: Written Representations  
Appeal Reference No: H/15/3008817  
Appellant: Pets at Home Limited,  
**Location: Pets at Home Plc, Waterfront Retail Park, Heol Ceiniog, Barry**  
Proposal: New retail signage 'consisting of two digitally printed vinyl signs to ground floor windows of the shop front'  
Decision: Appeal Dismissed  
Date: 25 June 2015  
Inspector: Mr. N. Shepherd  
Council Determination: Delegated

**Summary**

The original advertisement application was for a number of advertisements at the site. The Council granted consent for the majority of the advertisement proposed, but refused consent for two vinyl signs covering the shopfront windows of the premises. The appeal relates to these advertisements. These advertisements are currently being illegally displayed at the site and were viewed by the Inspector.

The Inspector was of the view that the placement of the appeal signs in the scene in both distant and close-up views presents a discordant feature that is cluttered amid other signage and consequently detrimental to the visual amenity of the premises by itself and in the wider scene

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L.P.A. Reference No: 2014/01456/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 15/3006474  
Appellant: Mr. Ian Mead,  
**Location: Maes Glas, Broadway, Llanblethian, Cowbridge**  
Proposal: Convert and extend garage into a granny annexe  
Decision: Appeal Dismissed  
Date: 8 July 2015  
Inspector: Janine Townsley  
Council Determination: Delegated

## Summary

The main issues the Inspector considered were the effect of the development on the character and appearance of the area and the existing dwelling house.

The proposal is to convert and extend an existing double garage by creating an additional floor above, whilst retaining a linking roof element with a void below which attaches the garage to the main house. The existing dwelling is predominantly single storey on the front elevation with a two storey feature to the centre. The two storey element is set back and the proposed extension would be constructed in front of this line. The proposed annexe would appear as an almost-detached two storey structure at the far side of the dwelling, adjacent to the boundary with the neighbouring property. The Inspector stated that although the existing dwelling is large, the construction of an additional storey above the garage would unbalance its design. Whilst the proposed annex would be physically smaller than the main house, as a two storey structure to the side of a largely single storey elevation, it would not appear subordinate to the main dwelling. She was of the view that the design of the annexe is such that it would appear as an isolated and incongruous structure within the curtilage of the main dwelling house. Consequently, she considered the proposed development to have a harmful effect by failing to complement the character of the existing dwelling house contrary to policy ENV 27 of the UDP.

The Inspector also noted that, due to the design of the annexe, it would have the appearance of an independent dwelling. He felt that this would be at odds with the existing pattern of development in the immediate area since the adjacent properties are generally large dwellings with generous separation distances. He was of the view that the height and siting of the appeal proposal would appear incongruous when viewed from the adjacent highway and the properties opposite. It would have a detrimental impact on the sense of space around the existing dwelling and therefore would fail to accord with policy ENV 27. The Inspector was satisfied that an adequate condition could be applied with regard to the protection of the trees near the site and, given that the proposal is for an extension to an existing garage within the curtilage of an existing residential unit within the settlement limits, she concluded that there would be no adverse effect caused by the proposed development on the landscape areas or features of the SLA and it would therefore accord with policy ENV 4.

In view of the findings above, the Inspector dismissed the appeal in relation to the harm the development would cause to the character and appearance of the existing property and the area.

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L.P.A. Reference No:	2014/01073/FUL
Appeal Method:	Written Representations
Appeal Reference No:	15/3005874
Appellant:	Mr D. Dowdeswell
<b>Location:</b>	<b>8, Cliff Street, Penarth</b>
Proposal:	Proposed two bedroom house including new self contained access to first floor flat (Flat 2)
Decision:	Appeal Dismissed
Date:	3 July 2015
Inspector:	Janine Townsley
Council Determination:	Delegated

### **Summary**

The appeal relates to a proposal to construct a new dwelling and a two storey entrance lobby to serve a first floor existing flat at No. 8 Cliff Street, on land adjacent to No. 8, a property which has been converted into two flats one at each ground and first floor. The development would infill the gap between No. 8 and No. 9 Cliff Street.

The Inspector considered the main issues to be as follows:

- The effect of the proposed development on the living conditions of prospective residents and the occupiers of No. 20 Queen's Road and No. 8 Cliff Street with particular reference to outlook and the provision of private amenity space;
- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed development on highway safety.

### *Living Conditions*

The Inspector agreed with the Council's concerns that the new dwelling would have an overbearing effect on the living conditions of the adjoining occupiers, particularly those at No. 20 Queen's Road and 8 Cliff Street. The difference in ground levels combined with the close proximity of the new dwelling to the adjoining properties led her to this conclusion. This would be in conflict with UDP Policy HOUS8.

The Inspector noted the provisions of the Council's Amenity Standards SPG, but was of the view that these were not intended to be prescriptive. Nevertheless, she noted that amenity space for No. 8 Cliff Street would fall significantly short of the recommendation and that the amenity space for the new dwelling would amount to approximately half of that set out in the SPG. She did, however, acknowledge that in flatted developments there may be circumstances where reduced private amenity space may be justified. The Inspector also identified issues of overlooking.

Overall, the Inspector did not consider the proposed amenity space to be adequate for basic functions such as sitting out and relaxing, drying washing and storing household waste. In this matter she concluded that the development would fail to provide adequate living conditions for prospective residents and also for the occupiers of No. 8 Cliff Street in conflict with UDP Policy ENV27.

#### *Highway Safety*

The Inspector noted that the appeal proposal does not contain any provision for off street parking. She also noted that the site currently has the ability to provide one off street parking space. Due the sustainable location of the site, the Inspector noted the Highway Officer's evidence, that the parking standards can be relaxed in this case from 2 spaces to 1. However, she also noted the existing high demand for on street parking. The Inspector took into account the likelihood of future occupiers of both the existing flats and the proposed dwelling owning private cars in an area where there are no Traffic Regulatory Orders for the control of parking. In these circumstances, the Inspector agreed with the Council's view that the lack of provision of any off street parking for the proposed dwelling, together with the loss of an existing off street parking space, would lead to an increase in demand for on street parking and would consequently impede the free flow of traffic to the detriment of highway safety. For these reasons the Inspector found the development to be in conflict with policies ENV27, HOUS8 and TRAN10 of the UDP.

#### *Character and Appearance*

The Inspector noted the Council's evidence that the appeal site provides a visual gap between the existing development at this corner location. She noted that this is a typical feature of the area and that this visual gap makes an important visual contribution to the character and appearance of the area by providing some relief to the otherwise continuous rows of terraces. She also noted that the proposed development would effectively continue the unbroken row of terraced dwellings around the corner and that there did not appear to be any other examples of this feature in the surrounding area. Accordingly, the Inspector agreed with the Council's findings that the development would result in the loss of this important space and would be at odds with the prevailing grain for development causing an unacceptable effect on the amenity and character of the existing environment contrary to policy HOUS8 of the UDP.

The Inspector acknowledged the other examples mentioned by the appellant, but also noted that these were completed whilst retaining a break in built form on or near the corner of these residential streets.

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L.P.A. Reference No:	2014/01254/FUL
Appeal Method:	Written Representations
Appeal Reference No:	15/3005814
Appellant:	Mr. Paul Ringer,
<b>Location:</b>	<b>88, Salop Street, Penarth</b>
Proposal:	Extension to second floor to form self contained one bedroom flat
Decision:	Appeal Dismissed
Date:	2 July 2015
Inspector:	Janine Townsley
Council Determination:	Delegated

## Summary

The Inspector identified the main issues to be:

- whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the provision of private amenity space, and
- the effect of the development on the character and appearance of the area.

### *Living Conditions*

The inspector acknowledged the Council's evidence that there is currently a shortfall in private amenity space for the existing seven flats, as set out in the standards contained within the Council's Amenity Standards SPG, but was of the view that this was not intended to be prescriptive. The proposed development would result in an increased shortfall of private amenity space. The Inspector took into account the proximity of public open spaces in the area and was of the view that, whilst these assist in providing space for outdoor recreation, they do not offer any privacy or mitigate the need for space for household waste storage, drying washing or storage of personal possessions such as bicycles. Accordingly, the Inspector agreed with the Council's view, that the provision of private amenity space would fall short of that which would be expected and that the proposal would cause harm to the living conditions of future occupants by virtue of the insufficient private amenity space. For this reason she considered the proposal would conflict with Policy ENV 27.

### *Character and Appearance*

The Inspector noted that the existing buildings on Salop Street are largely residential in character and comprise uniform terraces of properties of similar size and height. She also noted that there are no examples of dormer windows visible on the front elevations of properties on this section of Salop Street. Accordingly, she was of the view that the proposal to increase the height of the building would fail to correspond to the prevailing pattern of the existing street and that the dormer element in particular would appear at odds with the remainder of the street.

For these reasons the Inspector was of the view that the proposed development would cause material harm to the character and appearance of the area in conflict with Policy ENV 27 of the UDP

The Inspector took into account the Planning Policy Wales guidance, which includes a presumption in favour of sustainable development, but noted that sustainability is promoted through good design, part of which is sustaining or enhancing local character. Accordingly, she found that the sustainable location of the proposed development is not itself sufficient to outweigh the harm which would be caused by the development to the character and appearance of the area.

The Inspector acknowledged the other examples of 2 and a half storey developments mentioned by the appellant, but also noted that these are located in streets where this is characteristic and that these are not in the immediate vicinity of the appeal site.

#### *Other Matters*

The Inspector noted that the proposal does not contain any provision for off street parking. There is no off street parking provision for any of the existing flats or for the existing houses. As a result of this, demand for on-street parking is high. Notwithstanding this, the Council did not object to the development on this basis and the Inspector did not feel that the parking needs generated by the development would be sufficient to justify a refusal of the development in this regard.

Finally, whilst the Inspector noted the assertion that the development would contribute to the affordable housing shortage in the area and would meet the projected demographic shift identified in the Local Market Assessment for the Vale of Glamorgan (2010), she did not consider these factors would outweigh the adverse consequences of the scheme identified.

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L.P.A. Reference No:	2014/00700/FUL
Appeal Method:	Written Representations
Appeal Reference No:	15/3005141
Appellant:	Mr. Frank Moloney,
<b>Location:</b>	<b>10, Park Road, Penarth</b>
Proposal:	Appeal against condition 3 of planning permission 2014/00700/FUL - screen fence shall not exceed 3m above existing ground levels
Decision:	Appeal Dismissed
Date:	10 July 2015
Inspector:	Janine Townsley
Council Determination:	Committee



## Summary

### Procedural Matter

Members will recall the application submitted for the erection of a 6 metre high means of enclosure. Permission was granted for the enclosure but with a condition (condition 3) restricting its height to no more than 3 metres above existing ground levels. The appellant in this case sought to modify the condition to permit a fence of 4.5 metres high along the rear (western) boundary and 4 metres high along the side (northern) boundary.

The inspector considered the main issues to be:

- The effect that removing condition No. 3 would have on the living conditions of occupants of neighbouring properties, and
- Whether the condition is necessary to preserve or enhance the character or appearance of the Conservation Area.

### *Living Conditions*

There are a number of properties to the rear of the appeal site, the ground levels of which are elevated above the appeal site to varying degrees. One of these properties is No. 12a Plymouth Road. The appellant has sought to secure a degree of privacy between the appeal property and 12a Plymouth Road. The Inspector noted that the enclosure would have to be erected at a substantial height to achieve this objective.

With this purpose in mind, the appellant seeks to construct a screen fence at a height of 4.5 metres along the rear boundary. Whilst the Inspector acknowledged that this may go some way to provide the desired privacy, due to the choice of materials and proximity of the screen fence to the rear garden space and rear habitable room windows of No. 12a Plymouth Road, she was of the view that the height of 4.5 metres would result in an oppressive and overbearing structure, which would result in overshadowing, causing harm to the living conditions of the occupiers of No. 12a Plymouth Road. The Inspector took into account the difference in levels between the two properties, but concluded that the difference is not so significant so as to justify a screen fence at the height proposed.

The Inspector noted that the proposed enclosures would be visible from No. 20 Roxburgh Garden Court. For this reason she was of the view that the both the western and northern facing screen fences would have a potential impact on the living conditions of the occupiers of this property. However, having considered the relationship of this property with the appeal site and the proposed enclosures, the Inspector did not find that the proposal would have an overbearing impact on the rear garden of No. 20, but would have an overshadowing effect on this property and the adjoining terrace.

As a consequence of her findings above, the Inspector considered condition No. 3 to be both reasonable and necessary to render the development acceptable in these terms and to accord with policy ENV27 of the UDP.

*Whether the condition is necessary to preserve or enhance the character or appearance of the Conservation Area*

The Inspector noted the statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure that for development within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character or appearance of that area. She also noted the advice in SPG *Penarth Conservation Area* (2006), which gives recognition of the high landscape and topographical value of listed parks and spaces and states that development adjacent to the listed parks and open spaces requires careful control to avoid contextual damage. Alexandra Park is referred to as “perhaps the most important and impressive open space in Penarth” and is located in close proximity to the appeal site.

The Inspector stated that the proposed enclosures would be visible from the public highway to the front of the property, from parts of the public footpath opposite the appeal site which leads into Victoria Park and also from within the park itself. Due to the proposed height and design, the Inspector was of the view that the development would fail to reflect the character and setting of the appeal property, the surrounding buildings and the adjacent spaces. As such, she concluded that it would have a detrimental effect on the special character and appearance of the PCA and, consequently, would fail to accord with policies ENV17 and ENV20 of the UDP. As such, she concluded that condition No. 3 is both reasonable and necessary to preserve the character and appearance of the PCA.

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L.P.A. Reference No:	2014/01060/OUT
Appeal Method:	Written Representations
Appeal Reference No:	15/3005123
Appellant:	Mr. and Mrs. Clode,
<b>Location:</b>	<b>Spinney Lodge, Beach Road, Swanbridge</b>
Proposal:	Construction of dormer style detached dwelling, with integral carport and garden areas
Decision:	Appeal Dismissed
Date:	30 June 2015
Inspector:	Melissa Hall
Council Determination:	Delegated

### **Summary**

The application subject of this appeal is in outline with approval being sought at this stage for access, layout and scale.

The Inspector considered the main issues to be:

- The effect of the proposal on the character and appearance of the surrounding area.
- Whether future occupants of the development would be provided with adequate opportunity to travel by means other than the private car, so contributing to sustainable patterns of development.
- The effect of the proposed development on the living conditions of neighbours and on trees.

### *Character and appearance*

The Inspector noted that the appeal site lies outside of any settlement boundary and that no part of the appellant's case suggests that there is an exception for this development on the basis of agriculture or forestry. She did, however, note the Appellant's reference to Planning Policy Wales (PPW), which allows for sensitive infilling of small gaps within small groups of houses or minor extensions to groups where inter alia the character of an area is not adversely affected. With this guidance in mind, the Inspector was of the view that the development relates more closely to the surrounding built form rather than the open countryside beyond and that from both close and distant views the dwelling would be seen in the context of the small group of buildings set within a wider countryside location. She did not consider the development to extend the built form into an area which currently has an open and unspoiled rural character.

In the light of her findings, the Inspector found there to be material considerations which weigh in favour of the development, and that the development would not be at odds with Council policy or national planning guidance.

The Inspector noted the Council's reference to the location of the site within the UDP designated East Vale Coast and the conflict with Policy ENV 6 insofar as insufficient justification has been provided for an additional dwelling in this coastal location. She did not, however, consider the site to identify closely with the undeveloped coastline and did not find conflict with the fundamental aims of Policy ENV 6.

### *Sustainability of location*

Whilst the Inspector noted the proximity of the site to Sully, she observed that Beach Road and the lane over which access would need to be negotiated by foot or bike has no footways and is only partially lit. Together with its significant length and limited visibility of oncoming traffic, the Inspector considered that it would not represent a particularly attractive or safe route for pedestrians or cyclists. In her view, it would discourage future occupants of the development from walking or cycling to the nearest facilities and services. Such an arrangement would not adequately cater for the day-to-day needs of the future occupants of this development without significant reliance on the car as a means of travel.

In this context, the Inspector found conflict with the aims of UDP Strategic Policies 2 and 8, and Policy ENV 27, as well as the Council's 'Sustainable Development' SPG and Planning Policy Wales.

### *Living conditions*

In view of the difference in ground levels, the Inspector was concerned that the height and massing of the dwelling, together with its siting forward of the existing dwelling, would have an overbearing effect on the occupants of Spinney Lodge. The Inspector was of the view that the development would have a harmful impact on the living conditions of the occupants of Spinney Lodge, in conflict with UDP Policies ENV 27 and HOUS 8, and the 'Amenity Standards' SPG.

### *Trees*

The Inspector concluded that the development would be sited in close proximity to a Sycamore covered by the TPO, but could not be certain that the dwelling would be sited clear of the tree. Neither could she be certain that it, or part of its private garden area, would not be under the direct spread of the tree, which may cause long term inconvenience or problems likely to lead to considerable pressure to thin or remove the tree in future.

Whilst The Inspector accepted that it may be possible to address this matter with further information, on the basis of the evidence before her, she did not have sufficient assurances that the development would not result in unacceptable damage to a tree of amenity value protected by a TPO. Accordingly, she concluded that the loss of the tree would have an unacceptable impact on the distinctive character of the appeal site and the surrounding area, contrary to UDP Policies ENV 11 and ENV 27, PPW and Technical Advice Note 10 'Tree Preservation Orders'.

### *Conclusion*

Although the Inspector found no harm to the character and appearance of the area, she was of the view that the proposal would represent development in an unsustainable location, compromise the living conditions of existing residents and have a harmful effect on a tree to the extent that these are overriding reasons why permission should not be granted. On this basis the appeal was dismissed.

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(d) Enforcement Appeal Decisions

None

(e) April 2015 - March 2016 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
<b>Planning Appeals</b> (incl. tree appeals)	<b>W</b>	10	-	<b>10</b>	-
	<b>H</b>	-	1	<b>1</b>	-
	<b>PI</b>	-	-	-	-
<b>Planning Total</b>		10 (91%)	1 (9%)	<b>11</b>	-
<b>Enforcement Appeals</b>	<b>W</b>	-	-	-	-
	<b>H</b>	-	1	<b>1</b>	-
	<b>PI</b>	-	-	-	-
<b>Enforcement Total</b>		- (0%)	1 (100%)	<b>1</b>	-
<b>All Appeals</b>	<b>W</b>	10	-	<b>10</b>	-
	<b>H</b>	-	2	<b>2</b>	-
	<b>PI</b>	-	-	-	-
<b>Combined Total</b>		10 (83%)	2 (17%)	<b>12</b>	-

Background Papers

Relevant appeal decision notices and application files (as detailed above).

Contact Officer:

Mrs Justina M Moss, Tel: 01446 704690

Officers Consulted:

Operational Manager Building and Development Control.

DIRECTOR OF DEVELOPMENT SERVICES

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 30 JULY 2015

REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES

5. TREES

(a) Delegated Powers

If Members have any queries on the details of these applications please contact the Department.

**Decision Codes**

A - Approved

R - Refused

E Split Decision

2015/00552/TPO	A	2, Ger Y Llan, St. Nicholas	Remove weak watershoots from Norwegian Maple
2015/00555/TPO	A	Hillcot House, Church Road, Llanblethian	Fell 2 no. Leylandii
2015/00557/TPO	A	Llyswen, Windmill Lane, Llanblethian	Various works to Oak, Ash and Poplar trees

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: 30 JULY 2015

REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT THE CROFT, NURSTON

Background

1. A complaint was received by the Local Planning Authority on 25 February 2014, relating to the unauthorised extension of residential garden at The Croft, Nurston.
2. The site relates to a two storey detached dwelling, situated within a fairly substantial plot. The site is situated outside the residential settlement boundary within the open countryside and with a green wedge.

Details of the Breach

3. Following an initial site inspection it was noted that an adjoining piece of agricultural land to the side and rear of the property had been enclosed with a vegetative border. Mature trees had been planted throughout the site and a summerhouse and vegetable patch located on the land.
4. The material change of use of land from agriculture to land being used for residential purposes requires the benefit of planning permission, as no such permission has been granted, this change of use is unauthorised and in breach of planning control.

Action Pursued to Date

5. Following the initial site inspection on 19 March and review of the Council's aerial photographs, a letter was sent to the owner of the property on 23 May 2014 outlining the breach of planning control. The letter requested the cessation of the residential use of the land or the submission of a planning application or Certificate of Lawfulness in order to regularise the use of the land.
6. A planning application was submitted by the owner of the property on 5 June 2014 proposing the 'Change of use of small parcel of agricultural land on the South, West and East boundary of The Croft to garden' and subsequently refused on 30 July 2014.
7. The decision to refuse planning permission was appealed by the applicant on 3 November 2014 and subsequently dismissed by a Planning Inspector on 19 February 2015. A copy of the decision notice is attached as Appendix A.

## Planning History

8. The site benefits from the following planning history:
- 2014/00647/FUL : Change of use of small parcel of agricultural land on the South, West and East boundary of The Croft to garden – REFUSED 30 July 2014. Appeal APP/Z6950/A/14/2225169 - DISMISSED 19 February 2015.
  - 2005/00775/FUL : Alterations and extension to an existing garage and stable block – APPROVED July 2005
  - 2001/01531/FUL : Roof extension over garage, plus conservatory and utility room – APPROVED April 2002

## Policy

9. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

ENV1 – DEVELOPMENT IN THE COUNTRYSIDE  
ENV3 – GREEN WEDGES  
ENV10 – CONSERVATION OF THE COUNTRYSIDE  
ENV27 – DESIGN OF NEW DEVELOPMENTS

10. Planning Policy Wales (Edition 6, 2014) advises that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. It is for the decision-maker to determine whether policies in the adopted Development Plan are out of date or have been superseded by other material considerations and this should be done in light of the presumption in favour of sustainable development.
11. In this case, the relevant material considerations are considered to be as follows:
- Planning Policy Wales (July 2014) (PPW): Chapter 5 recognises the need to protect the character and appearance of the countryside for its own sake. In addition to this, comprehensive guidance relating to development within green wedges is provided in Chapter 4. One of the purposes of the Green Belt set out in Paragraph 4.8.3 is to '*assist in safeguarding the countryside from encroachment*'. Paragraph 4.8.5 of PPW (July 2014) states, '*The most important attributes of Green Belts are their permanence and their openness*', '*To maintain openness, development within a Green Belt must be strictly controlled*'.



Paragraph 4.8.5 goes on to say there is, 'a general presumption against development which is inappropriate in relation to the purposes of the designation'. Paragraph 4.8.16 relates to purposes for which the construction of 'new buildings' within a designated green wedge are appropriate, however Paragraph 4.8.18 specifically states, 'other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it'. Paragraph 4.10.1 of PPW states that the best and most versatile land 'should be conserved as a finite resource for the future.'

### Reasons for Serving an Enforcement Notice

12. Members will note that the principle of this development was previously considered by the Council in the 2014/00647/FUL planning application and subsequently during appeal by the Planning Inspectorate. In setting out his reasons for dismissal the Inspector concluded that none of the circumstances outlined in PPW for which development in the green wedge would be deemed appropriate apply in this case, therefore, "*the proposal is inappropriate development within the GW.*" (Paragraph 3 and 4 of his decision).
13. To maintain openness, development within a green wedge must be strictly controlled. Policy ENV3 states that, '*Development which prejudices the open nature of the land will not be permitted*'. This Policy is supported by more comprehensive guidance found under Part 4.8 of PPW. Paragraph 4.8.5 states, '*The most important attributes of Green Belts are their permanence and their openness.*' Whilst a green wedge designation does not convey the same permanence as a Green Belt, the land serves the same purpose. In respect of openness, the Inspector considered that the inclusion of the land as garden would have an "*urbanising effect and bring the overall curtilage of the appeal property closer to the residential development to the south.*" He concluded that this urbanising effect would "*represent a damaging erosion of the open rural quality of the surrounding area that would significantly harm its character and appearance.*" (Paragraph 6 of his decision)
14. A copy of the Inspector's decision notice is attached as Appendix A. Members are asked to note the Inspector's findings as they are considered to warrant the service of an Enforcement Notice in this case.

### Conclusions

15. It is considered the material change of use of the land is inappropriate development that represents an unjustified and unnecessary encroachment into the surrounding rural landscape having a detrimental impact on the openness of that landscape. As a consequence, the development conflicts with Policies ENV1; ENV3; ENV10; and ENV27 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, and guidance found in Planning Policy Wales (Edition 7, July 2014).

In view of the issues identified in the paragraphs above, and in the light of the Inspector's recent appeal decision, it is considered expedient to pursue action.

### Resource Implications (Financial and Employment)

16. Any costs involved in drafting and issuing Notices, attending enquiries and undertaking monitoring work can be met within the departmental budget. There are no employment issues.

### Legal Implications (to include Human Rights Implications)

17. If an Enforcement Notice is served, the recipient has a right of appeal under Section 174 of the Town and Country Planning Act 1990 (as amended).
18. The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.

### Equal Opportunities Implications (to include Welsh Language Issues)

19. None.

### RECOMMENDATION

- (1) That the Head of Legal Services be authorised to serve an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:
  - (i) The permanent cessation of the use of the land as domestic residential garden.
  - (ii) The permanent removal of the timber outbuilding and hardstanding that is located on the land in question.
  - (iii) The erection of an enclosure along the boundary of the lawful garden.
- (2) In the event of non compliance with the Notice, authorisation is also sought to take such legal proceedings as may be required.

### Reason for Recommendation

- (1) In view of its location within the open countryside and designated green wedge, the unauthorised material change of use of the land for residential purposes is considered to be an unacceptable form of development that diminishes the quality of the rural landscape and the openness of the green wedge. The use is therefore considered to be contrary to Policies ENV1- Development in the Countryside; ENV2- Agricultural Land; ENV3- Green Wedges; ENV10 – Conservation of the Countryside; and ENV27- Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, as supported by guidance found in Planning Policy Wales (Edition 7, July 2014).

Background Papers

Enforcement File Ref: ENF/2014/0047/PC

Contact Officer - Mr. Darryl Rowlands, Tel: 01446 704694

Officers Consulted:

All relevant Chief Officers have been consulted on the contents of this report.

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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 04/02/15

**gan Gareth A. Rennie BSc(Hons) DipTP**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 19 Chwefror 2015**

## Appeal Decision

Site visit made on 04/02/15

**by Gareth A. Rennie BSc(Hons) DipTP**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 19 February 2015**

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**Appeal Ref: APP/Z6950/A/14/2225169**

**Site address: The Croft, Nurston, Barry, CF62 3BH**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Howard Whittaker against the decision of The Vale of Glamorgan Council.
  - The application Ref 2014/00647/FUL, dated 31 May 2014, was refused by notice dated 30 July 2014.
  - The development proposed is the change of use from small parcel of agricultural land on the south west and east boundary of the Croft.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. I consider that the main issues in this case are as follows:

- Whether the development represents inappropriate development in the Green Wedge.
- Whether the benefits of the development would clearly outweigh any harm to the Green Wedge together with any other harm, and thus justify the development on the basis of exceptional circumstances.
- Whether the proposal would harm the character and appearance of the surrounding area.

### Reasons

3. The appeal site lies within an area designated as Green Wedge (GW). National planning guidance, contained within Planning Policy Wales (PPW) makes it clear that new development in a GW is inappropriate except under certain circumstances none of which apply in this case. Inappropriate development is, by definition, harmful to the GW. This is reiterated in policy ENV3 of the Vale of Glamorgan Unitary Development Plan (UDP).

4. In this case the proposal is for the enclosure of an area of open agricultural land to form a garden extension for the appeal property. Overall, I conclude that the proposal is inappropriate development in the GW.
5. The appeal property already has a substantial garden and no reasons have been put forward to explain a specific need for the extension. The appellant has indicated that he intends to maintain the land as informal nature conservation land. Even so the proposed change of use would permit the use of the land for use as a garden area and extend the curtilage of the appeal dwelling into open land. This would, as a result, have a harmful effect on the openness of the GW. There are no exceptional circumstances which clearly outweigh that harm by reason of inappropriateness.
6. There are some large developments in the vicinity but the appeal site is in an area of open rural land. The proposal would allow the introduction of garden structures and paraphernalia that would give the appeal site a more built up appearance and quality. Its inclusion as garden area would have an urbanising effect and bring the overall curtilage of the appeal property closer to the residential development to the south. It would represent a damaging erosion of the open rural quality of the surrounding area that would significantly harm its character and appearance.
7. I conclude therefore that the proposal is inappropriate development within the GW and that no exceptional circumstances exist. Moreover, it would have a harmful impact on the character and appearance of the surrounding area. This is contrary to policies ENV1 and ENV3 of the UDP and to advice contained within PPW.
8. I appreciate the appellant's intentions but consider that the imposition of conditions would not fully protect the openness of the GW or the character and appearance of the area. Suitable conditions could perhaps control the erection of structures within the extension but would do little to control the overall change in character or of the usual paraphernalia associated with gardens. Moreover, this is a permanent change to the use of the land which would persist long after the interests and intentions of the current residents cease to be material.
9. There may be some benefit for nature conservation from the planting of trees within the appeal site but I consider that it is not sufficient to outweigh the harm that I have identified.
10. Consequently for the reasons given above and having considered all other matters raised I conclude that the appeal should be dismissed.

*Gareth A. Rennie*

Inspector

**Agenda Item No.**

**THE VALE OF GLAMORGAN COUNCIL**

**PLANNING COMMITTEE : 30 JULY 2015**

**REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES**

**8. GENERAL PLANNING MATTERS**

**WELSH GOVERNMENT CONSULTATION**

**1. DEVELOPMENTS OF NATIONAL SIGNIFICANCE**

**Purpose of the Report**

1. To update Members on the Welsh Government (WG) consultation and to recommend an appropriate response to those consultations.

**Background**

2. As part of the implementation of the proposed changes to the Planning System in Wales, which will be introduced through The Planning (Wales) Bill, a number of consultation papers have been released seeking the views of interested parties with regard to the above.
3. The WG commissioned research which highlighted concerns about local planning authorities' ("LPAs") ability to make timely decisions on some of the most challenging applications, including those that raise complex technical issues and are of a contentious nature. Some of these applications already fall to the Welsh Ministers to decide, either as a result of being called in, or on appeal following refusal by the LPA. WG considers this to be an inefficient approach. Accordingly the following consultation has been issued with the aim of ensuring that in future these applications are submitted directly to, and determined by, the Welsh Ministers. To address this WG proposes a new category of development called Developments of National Significance ("DNS"). These are developments which are few in number but of greatest significance to Wales because of their potential benefits and impacts.
4. The thresholds and types of development proposed to be included in the DNS category are detailed at pages 51, 52 and 53 of Appendix A
5. The consultation paper (Appendix A) includes a set of specific questions to which the Welsh Government is requesting views. The closing date for replies is 12 August 2015.

## **Relevant Issues and Options**

6. The proposed responses to the consultation papers point out concerns about the democratic deficit this process would create. The issue of how the LPA will fund its involvement in the DNS process when the planning fee will be given to the WG is also a major concern.
7. The issues raised are addressed individually in the consultation response attached at Appendix B

## **Resource Implications (Financial and Employment)**

8. Responding to the consultation can be met from within the Directorate resources. Some of the proposals may well have resource implications and where this is the case, the response to the consultation paper (Appendix B) makes reference to this.

## **Sustainability and Climate Change Implications**

9. Land use planning has a significant impact on sustainability, ranging from influencing the need to travel, the location of new development, the sustainability credentials of new development as well as energy efficiency.  
Legal Implications (to Include Human Rights Implications)
10. Land use planning is a statutory process and the Bill contains numerous references to elements of that process including planning appeals, development planning and the rights of individuals.

## **Crime and Disorder Implications**

11. None specific to this report.

## **Equal Opportunities Implications (to include Welsh Language issues)**

12. None specific to this report, although there are matters contained within the Bill to ensure that the planning service is delivered in a fair, consistent and equitable manner.

## **Corporate/Service Objectives**

13. The efficient handling of planning matters impacts on the corporate objectives relating to regeneration, the environment and housing.

## **Policy Framework and Budget**

14. This is a matter within the policy framework.

### **Consultation (including Ward Member Consultation)**

15. There has been no specific Ward Member consultation as this matter is not Ward specific.

### **Relevant Scrutiny Committee**

16. Economy and Environment.

### **RECOMMENDATIONS**

(1) That the content of the report be noted and the response to the consultation be agreed and sent to WG.

(2) That the matter be referred to Cabinet for information and that should Cabinet have any additional issues it wishes to raise that these be forwarded on to WG.

### **Reasons for the Recommendations**

(1) To allow the Council to respond to the consultation.

(2) To inform Cabinet of the views of the Committee when responding to the consultation and to allow any further comments of Cabinet to be forwarded to the WG.

### **Background Papers**

Welsh Government consultation

### **Contact Officer**

Marcus Goldsworthy, Operational Manager Development and Building Control - Tel. 01446 704661

### **Officers Consulted**

None

### **Directorate of Development Services**



Number: WG25023

## APPENDIX A



Llywodraeth Cymru  
Welsh Government

[www.gov.wales](http://www.gov.wales)

Welsh Government

### Consultation Document

## Developments of National Significance

Date of issue: 20 May 2015

Action required: Responses by 12 August 2015

## Overview

The Positive Planning consultation paper consulted on our intention to introduce a new category of development known as Developments of National Significance. Planning applications for such developments will be made directly to the Welsh Ministers and decided by them.

This consultation sets out our detailed proposals for a system to process and decide upon this category of planning application.

## How to respond

The closing date for responses is **12 August 2015** and you can reply in any of the following ways.

Email: Please complete the consultation response form at Annex D and send it to:

[Planconsultations-g@wales.gsi.gov.uk](mailto:Planconsultations-g@wales.gsi.gov.uk)

(Please include 'Developments of National Significance Consultation – WG 25023' in the subject line.

Post: Please complete the consultation response form at Annex D and send it to:

Developments of National Significance  
Consultation  
Decisions Branch  
Planning Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ.

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Further information can be found here:

Positive Planning – Proposals to reform the planning system in Wales

[www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en](http://www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en)

## Contact details

For further information:

e-mail:

[Planconsultations-g@wales.gsi.gov.uk](mailto:Planconsultations-g@wales.gsi.gov.uk)

Tel: Lewis Thomas on 029 2082 3201

## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## **Glossary of Terms**

<b>1990 Act</b>	The Town and Country Planning Act 1990
<b>DCO</b>	Development Consent Order
<b>DNS</b>	Developments of National Significance
<b>EIA</b>	Environmental Impact Assessment
<b>IAG</b>	The Independent Advisory Group
<b>LIR</b>	Local Impact Report
<b>LNG</b>	Liquefied Natural Gas
<b>LPA</b>	Local Planning Authority
<b>NDF</b>	National Development Framework
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>MW</b>	Megawatt
<b>PINS</b>	The Planning Inspectorate
<b>SoCG</b>	Statement of Common Ground
<b>SofS</b>	The Secretary of State

# 1. Introduction and Background

## Preface

- 1.1 The planning system in Wales plays an important role in helping to support economic prosperity, promote sustainable development and address the challenges posed by climate change, whilst safeguarding our access to a quality environment. These objectives are reinforced by the Planning (Wales) Bill. The Bill sets out a statutory purpose for the planning system in Wales which ensures that the development and use of land contributes towards sustainable development by improving the economic, social, environmental and cultural well-being of Wales, in accordance with the Well-being of Future Generations (Wales) Act 2015.
- 1.2 On average, 23,000 planning applications per year are submitted in Wales. The Positive Planning consultation paper<sup>1</sup> acknowledged that the planning system does not always determine those applications in a smart way, often adopting a ‘one size fits all’ approach, irrespective of the potential benefits and impacts that a development may bring. In response, we have introduced measures which will ensure that planning applications are determined in a proportionate way, dependent on their likely benefits and impacts.
- 1.3 Our evidence<sup>2</sup> also highlights concerns about local planning authorities’ (“LPAs”) ability to make timely decisions on some of the most challenging applications, including those that raise complex technical issues and are of a contentious nature. Some of these applications already fall to the Welsh Ministers to decide, either as a result of being called in, or on appeal following refusal by the LPA. This is an inefficient approach. It is our intention to ensure that in future these applications are submitted directly to, and determined by, the Welsh Ministers. To address this we consulted on the introduction of a new category of development called Developments of National Significance (“DNS”). These are developments which are few in number but of greatest significance to Wales because of their potential benefits and impacts.

## The Planning (Wales) Bill

- 1.4 At the time of the publication of this consultation paper, the Planning (Wales) Bill (“the Bill”) has been passed by the National Assembly for Wales with the Stage 4 Assembly vote on the Bill having taken place on the 19 May 2015. Subject to a four week period of intimation, it is anticipated that the Bill will receive Royal Assent and become an Act during the week commencing 29 June 2015. The Bill provisions will enable the Welsh Ministers to determine planning applications that are

<sup>1</sup> Welsh Government consultation paper: Positive Planning: Proposals to Reform the Planning System in Wales (4 December 2013).

<sup>2</sup> Welsh Government research: Evaluation of Consenting Performance of Renewable Energy Schemes in Wales (January 2013).

of significance to Wales under a new process that is appropriate for the handling of such applications.

1.5 The Bill makes provision, amongst others:

- for the Welsh Ministers to specify what proposed development constitutes DNS, either through individual designation within the National Development Framework (“NDF”) for Wales or by meeting particular criteria and thresholds prescribed in regulations, and for applications for those developments to be made directly to the Welsh Ministers;
- requiring any person who proposes to make an application for DNS to notify the Welsh Ministers and the LPA of their intention to do so;
- for the Welsh Ministers to place an obligation on developers to undertake pre-application consultation with the community and statutory consultees in accordance with prescribed steps, prior to the submission of an application for DNS;
- enabling developers to submit, for the consideration of the Welsh Ministers, a number of consents which are connected to the principal application for DNS from a prescribed list;
- for the Welsh Ministers to prescribe the procedure associated with the submission, consideration and determination of an application for DNS;
- requiring that LPAs submit a Local Impact Report to the Welsh Ministers for consideration and for the Welsh Ministers to detail the matters that may be contained within it;
- for the Welsh Ministers to confer functions upon appointed persons to exercise functions in relation to DNS applications. We propose that PINS will be those appointed persons.
- setting the timescale at 36 weeks in which decisions on DNS applications must be reached; and
- for the Welsh Ministers to make provision in relation to fees for DNS applications.

1.6 The purpose of the legislation is to provide more certainty and rigour in the decision-making process for planning applications determined under this particular category. The detail of the process is to be prescribed in regulations and orders, which support the Bill.

## **Purpose of consultation**

- 1.7 Comments received in response to the Positive Planning consultation paper established overall agreement on the establishment of a new category of nationally significant development. These principles were also approved by the National Assembly for Wales as a result of the passing of the Planning (Wales) Bill by the Assembly. This new category of development will ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts. There was also broad agreement that the Planning Inspectorate (“PINS”) in Wales is the most appropriate body to undertake the processing of a DNS application and that those applications should be examined through a similar procedure to that proposed for call-ins and appeals.
- 1.8 This consultation paper sets out detailed proposals for a system to administer and determine this category of planning application and build on those proposals set out in the Planning (Wales) Bill. It will contain the detail that we intend to prescribe in a series of regulations and orders. This consultation paper does not revisit the principles of the Planning (Wales) Bill, since views on those proposals were sought in the ‘Positive Planning’ consultation paper.
- 1.9 The Welsh Government has set out an ambitious programme for the delivery of a system capable of accepting DNS applications early in 2016. To ensure we meet that time scale, this consultation is being run prior to, and subject to, gaining Royal Assent for the Planning (Wales) Bill.

- 1.10 This consultation paper is split into six sections:

### Criteria and thresholds

- 1.11 Projects within the DNS category will be identified in the NDF for Wales with unforeseen speculative projects identified by criteria and thresholds. The Positive Planning consultation paper sought views on a draft set of criteria and thresholds, which mirrored as closely as possible those introduced in England under the UK Government’s Nationally Significant Infrastructure Projects (“NSIP”) regime with the addition of onshore generating stations which produce between 25MW and 50MW. The response to this consultation was inconclusive. Your views are now sought on a refined set of thresholds and criteria.

### Secondary consents

- 1.12 We received overwhelming support for our proposals in the Positive Planning consultation paper, which will allow the Welsh Ministers to handle secondary consents connected to a DNS at the same time as the main application. Your views are now sought on a detailed list of those secondary consents, and for the handling of them.

### Pre-application process

- 1.13 The Planning (Wales) Bill contains a number of provisions requiring developers to submit a notification of the intention to submit an application for DNS, the requirement to undertake pre-application consultation with the local community and statutory consultees, and for the Welsh Ministers to provide pre-application services, where requested by prospective applicants. Your views are sought on the procedural requirements of the pre-application process, and the level of consultation which must be undertaken by the developer prior to the submission of an application for DNS.

### The application process

- 1.14 It has been established that PINS will undertake all functions relating to the processing of an application for DNS, with the final determination being reserved for the Welsh Ministers. Responses to Positive Planning also supported the view that applications for DNS should follow a similar procedure to that for appeals and call-ins. In this section, we will prescribe the process and requirements for making an application for DNS and set out how an application will progress from submission to determination. Your views are sought on the details of this process. A flow diagram of the proposed process is set out at Annex C.

### The role of local planning authorities

- 1.15 Whilst the decision-making power for DNS will be removed from LPAs, they will still have a vital role to play in the determination of DNS applications and their subsequent delivery. Your views are sought on the future roles and responsibilities of LPAs in relation to such applications.

### Fees and costs

- 1.16 Application fees for DNS are to be set out in new fees regulations. Your views are sought on our proposed model for the charging of fees and the circumstances in which costs may be awarded to parties in cases of unreasonable behaviour by one or more participants in the DNS process.



## **2. Criteria and Thresholds**

### **Overview**

- 2.1 The provisions in the Planning (Wales) Bill enable the Welsh Ministers to prescribe in regulations what constitutes a DNS project. Being able to prescribe those projects in secondary legislation permits the process to respond quickly to changing circumstances, such as the introduction of new technologies or where further powers in relation to energy and other planning consents may be devolved to Wales in the future. The projects which qualify as DNS will be kept under constant review.
- 2.2 The Positive Planning consultation paper sought views on a set of criteria and thresholds for DNS. It contained projects which are currently determined by the SofS under the NSIP regime in England but are currently determined by LPAs in Wales and are within the competence of the Welsh Ministers. Onshore energy generating stations with a capacity between 25MW and 50MW were also included. The response received to the Positive Planning consultation was inconclusive. This consultation further refines those categories and thresholds for DNS to ensure that they are appropriate in a Welsh context.

### **Our policy proposals**

- 2.3 The types of development defined as DNS are those which will be of greatest significance to Wales because of their potential benefits and impacts, although they are likely to be few in number. Ultimately, some of these cases would have fallen to be determined by the Welsh Ministers, either as a result of being called in or on appeal following refusal by the LPA.
- 2.4 The Planning (Wales) Bill has already established that applications for specific projects identified by the NDF for Wales would be made directly to the Welsh Ministers under the DNS process. Such proposals are of national significance by virtue of their designation in the national tier of planning policy and by their strategic nature.
- 2.5 There are, however, likely to be projects which are not identified within the NDF which have strategic or national importance. It is essential that a set of thresholds and criteria identify those projects for them to be captured as DNS.
- 2.6 To identify DNS project types, we have undertaken research<sup>3</sup> which examined the number of planning applications for infrastructure projects and business or commercial projects submitted to LPAs between April 2005 to October 2013. The categories of infrastructure project assessed were those included in Annex B of the Positive

<sup>3</sup> Welsh Government research: 'Quantification of infrastructure and business/commercial planning applications submitted in Wales' (30 July 2014)

Planning consultation paper. Data was collected from LPAs for all applications which fell both above and below the thresholds contained at Annex B of Positive Planning, other than those which have been undertaken by statutory undertakers with the benefit of permitted development rights. The data reflects infrastructure projects for all planning applications that would fall outside Section 14 of the Planning Act 2008 as far as they required planning permission and where responsibility for determination currently rests with LPAs in Wales.

- 2.7 The research established that there were 107 infrastructure applications submitted to LPAs during the data period. Whilst 69% of infrastructure applications were approved or were subject to a resolution to grant planning permission subject to the completion of a satisfactory section 106 agreement, the approval-rate is significantly lower than the national average. The research highlighted concerns over the timing of decisions on infrastructure projects. Only 33% were determined within the 8 and 16 week targets for non-EIA and EIA development. Furthermore, around 30% of those applications took more than 52 weeks to be determined. A number are still yet to be determined or are the subject of an appeal.
- 2.8 Further evidence was sought from stakeholders and industry specialists to examine the categories of DNS development and appropriate thresholds in light of the above research. This evidence-gathering process considered afresh the thresholds and categories consulted upon in the Positive Planning consultation paper and assessed the suitability and proportionality of the thresholds in relation to Wales as well as the appropriateness of removing permitted development rights in relation to certain categories of development.
- 2.9 This evidence gathering process has resulted in some changes to the proposed thresholds and criteria since the publication of the Positive Planning consultation paper. Notably, pipe-lines constructed underground by a gas transporter and harbour facilities are no longer proposed as a DNS project category as the type and size of projects that would be captured under these categories are not considered as significant in the national context. Alterations have been made to thresholds for airport development, rail freight interchanges and pipelines not constructed by a gas transporter, to reflect the scale of potential projects coming forward in Wales and the wording of the thresholds have changed for the purposes of precision.

### **List of DNS projects**

- 2.10 Since the initial consultation in Positive Planning and following the submission of further evidence from stakeholders, we have revised the thresholds and criteria for DNS to reflect a proportionate approach for Wales. The types of development and relevant thresholds are detailed in *Annex A*.

- 2.11 When in force, it is our intention that the projects in *Annex A* remain under constant review with additional categories of consent being inserted, or removed as required. Any alterations to the list, including changes to project thresholds arising from the further devolution of powers<sup>4</sup> to the Welsh Ministers, the development of new technologies, or where wider and comprehensive reforms are held into particular categories, would be subject to further consultation.

### **Consultation questions**

- Q1:** Do you agree with the proposed thresholds and categories of development set out in *Annex A*? If not, why not?

### **Enabling powers in the Planning (Wales) Bill**

- 2.12 Section 19 of the Planning (Wales) Bill inserts sections 62D and 62E into the 1990 Act.
- 2.13 Section 62D requires that planning applications for DNS are to be made to the Welsh Ministers. A DNS application is an application for planning permission (other than outline planning permission) for the development of land in Wales, which is either of a description prescribed by the Welsh Ministers in regulations or one which is specified by the Welsh Ministers in the NDF.
- 2.14 An application for planning permission to vary conditions attached to a previous planning permission is not to be treated as an application for DNS unless it is of a description prescribed in regulations by the Welsh Ministers.

<sup>4</sup> Silk Commission: 'Powers for a Purpose : Towards a Lasting Devolution Settlement for Wales' (March 2015)

### **3. Secondary consents**

#### **Overview**

- 3.1 To minimise the number of separate applications required to enable a DNS to proceed and to provide greater clarity for all parties, an applicant for DNS will have the option of submitting certain connected applications, licences, orders, notices and consents to the Welsh Ministers at the same time and following the same process as the main application for DNS.
- 3.2 This 'one stop shop' proposal was consulted upon within the Positive Planning consultation paper and received widespread support.

#### **Our policy proposals**

- 3.3 The ability to submit these applications for secondary consents will be at the discretion of the developer. When a developer notifies the Welsh Ministers of the intention to submit a planning application for DNS, they will be required to set out in that notice a list of secondary consents that they intend to apply for from a specified list, although there will be no statutory requirement to require applicants to apply for those consents contained in the specified list.
- 3.4 When accepting this notice, the Welsh Ministers may recommend to the developer that they should submit certain additional secondary consents at the same time from that list. Any pre-application consultation undertaken following that initial notification must include details as to the secondary consents that are intended to be applied for.
- 3.5 Upon submission of an application for DNS, the developer must present the application or notice for secondary consents alongside it in the manner that it would be presented to the normal consenting authority, to meet the minimum registration requirements for that consent. It is not the intention to alter those validation requirements for a secondary consent where it is applied for alongside an application for DNS. The applicant must also confirm their intention for the secondary consent to be determined by the Welsh Ministers on the DNS application form.
- 3.6 The Welsh Ministers will be permitted to use powers to 'call in' an identified type of secondary consent if they consider it to be connected with an application for DNS and the developer has not already submitted that matter as a secondary consent to the primary DNS application. It is intended that those powers should be used very rarely. In such instances, the statutory time period (see *paragraphs 5.54-5.60*) for the application for DNS will be paused until the secondary consent has been presented to the Welsh Ministers in its entirety.

- 3.7 Once an application for a secondary consent has been submitted and validated by the Welsh Ministers, it will be considered at the same time as the principal DNS application. Applications for DNS will be considered by way of written representations, hearings, inquiries, or a mixture of two or more of those methods. The applicant or other parties may make a case for certain matters to be considered by way of a hearing or inquiry, but the determination of procedure will ultimately be decided by the Welsh Ministers. Matters relating to the connected consents will be considered through the same method, although the Welsh Ministers may decide to hold a separate hearing or inquiry into that consent. Our full proposals relating to the examination of an application for DNS are at *paragraphs 5.41-5.50*.
- 3.8 The basis on which a secondary consent is decided will not change through being aligned to the DNS process. It is our intention that when such a consent is considered by the Welsh Ministers, the same statutory consultees will be consulted and a decision will be based on the same considerations as if the consent had been made to the normal consenting authority. The decision on the secondary consent may differ, therefore, from that of the principal application for DNS. It is our intention for the decision on all secondary consents applied for to be provided on the same decision notice as the application for the primary DNS.
- 3.9 To enable those secondary consents to fit with the application process for DNS, some variations may need to apply to their existing processes. These will include:
- The secondary consent will be subject to the pre-application procedure of the primary DNS, giving statutory consultees an opportunity to comment on the proposed secondary consent application prior to its submission to the Welsh Ministers (see *section 3*);
  - Timescales for consultation with statutory consultees will be changed to align with the consultation periods for the primary DNS application. Consequently the secondary consent may be subject to wider public consultation and comment than usual (see *paragraphs 5.21-5.29*);
  - There will not be a separate fee for applications for secondary consents. The cost of administering secondary consents will be incorporated into the overall fee for the DNS application, which will be based on Inspector resource used rather than the size of the development (see *section 7*); and
  - The usual consenting authority will be consulted as part of the process and will be required to issue a substantive response.

## **Reason for approach**

- 3.10 There are clear benefits to incorporating a process for secondary consents into the DNS consenting regime. Principally, it allows a single body to undertake the examination into a number of applications which are connected to a scheme, offering significant time and cost savings for all parties. Furthermore, such a process would allow for decisions to be made in a consistent and transparent way.
- 3.11 This approach will provide greater clarity for all concerned by enabling all necessary applications, and the issues raised by such a project, to be considered together, thus improving the quality of decision-making. The approach also enables the public to participate by giving their views on a number of consents through making a single set of representations. This will be less repetitive for communities and preferable to having to make similar comments to a number of consenting authorities.

## **List of secondary consents**

- 3.12 We will set out in secondary legislation a list of consents that may be applied for as a secondary consent alongside the primary DNS application. The purpose of this is to provide clarity and consistency to applicants in respect of the secondary consents that may be sought alongside the principal application for DNS.
- 3.13 To that end we have undertaken a refining exercise, which looked at a number of potentially relevant consents, to ascertain whether each consent identified would be appropriate to be included as part of an application for DNS. The aim was to establish a core set of consents that would be directly relevant to an application for DNS. The criteria we established for an application to be included in the list of secondary consents was to:
- (a) Be a necessary part of a DNS application, rather than a detailed operational consent that could be obtained at a later stage;
  - (b) Be a consent likely to arise as part of a DNS proposal and not be so specific that it would be unlikely to be part of a DNS project; and
  - (c) Be a devolved matter normally consented by the Welsh Ministers or other Welsh bodies.
- 3.14 The refining exercise has informed *Annex B*, which sets out a list of secondary consents which we intend to prescribe in secondary legislation. It is our intention that this list may be further refined and additional consents inserted, as required, once the DNS process has bedded in. Any changes to the list would be subject to further consultation:

## **Consultation questions**

- Q2:** Do you agree with this proposed approach for determining secondary consents? If not, why not?
- Q3:** Do you agree that the Inspector may determine the procedure for secondary consents? If not, why not?
- Q4:** Do you agree with the proposed list of secondary consents in *Annex B*? If not, why not?

## **Enabling powers in the Planning (Wales) Bill**

- 3.15 Section 20 of the Planning (Wales) Bill (as introduced) inserts sections 62F, 62G and 62H into the 1990 Act.
- 3.16 Section 62F allows the Welsh Ministers to make a decision on a consent which they consider to be connected to an application for DNS and which they consider should be made by them instead of the normal consenting authority.
- 3.17 Section 62G gives power to the Welsh Ministers to give directions to the normal consenting authority to do things in relation to a secondary consent. The Welsh Ministers may make regulations about the manner in which a secondary consent is dealt with by the Welsh Ministers, including consultation arrangements. Regulations may provide for other enactments or requirements in respect of secondary consents either to apply with changes or not to apply, where decisions are to be made by the Welsh Ministers.
- 3.18 Section 62H defines a secondary consent and when it is connected to an application for DNS. The Welsh Ministers will have power to prescribe secondary consents in regulations.

## **4. Pre-application process**

### **Overview**

- 4.1 Early engagement between developers and stakeholders is vital to ensure that an application for DNS proceeds in a timely manner. We propose a number of measures which ensure that sufficient engagement occurs between the developer, statutory consultees, the public, local planning authorities, community councils and the Welsh Ministers at the pre-application stage.
- 4.2 Our intention is that any significant planning issues can be raised prior to the submission of a formal application. An efficient pre-application process would provide developers with the opportunity to consider these issues and, if necessary, amend their proposals before they are finalised and submitted as a planning application for DNS (with associated secondary consents). The expectation is that a DNS application will be complete on submission with no need for further amendment unless unforeseen circumstances arise.
- 4.3 Our DNS pre-application process will largely follow that for major developments, illustrated in the ‘Frontloading the development management system’<sup>5</sup> consultation paper, with some proportionate variations to tailor the process to the specific requirements of applications for DNS.

### **Our policy proposals**

#### Pre-application services

- 4.4 The Welsh Ministers are committed to pre-application services as a means of ensuring that the system for determining applications for DNS operates efficiently. The provision of pre-application services can improve the quality of submissions which should facilitate quicker decisions, thus stimulating development. Current practice indicates that most developers seek pre-application advice and consider it to be beneficial.
- 4.5 We consulted on the principle of requiring pre-application services for DNS as part of the Positive Planning consultation paper. Initially, we proposed that pre-application advice and discussions would comprise the provision of procedural information to ensure that the developer gives consideration to relevant social, economic and environmental issues and identifies the relevant bodies or persons to be consulted in advance of an application being formally submitted. We have since received evidence that a more comprehensive service should be provided by the Welsh Ministers, with services extended to giving advice on the merits of a proposed scheme.

<sup>5</sup> Welsh Government Consultation Document: “Frontloading the development management system” (6 October 2014).



- 4.6 We have taken these comments into consideration and propose that the pre-application services will also include ‘without prejudice’ advice on the merits of a proposed scheme. We consider that PINS will be best placed to provide that advice on behalf of the Welsh Ministers. The Inspectorate enjoys a level of autonomy which is sufficient for their views not to be construed as those of the Welsh Ministers. In the interests of impartiality and transparency, such advice would be given by a different person from the Inspector who will be appointed to consider and examine any subsequent application for DNS that is submitted to the Welsh Ministers. No formal opinion of the proposal will be given by officials of the Welsh Government or the Welsh Ministers unless it forms part of the formal decision issued by them.
- 4.7 We propose that pre-application services may be given at any stage prior to the submission of an application for DNS. The pre-application services provided by PINS will be publicised through a service statement. This will set out in detail the level of service, which will typically involve:
- Advice on the form and content (including technical reports) of the application for DNS;
  - Advice on information to include within any technical document submitted by the applicant;
  - Advice on the relevant policy;
  - Non-binding advice on the merits of a proposed scheme; and
  - Guidance on the amount and type of community consultation required.
- 4.8 LPAs will be expected to respond to any requests for pre-application services in accordance with a service agreement, as specified in the ‘frontloading the development management system’ consultation paper. In the context of DNS, we expect the services of LPAs to be different from those provided where the subsequent application is determined by them.
- 4.9 We envisage that LPAs should provide the following services in relation to DNS proposals, where requested:
- Relevant planning history;
  - Advice on whether any section 106 or Community Infrastructure Levy contributions are likely to be sought and an indication of the scope and amount of these contributions (see *paragraphs 5.8-5.16*);
  - An indication of whether a Statement of Common Ground (“SoCG”) would be invited (see *paragraphs 5.17-5.20*);
  - An indication of local issues, baseline conditions or designations which require consideration;
  - Advice on the local planning policy framework;

- Likely mitigation or conditions requested as a result of the proposals; and
  - Suggestions of local individuals, groups or societies who should be consulted as part of the applicant's requirement to consult with the community.
- 4.10 LPAs have an important role to play in the pre-application stage due to the range of knowledge and information they possess of the locality. We will encourage developers to contact LPAs at the earliest possible opportunity in the DNS process to discuss the above requirements.
- 4.11 Requests for pre-application services may be made prior to the notification of a DNS proposal. All requests to use the pre-application service must be made in writing submitted on an enquiry form which, as a minimum, will require:
- Contact details and name of the developer and/or agent;
  - A description of development;
  - Confirmation that the developer considers the application to be a DNS;
  - A site address and associated location plan on an OS base; and
  - Any plans or additional information which will aid PINS or the LPA in providing a helpful and focussed response.
- 4.12 PINS or the LPA may ask for additional information, where required, to enable them to provide a substantive response.
- 4.13 PINS and the LPA will respond to pre-application requests in written form and may entertain meetings with prospective applicants, where necessary. In the interests of transparency and open governance, they will maintain a record of all pre-application enquiries made to them. Whilst not being a requirement, it is our intention for PINS to publicise a summary of pre-application requests received and advice given. As indicated in the 'Frontloading the development management system' consultation paper, PINS will be required to respond to pre-application enquiries within a prescribed period and must offer the opportunity to discuss the proposals with the developer. We propose that the prescribed period be 28 days, though this period may be extended by PINS where required. Pre-application services from PINS will not be limited to one written response.
- 4.14 Local planning authorities will be able to recover the cost of providing a pre-application service in relation to applications for DNS. This is to be in accordance with a standard national fee for pre-application services. It is also the intention for PINS to charge an hourly fee for any advice given by them (see *section 7*)

## Notification

- 4.15 When preparing an application for DNS, the developer must first notify the Welsh Ministers via PINS of the intention to submit such an application. The developer will not be able to carry out any statutory pre-application consultation for a proposed DNS application before receiving notice from PINS that their notification has been accepted. Any consultation undertaken prior to this event will not be treated as such.
- 4.16 Early notification enables the Welsh Ministers to understand and recognise the impacts of a project at an early stage, and to ensure that the developer has considered the requirement for an Environmental Impact Assessment. The requirement to provide a notification in a prescribed form is intended to give PINS sufficient information to determine whether the proposal is DNS and for them to allocate inspector resource in respect of pre-application requirements and for the consideration of the application, when submitted.
- 4.17 The notification must include sufficient information to confirm to PINS whether the proposed development constitutes a DNS, while not creating a burden on the developer in putting together the notification. We envisage prescribing the following requirements:
- The name and address of the applicant (and/or their agent);
  - A statement that the applicant intends to make an application for DNS;
  - A statement to confirm whether the application is EIA development and supporting reasons;
  - A description of the proposed development, specifying its location;
  - The identification of which of the prescribed secondary consents the developer would like to be considered by the Welsh Ministers;
  - An indicative timescale for pre-application consultation and the submission of an application;
  - A plan which sufficiently identifies the land to which the application relates; and
  - A notification fee.
- 4.18 PINS will be required to provide a notice of acceptance of this notification within 10 working days, or any such longer time as notified in writing.
- 4.19 Once accepted by PINS, the developer will have 12 months to carry out their pre-application consultation requirements and submit an application for DNS. Any action carried out after this period shall not be treated as pre-application consultation. However, PINS may give a short extension to the date to which the notification of an application for DNS expires, upon request from the developer.

- 4.20 When notifying PINS of a DNS application, there will be an expectation that the developer will be sufficiently progressed with the making of an application to be able to undertake statutory pre-application consultation. Hence, it will be a prerequisite that developers assess the requirement for EIA, either through self-determination or seek a screening or scoping direction from PINS, prior to the issue of the notification.

#### Pre-application publicity and consultation

- 4.21 It is essential that communities and consultees are aware of proposed developments which affect them at the earliest possible stage. This allows those parties to have more effective involvement in influencing schemes. The community and consultees may bring to the attention of developers vital information and considerations which were previously unknown to them. A process of pre-application publicity and consultation provides an opportunity for those considerations to be taken into account when compiling a final scheme for submission.
- 4.22 The Planning (Wales) Bill introduces a new requirement for statutory pre-application publicity and consultation to be carried out by potential applicants for certain categories of development. These proposals are to apply to applications for DNS. The intention is to ensure that the immediate community is provided with an opportunity to comment on development proposals before they are formalised as planning applications. The new duty will also require potential applicants to consult with other 'specified persons'. We propose that those specified persons are statutory consultees<sup>6</sup>.
- 4.23 The proposals contained in the 'frontloading of the development management system' consultation paper outlined the level of detail required to initiate publicity and consultation. Our proposals build on the consultation paper in requiring developers to undertake more rigorous consultation requirements, proportionate to the impact of a DNS.
- 4.24 As a minimum, we will expect developers to supply and publicise a complete copy of the planning application which they intend submitting to the Welsh Ministers for a period of at least 28 days. The information must comply with that set out in the DNS application form which will be supplied by the Welsh Ministers and the validation requirements specified by them. The intention is that sufficient information is provided to enable informed representations and feedback to the developer.

<sup>6</sup> As currently defined by the Town and Country Planning (Development Management Procedure) (Wales) Order 2012; Schedule 4.

- 4.25 To inform parties of the publication of the above pre-application information, we will require developers to publicise a development proposal in each of the following ways, in accordance with guidance contained in Circular 32/92<sup>7</sup> (where applicable):
- (a) The display of site notices within the vicinity of the site;
  - (b) Notification letters to neighbouring properties, all local ward members and any Town or Community Councils; and
  - (c) The publication of a press notice in a local newspaper.
- 4.26 We will prescribe that the above notices and letters contain the following information:
- (a) A statement explaining the purpose of the notification, clarifying that it provides the opportunity for comment prior to the submission of a planning application in accordance with statutory requirements;
  - (b) A description and address of the proposed development;
  - (c) The address of a building in the locality, including opening hours, where a hard copy of plans and any relevant supporting information will be made available for public viewing for the duration of the publicity. The website on which the proposal is published must also be provided. For statutory consultees, a copy of the relevant plans must be sent or a link to the website must be attached;
  - (d) The timescales for response for the community (28 days) or the timescales for receipt of the substantive responses from statutory consultees (28 days);
  - (e) A postal address and e-mail address for the submission of any comments;
  - (f) A statement explaining that any comments submitted to the developer may be placed on the public file; and
  - (g) A statement to clarify that any resulting planning application will be publicised by or on behalf of PINS, providing the public with an opportunity to comment directly to PINS.
- 4.27 Prospective applicants will also be required to identify locations where the plans and supporting information will be made available for viewing. As a minimum, we will require that applicants:
- (a) Deposit a copy of the proposed application with supporting materials in a publically accessible location within the locality of the application site; and
  - (b) The publication of the proposed application and supporting materials on a website.
- 4.28 We consider that the frontloading of consultation in this manner has benefits for all parties. For the applicant, responses to the proposals would be received at an earlier stage allowing a scheme to be refined

<sup>7</sup> Welsh Office Circular 32/92: 'Publicity for planning applications'.

as much as possible to minimise and mitigate the impact on local communities and concerns of consultees. This will reduce delays later in the process.

- 4.29 Communities and statutory consultees will benefit from a more transparent process with greater opportunity to offer a formal view. These parties may also have more influence on a scheme as there would be no restrictions on subsequent amendments prior to the submission of a formal application.
- 4.30 Developers will be required to undertake the process of publicising a DNS proposal for pre-application consultation at least once as a minimum. We will not make provision which prevents an applicant from carrying out the minimum requirements for pre-application consultation more than once.
- 4.31 As an output from this process, developers will be required to produce a 'pre-application consultation report' which documents their compliance with statutory pre-application consultation requirements. This must be submitted as part of the planning application for DNS (see *paragraphs 5.3-5.4*).
- 4.32 The report is the means of formally reporting the process and outcome of pre-application consultation, enabling PINS and other parties to ascertain whether appropriate consultation has been undertaken prior to the submission of an application and to document the origins and progress of and reasons for any changes made to a proposal.
- 4.33 As a minimum requirement, we expect the consultation report to contain the following:
- (a) Copies of the publicity measures undertaken, including site notices, press notices, a link to the relevant web site publicising the application, publicity letters, letters to local members, Town and Community Councils, statutory consultees;
  - (b) A list and details of those persons notified of the proposal;
  - (c) A summary of the all issues raised by respondents through the publicity process and an indication of whether the scheme has been amended to take account of these issues. In addressing these issues, the developer will not be required to address each individual comment made by respondents but would instead provide a summary of the issues raised; and
  - (d) Copies of responses from consultees. The report must indicate how the comments of statutory consultees, if any, have been taken into account. If the developer chooses not to amend the scheme in light of comments from consultees, the report must explain why.

### **Consultation questions**

- Q5:** Do you agree with the minimum requirements for the notification of a DNS? If not, why not?

- Q6:** Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?
- Q7:** Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?

### **Enabling powers in the Planning (Wales) Bill**

- 4.34 Section 18 of the Planning (Wales) Bill inserts sections 61Z1 and 61Z2 into the Town and Country Planning Act 1990.
- 4.35 Section 61Z1 gives the Welsh Ministers the power to make regulations about the provision of pre-application services by local planning authorities or the Welsh Ministers. The regulations may set out when pre-application services are required to be provided; the nature of the services to be provided; and requirements for publishing information and documents relating to the provision of the services.
- 4.36 Section 61Z2 confers power on the Welsh Ministers to make regulations that require LPAs and the Welsh Ministers to keep records of pre-application services, and to publish information on the type of pre-application services provided.
- 4.37 Section 19 of the Planning (Wales) Bill inserts section 62E into the Town and Country Planning Act 1990. It requires a person who proposes to make a DNS application to notify the Welsh Ministers. The Welsh Ministers may make provision, in a development order, as to the form and content of notification, information that is to accompany the notification, and the way and time in which the notification is to be given. This section also requires the Welsh Ministers, on receiving notification, to give notice to the person proposing the application that the notification has been accepted, and enables them to prescribe how this notice is given.
- 4.38 The Planning (Wales) Bill at section 16 inserts section 61Z into the Town and Country Planning Act 1990. Section 61Z requires pre-application consultation to be carried out by those intending to apply for permission for development of a type specified in a development order made by the Welsh Ministers. The section requires the proposed application to be publicised in a way that brings the proposal to the attention of neighbours (persons who own or occupy premises in the vicinity of the development site) and specify those who must be consulted by the applicant about the proposed application.
- 4.39 Section 61Z confers power on the Welsh Ministers to make further provisions in a development order about the consultation process, including the form and content of consultation documents; information and other materials that are to be provided to neighbours and specified

consultees; and timescales. The section also enables the Welsh Ministers to require specified consultees to respond to the consultation in a particular manner and within a particular time, and to report to the Welsh Ministers on their compliance with any such requirements.

- 4.40 This provision also provides that the Welsh Ministers must require in a development order that a consultation report accompanies planning applications where the applicant has been required to carry out pre-application consultation and the particulars that must be contained in the report.



## 5. The application process

### Overview

- 5.1 The response received to the Positive Planning consultation paper clearly indicated that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of applications for DNS. It will undertake all processing and outward-facing functions relating to an application for DNS. The decision-making function will be reserved for the Welsh Ministers.
- 5.2 Responses to that consultation paper also agreed that the application should follow a similar process to that proposed for appeals and call-ins. It is our intention to develop a set of dedicated procedure regulations and orders addressing applications for DNS. Our proposals will reflect existing processes used by LPAs and the Inspectorate as much as possible. A flow diagram of the proposed process is set out at *Annex C*.

### Our policy proposals

#### Form and content of an application

- 5.3 An application form for DNS will be provided by the Welsh Ministers. The applicant will be required to submit the form, along with a range of documents prescribed on the form. We consider that the requirements below are appropriate to supplement an application for DNS:
- The notice of acceptance issued by the Welsh Ministers following notification under section 62E of the 1990 Act;
  - A plan that identifies the land to which the application relates;
  - Any other plans, drawings and information necessary to describe the development which is the subject of the application;
  - A report relating to the statutory consultation which has been carried out (see *paragraphs 4.21-4.33*);
  - A Design and access statement;
  - A section 106 statement detailing the progress made in drafting and agreeing planning obligations (see *paragraphs 5.8-5.16*);
  - An environmental statement or a screening direction indicating that EIA is not required;
  - A full submission of the details of any secondary consents that the developer has submitted to the Welsh Ministers;
  - The identification of any other secondary consents the applicant is intending to apply for to the normal consenting authority;
  - Confirmation that a hard copy of the above information has been issued to the LPA(s) within which the development is located; and
  - The appropriate fee (see *section 7*).

- 5.4 Reflecting existing provisions for local validation lists for planning permission, applicants for DNS will also be required to supply documents or information identified on a list published by the Welsh Ministers. We expect that the Ministerial validation list will include specific differentiated information required for each category of project under the DNS regime.

#### Validation

- 5.5 We intend to introduce a requirement for PINS to determine the validity of an application and formally issue a notice of that determination to the applicant and LPA. For applications determined to be valid, the date of the notice will act as the starting point for the statutory period for determination of the application (see *paragraphs 5.54-5.60*). The advantage of this approach is that it will provide certainty for all parties as to the start date for the application for DNS.
- 5.6 Upon submission of an application, PINS will be required to issue an acknowledgement and specify that the application will be validated within the prescribed period. This period will be 28 days for non-EIA development and 42 days for EIA development. The prescribed period may be extended by PINS where they have issued written notice to do so. PINS will consider the completeness of the information that has been submitted by the developer against the minimum information requirements and the adequacy of the content of certain documents supplied such as the Environmental Statement and Statement of Statutory Consultation.
- 5.7 It will be a requirement for the Welsh Ministers to issue the validation notice when they are content that the validation requirements have been met. Where an application is determined to be invalid, PINS will give reasons for their decision. These requirements do not prevent PINS from asking for further information during the application process.

#### Planning obligations

- 5.8 It is anticipated that the majority of decisions on applications for DNS will require a legal agreement under section 106 of the 1990 Act to ensure that the development is acceptable in planning terms. A section 106 agreement may be required to implement mitigation measures as well as to address any required developer contributions. It may be in the form of an agreement between the LPA and the applicant or a unilateral undertaking issued by the applicants. These are both enforceable by the LPA, although the latter may not necessarily bind them to undertake works.
- 5.9 We have received evidence which suggests that legal undertakings relating to section 106 are not always completed in a timely manner. This issue can add considerable delay and cost to projects and cause decisions on applications to be delayed. Reasons for such delays include unrealistic expectations by one or both parties causing no

agreement to be struck or where agreements have been of a poor and unenforceable standard.

- 5.10 The timing of the Section 106 negotiations can often cause delays to the issue of a decision on an application. An agreement is usually completed at a late stage in the application process, often following a resolution to grant an application. We are aware that in some instances, negotiations do not commence until the application has progressed a significant way through the process. This can introduce uncertainty in the process for all parties involved.
- 5.11 To remedy this, we will seek to encourage early negotiations between the applicant and LPA through the requirement to submit a 'section 106 statement' alongside an application for DNS and this will be a validation requirement. The statement will document the measures that have been undertaken by the applicant in addressing planning obligations up to the point of submission of the application for DNS. It must include a declaration that the LPA has been contacted regarding the need for a section 106 agreement and the response of the LPA, if one is given. If a section 106 is not required by the LPA or the LPA is content for the developer to proceed by way of a unilateral undertaking, the evidence supporting this should form part of the section 106 statement. If a section 106 agreement is considered to be necessary, an indication of the requirements of the LPA should be provided, along with a declaration of what the applicant is intending to provide in response to this statement. There will be no duty to provide commercially confidential financial details.
- 5.12 The requirement to submit the section 106 statement is intended to encourage all parties to think about and discuss section 106 requirements at an early stage which will reduce the risk of delay later in the application process. It is our aim that substantial matters relating to section 106 will be resolved prior to the examination of a DNS. The statement aims to ensure that the issues which are relevant to the application are explored prior to the submission of an application through discussion.
- 5.13 For a section 106 statement to be submitted as part of a scheme, we will require associated negotiations to fall within the ambit of 'pre-application services' which the LPA is under a duty to provide (see *paragraphs 4.4-4.14*). Such a measure will place a duty on the LPA to liaise with the developer on this matter when requested. Applicants will be encouraged to use this mechanism to commence negotiations with the LPA where it has not been possible prior to the formal pre-application stage. We consider the section 106 statement could also be used to document discussions relating to planning conditions and Statements of Common Ground ("SoCG") (See *paragraphs 5.17-5.20*).

- 5.14 In the interests of flexibility, we will expect the submission of a section 106 statement as a minimum, although applicants may also submit a fully agreed section 106, heads of terms or a unilateral undertaking as part of the DNS application, should they so wish. We will seek to supplement the above requirements with guidance addressing the roles and responsibilities of parties to ensure timely section 106 agreements.
- 5.15 Through practical experience of the called-in planning applications process, there are occasions where the Welsh Ministers have become involved in the process of facilitating the negotiation of a section 106 agreement. This has necessitated the Welsh Ministers seeking their own legal advice on the soundness and enforceability of the agreement. In some cases this has proven to be costly and time-consuming with no provision for the Welsh Ministers to recover those costs.
- 5.16 We are proposing that the Welsh Ministers or PINS may recover any costs incurred in facilitating a section 106 agreement or unilateral undertaking.

#### Statements of common ground

- 5.17 Written statements prepared jointly by the applicant and any interested party that contain agreed factual information about the application (SoCG) can aid the efficiency of an application process. The benefit of such statements is that they set out matters that are agreed between parties and need not be revisited during the examination of an application. This can be beneficial in ensuring that an examination is focussed on the matters of dispute, enabling decisions to be made in a timely manner.
- 5.18 Conversely, we acknowledge that the production of a SoCG can place pressure on LPAs, statutory consultees and the applicant. We have received evidence from users of other planning regimes which highlights the difficulty in achieving agreement between parties on such matters. The evidence suggests that, on occasion, the requirement to submit a SoCG places burden on the process rather than ensuring speedy resolution.
- 5.19 Due to the associated difficulties in achieving agreements and the potential delay that a requirement for a SoCG may cause, we will not be seeking to place a statutory requirement or deadline on such statements for all DNS applications. For those instances where SoCG may be appropriate, we will encourage developers and LPAs to proactively seek resolution of disputed issues. We will also give developers the option of documenting the status of discussions relating to common ground within their section 106 statement.

- 5.20 It is our intention to produce guidance which addresses SoCG. This guidance will specify that where a SoCG is initiated, it should be submitted within 5 weeks of the notice of validation of a DNS application. This is to inform the procedure for examination of the DNS application (see *paragraphs 5.41-5.50*). Later statements may be submitted where helpful to the examining Inspector. We consider this approach strikes the right balance due to the individual nature of each DNS application.

#### Consultation and publicity

- 5.21 Whilst it is the intention that all issues relating to an application for DNS are resolved prior to formal submission, its content may have changed from the proposed scheme of development considered as part of the statutory pre-application consultation and publicity stage. Statutory consultees, Town or Community Councils and third parties will have provided comments to influence the application at the pre-application stage. However, it is necessary and fair for those parties to have an opportunity to comment on a formal application for DNS in the same way they would for a planning application to the LPA.
- 5.22 It is the intention that the post-submission consultation and publicity arrangements will give those with an interest in the application an opportunity to provide a final view on the formally registered application, which PINS and the Welsh Ministers will consider. This will also provide those parties with an opportunity to comment on the content and conclusions of the applicant's pre-application consultation report (see *paragraphs 4.21-4.33*).
- 5.23 Formal consultation and publicity on an application for DNS will be administered by the Inspectorate. This is to ensure transparency of process, including ensuring that all responses and other documentation relating to the application held by PINS is made publicly available. However, we acknowledge that the PINS do not possess the local knowledge and information to be able to carry out such a consultation. The LPA(s) within which the proposed DNS is located remain best placed to guide how publicity is undertaken. Guidance and advice will be required from the LPA to ensure that the correct stakeholders are reached. This is likely to be obtained by PINS prior to the submission of an application. PINS may direct that LPAs provide them with the required information in relation to consultation where it is not supplied in the first instance. We propose a partnership approach in targeting publicity in the correct way and we have set out in table A where we consider responsibility for publicity of the application should lie:

**Table A: Proposed publicity arrangements for DNS applications.**

Responsible authority	Publicity or consultation requirement
The Planning Inspectorate	Letters to statutory consultees.
	Maintenance of application website.
	Informing LPA of the requirement to submit a 'Local Impact Report' (See section X)
The Planning Inspectorate, with input from LPA.	Neighbour notification letters.
	Letters to interested parties and organisations.
	Notification to Town and Community Councils.
	The placement of notices in the local press.
The LPA	The erection of site notices (copies supplied by the Inspectorate).

- 5.24 When consulting with the relevant stakeholders all comments must be submitted to PINS within 5 weeks of the notice confirming that the application for DNS is valid. This is longer than the 21 days required for major planning applications to reflect the fact that DNS projects are likely to be of greater complexity. We consider that this timescale strikes the right balance as all interested parties will be in full knowledge of an application either as a result of pre-application consultation or at the point of submission of the application for DNS. This timescale is also consistent with the requirement to submit a Local Impact Report (“LIR”) by LPAs (see *paragraphs 6.10-6.23*).
- 5.25 There are occasions where, by no fault of the representor, responses to applications may be received outside the 5 week window for representations. PINS will be able to exercise discretion in considering whether to accept such representations.
- 5.26 In inviting representations from third parties and requiring responses from statutory consultees, it will be expected that respondents submit all the comments they wish to make in relation to the application. This should also include any comments in relation to the proposed procedure for determining the application for DNS. Effectively, the comments received are to be the respondent’s full statement of case either in support of or against the application. It is our intention that following the receipt of all comments and representations at this stage, the Inspector will have sufficient information to be able to determine the application for DNS.
- 5.27 As specified in the ‘Frontloading the Development Management System’ consultation paper, statutory consultees will be expected to provide a ‘substantive response’ to consultation at the pre-application stage and as part of any consultation following the submission of an

application. It will be open to developers and statutory consultees to enter into a Planning Performance Agreement as is the case with applications that are made to an LPA, should they consider it appropriate.

- 5.28 The IAG Report<sup>8</sup> highlights the significant influence that statutory consultees have in the development management system, and the need to ensure that consultees adopt a positive role in helping to find solutions to enable developments to proceed. Statutory consultees will, therefore, be required to provide a 'substantive response' within the specified 5 week timeframe for planning applications for DNS. We propose to adopt a similar definition of 'substantive response' for the purposes of applications for DNS to that used in the IAG report. To clarify, a 'substantive response' will be one which:
- (a) States that the consultee has no comment to make;
  - (b) States that the consultee has no objection to the proposed development and refers the consultor to current standing advice by the consultee on the subject of the consultation;
  - (c) Advises the consultor of any concerns identified in relation to the proposed development and how these concerns can be addressed by the applicant; or
  - (d) Advises that the consultee objects to the proposed development and sets out the reasons for the objection.
- 5.29 Statutory consultees will be required to document their compliance with requirements placed upon them in a 'performance report', as per the proposals contained in the 'Frontloading of the Development Management System' consultation paper.

#### Amendments to DNS schemes

- 5.30 The 'Positive Planning' consultation paper set out our proposals in relation to post-submission amendments to schemes for DNS. That paper sets out that there will be a single opportunity for the applicant to submit amendments to a scheme for DNS once a formal application has been registered. Amendments are only those which are accepted by the Inspectorate as minor. The rationale behind this is that sufficient opportunity has been provided at the pre-application stage for major issues to be identified, raised and addressed. We received a mixed response to this proposal.
- 5.31 We have given consideration to the comments received and propose some adjustments.

<sup>8</sup> Report to the Welsh Government by the Independent Advisory Group: 'Towards a Welsh Planning Act: Ensuring the Planning System Delivers' (June, 2012)

- 5.32 Overall, we will seek to discourage amendments to a scheme following the submission of an application for DNS. We consider that the pre-application stage is the most appropriate stage at which to make any major alterations to a scheme. However, it is accepted that, following post-submission consultation on an application for DNS, there may be occasions where new information arises requiring amendment to the scheme. Such an occasion may arise where amendments have been made to a scheme as a result of pre-application consultation, but those amendments bring new impacts. Accordingly, whilst retaining the principle of there being only one opportunity for the applicant to proactively make an amendment to a scheme we will allow PINS take a flexible approach to enable developers to react to any adverse comments while also allowing a scheme to progress in a timely manner.
- 5.33 Following the completion of consultation and publicity of an application for DNS, we propose a window of 10 working days which starts from the closing date of consultation within which a developer may express an intention to make an amendment to a scheme for DNS. The notice of intent to make amendments will include the details of the proposed change and a requested timescale within which to make the amendment. PINS will come to a view whether to accept the proposed amendment. If PINS agree to an amendment, it will be subject to a timescale issued by them. Any statutory timescale relating to the determination of an application for DNS will pause until that amendment has been submitted (see *paragraphs 5.54-5.60*). PINS may still reject an amendment if it is outside the scope of the agreed notice of intent.
- 5.34 We propose a short timescale within which an applicant may express an intention to make an amendment as they will have sufficient opportunity to view any representations submitted through an online portal maintained by PINS. Finalised plans are still required prior to the examination of the scheme.
- 5.35 Originally, it was our intention that only minor or non-material amendments be accepted at this point as the applicant will have resolved major issues relating to the scheme during the pre-application process. However, we accept that occasions may arise where amendments which are more than minor or non-material in nature would resolve adverse comments made by statutory consultees and third parties and result in a more acceptable overall scheme. Those amendments may also reduce environmental impacts and improve public confidence in a scheme.
- 5.36 Ultimately, we consider that the acceptance of amendments should be the discretion of the Inspector examining the application for DNS. Depending on the full extent of the amendments, the Inspectorate may also decide whether additional consultation is required and the extent of that consultation.



- 5.37 We consider the latter provision to be appropriate as some amendments may have little or no impact on all or some stakeholders. No further amendments to the scheme will be permitted following this stage, even following additional consultation, as we are seeking to avoid creating a circular process for making amendments. We propose notifying interested parties of any amendment accepted by the Inspectorate to a scheme for DNS.
- 5.38 Decisions on the acceptance of an amendment are to be supported by guidance produced by the Welsh Ministers. The guidance will be made publically available in the interests of transparency. As a general rule, any amendment which produces greater impacts than those contained within the applicant's environmental statement is unlikely to be accepted, although the developer may work within the envelope of assessed impacts.
- 5.39 Circumstances may also arise where drawing errors or inconsistencies may come to the attention of the Inspector or where minor changes are required as a result of further information from consultees. We consider it appropriate for Inspectors to be able to allow an applicant to make certain minor amendments prior to and during the examination of an application for DNS.
- 5.40 It is our view that these proposals strike the correct balance. We consider that developers would not be restricted by these proposals as they are not required to make amendments to a scheme for DNS, once submitted. However, making reactive amendments to representations received from the public and statutory consultees would aid in reducing the impact of a proposed scheme, and thus make it more acceptable to third parties and statutory consultees.

### Examination

- 5.41 We received encouraging responses to our proposals in the Positive Planning consultation paper for the examination of an application for DNS. Responses indicated an overall agreement that examination of a DNS should follow a similar procedure to that proposed for call-ins and appeals.
- 5.42 The Planning (Wales) Bill places responsibility on the Welsh Ministers (and PINS on their behalf) to determine the most appropriate method for the examination of an application for DNS. Where it is possible, examination will proceed by way of written representations although specific issues, because of their complexity, may require examination through a hearing or more formal inquiry procedure. A new set of procedures, merging the methods outlined above, would enable flexibility of being able to transfer between those different procedures for examination, allowing the most appropriate procedure to be used for each issue according to its complexity.

- 5.43 Following the completion of consultation on the application, PINS will make a decision on the basis of the information before them whether further exploration by way of written representations, a hearing or inquiry is required. As explained in *paragraph 5.26*, it is expected that respondents submit their full statements of case and grounds for making representations, as well as any comments that they may have on the procedure for determining an application for DNS. This should give the Inspector the necessary information to make a determination as to the areas which require further exploration by written representations, a hearing or inquiry. Response forms will indicate whether the person would like to be heard at a hearing or inquiry, if requested.
- 5.44 The Inspector will be required to assess the evidence submitted and, if the written information provided is not sufficient to determine the scheme, identify which issues will need to be examined further by way of written representations, hearing or local inquiry. This determination of procedure will occur in the 10 working days following the closure of the consultation and publicity periods and will be undertaken in accordance with published criteria<sup>9</sup>. The Inspector may decide to alter the procedure at any point thereafter, for example, where further amendments are made to a scheme. PINS are required to notify the LPA and applicant and other parties they consider appropriate of the determination of procedure and any consequent change of procedure.
- 5.45 The Inspector may require the submission of further evidence on certain issues by any of the parties at the same time as the determination of procedure, and it should be submitted within a 4 week period.
- 5.46 The further submissions will be subject to a word limit. We consider this appropriate as the information requested will be specific and focussed on one issue. Furthermore, representors will have already submitted their full statement of case as part of the 5 week representation period. The word limit would apply to each issue for which the Inspector invites evidence. We consider that a word limit of 3,000 words per issue strikes the right balance. Any text beyond the word limit will be discounted. The Inspectorate may instead of, or supplemental to, those written statements ask specific written questions to the parties, where considered necessary and appropriate.
- 5.47 It is proposed that parties will participate in hearings or inquiries by invitation of the Inspector only. This will enable the Inspector to focus on the elements of the issues he or she needs to explore further and minimise discussion of those issues where sufficient written information has already been provided on which to form conclusions. PINS will monitor which issues are raised and by whom throughout the DNS application process. The Inspector will have discretion to permit other

<sup>9</sup> Planning Inspectorate Wales: 'Criteria for the determination of procedure for appeals and call-ins'  
[http://www.planningportal.gov.uk/uploads/pins/criteria\\_determining\\_procedure\\_engwel.pdf](http://www.planningportal.gov.uk/uploads/pins/criteria_determining_procedure_engwel.pdf)

parties at any time during the examination period to participate in the hearing and/or inquiry who had not previously been specifically invited to attend.

- 5.48 We do not wish to remove the ability for anybody to attend or observe hearings or inquiries, and these will remain open to members of the public. However, only those persons specifically invited to participate in a hearing and/or inquiry by the Inspector will be able to do so.
- 5.49 Where it is determined that an application for DNS requires a hearing or inquiry on a specific issue, the Inspectorate will be responsible for setting the date for the hearing and/or inquiry, booking a venue and publicising the details of the hearing and/or inquiry. We anticipate that hearings should be fixed within 8 weeks after the determination of procedure (before week 15) and for inquiries to be fixed within 11 weeks (before week 18), with an expectation that the earliest date possible will be chosen. We consider this to be sufficient notice for all parties to prepare appropriately. However, PINS will have power to vary this date under exceptional circumstances once it has been fixed. Factors such as unavailability of preferred counsel or expert witnesses will not be considered as exceptional circumstances.
- 5.50 Publicity for any hearing and/or inquiry will be undertaken in the same way as publicity for the post-submission consultation.

### Decisions

- 5.51 Once the examination of an application has been completed, PINS will compile a report for the consideration of the Welsh Ministers, who will determine the application. This will operate in a similar way to recovered appeals.
- 5.52 When making a decision on an application for DNS, the matters to be taken into account are:
- The application and associated information;
  - The local impact report;
  - Any voluntary local impact reports submitted in accordance with provisions of the Act;
  - National planning policy, such as the NDF;
  - The statutory development plans;
  - Representations received during the 5 week representation period;
  - Responses from statutory consultees during the same 5 week period; and
  - Written and oral evidence requested by the Inspector.
- 5.53 For ease of reference, the decision letter will include a determination on the DNS application and any other secondary consent applications which have been made directly to the Welsh Ministers or called in by them. Whilst these decisions are contained on the same letter,

individual decisions on secondary consents may differ from the primary DNS application and may include separate requirements or conditions.

- 5.54 The Planning (Wales) Bill introduces a provision requiring decisions on applications for DNS and associated secondary consents to be made within 36 weeks. A statutory deadline provides greater confidence and certainty for applicants and will place the Welsh Ministers on the same footing as LPAs.
- 5.55 The timeframe for a decision will start on the day on which the application for DNS and its associated secondary consents is considered valid by the Inspectorate following the issue of a notice of validation (see *paragraphs 5.5-5.7*). The notice will leave no room for doubt as to the start date of the application. Similar provisions are used for appeals and call-ins.
- 5.56 The Welsh Ministers or PINS will have the ability to pause the timeframe within which an application for DNS must be determined. There may be unforeseen occasions, outside the influence of the Welsh Ministers or the Inspectorate, where the DNS application process may require a suspension. It is our intention to have the ability to pause the timetable for determination of a DNS under certain circumstances.
- 5.57 Those circumstances may be, but are not exclusive to:
- Where there is a significant change or review of national or local policy, such as the local development plan, strategic development plan or NDF;
  - Where an applicant requests to make an amendment to the scheme following the submission of an application for DNS; or
  - Where essential parties fail to attend a hearing or inquiry without notice, or where there is significant delay in the receipt of important representations.
- 5.58 Where such a pause in proceedings is required, the Welsh Ministers or PINS may issue a suspension notice. This is to contain an end-date on which the suspension is lifted, and that end-date may be extended or quashed by a further notice.
- 5.59 To ensure that the suspension notice reaches the relevant parties, we will require this notice to be issued to the applicant, the LPA, statutory consultees and those who have made representations on the scheme.
- 5.60 To demonstrate our compliance with the requirement to make a decision within the 36 week period, an annual monitoring report will be produced by the Welsh Ministers. Such a report will afford the National Assembly for Wales and interested parties the opportunity to scrutinise the performance of the Welsh Ministers in a more structured way. The report will detail any use of a suspension notice and reasons for its use.

### Electronic working

- 5.61 We have received evidence which suggests that the process for NSIPs can produce a significant amount of paperwork by the examining authority, developers, LPAs and third parties alike. We are also aware that printing can be very costly and time-consuming for a developer, particularly where there are requirements to furnish various parties with paper copies of an application. PINS have continued to explore ways to make the NSIP process as paperless as possible.
- 5.62 We will make a commitment to encourage electronic communications, where possible, with particular emphasis placed on this method of communication. We consider that using electronic methods will decrease the time taken to exchange information and enable further transparency in the DNS process.
- 5.63 In addition to placing a requirement on applicants to maintain a website during the pre-application period (see *paragraphs 4.26-4.27*), PINS will also be expected to maintain a website during the DNS application processing period. The website will include all plans and supporting information relating to the application for DNS as well as all information received during the consultation and publicity of an application for DNS. Applicants and representors will be encouraged to use electronic communications for these purposes. Notices or correspondence issued by the Planning Inspectorate will also be published online.
- 5.64 We have received evidence which suggests that the public rarely takes the opportunity to view plans relating to a NSIP application at Council offices or deposit locations, with the majority choosing to view applications online. However, there are groups in society who are unable to access the internet, and we will continue to provide for them by placing a requirement on the applicant to deposit a physical copy of an application for DNS with the LPA(s) and the Planning Inspectorate. Any placement of copies in other public deposit locations will be entirely at the discretion of the applicant, as they consider appropriate.

### **Consultation questions**

- Q8:** Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?
- Q9:** Do you agree with our proposals regarding statements of common ground? If not, why not?
- Q10:** Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?
- Q11:** Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?

- Q12:** Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.
- Q13:** Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?
- Q14:** Do you agree that the applicant is only required to submit paper copies of applications for DNS to the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?

### **Enabling powers in the Planning (Wales) Bill**

- 5.65 Section 24 of the Planning (Wales) Bill inserts sections 62P and 62Q into the 1990 Act.
- 5.66 Section 62Q imposes a duty on the Welsh Ministers to notify a community council of applications made directly to them where they relate to land in the community council's area (and where the community council have previously asked their local planning authority to be notified of applications submitted to that authority). It also requires a local planning authority, if requested to do so by the Welsh Ministers, to let the Welsh Minister know which community councils have asked to be notified.
- 5.67 Section 25 of the Planning (Wales) Bill inserts Section 62R into the 1990 Act. It enables the Welsh Ministers to make provision in a development order about the way in which applications made directly to them are to be dealt with. This includes making provisions about consultation by the Welsh Ministers and variation of applications.
- 5.68 Section 26 of the Planning (Wales) Bill inserts section 62S into the 1990 Act. Section 62S states that Schedule 4D of the 1990 Act (as inserted by Schedule 3 of the Planning (Wales) Bill) has effect with respect to the exercise of functions by an appointed person in connection with DNS. The schedule provides that, unless the Welsh Ministers direct otherwise in a particular case, a 'specified function' in respect of an application a person proposes to make for DNS, an actual DNS application, or a secondary consent is to be exercised by a person appointed by the Welsh Ministers. Regulations made under Schedule 4D will prescribe those specified functions to be exercised by an appointed person.
- 5.69 Section 27 of the Planning (Wales) Bill inserts Schedule 4, which makes a series of consequential amendments to the 1990 Act. In relation to DNS, those amendments:

- (a) Enable the Welsh Ministers by means of development order to apply, with or without modifications, any provisions or requirements imposed by legislation, to applications that can be made directly to the Welsh Ministers;
- (b) Extinguish any right of appeal against a secondary consent, unless that appeal may be made to a person other than the Welsh Ministers;
- (c) Allow fees to be charged for applications made to the Welsh Ministers (including for any pre-application services provided);
- (d) require the Welsh Ministers to determine the procedure by which an application for DNS is to be determined. That determination of procedure may be varied. The procedure will be by way of a local inquiry, a hearing or representations in writing, or a combination of those procedures. The Welsh Ministers must publish the criteria that are to be applied in making a determination as to the procedure; and
- (e) Provide rights of entry for the Welsh Ministers to enter land which is subject to a DNS application or a connected application.

## 6. The role of local planning authorities

### Overview

- 6.1 Whilst the function of making decisions on nationally significant projects will be transferred to the Welsh Ministers, the contribution of LPAs cannot be underestimated and they will continue to play an important role throughout the process. The Welsh Ministers will be under a duty to consider any local impacts arising from a DNS identified by LPAs
- 6.2 LPAs will also be required to advertise applications for DNS, respond to certain pre-application queries, undertake the majority of planning functions following the determination of an application for DNS, and be party to agreements for planning obligations where necessary.
- 6.3 We do not expect local planning authorities to fulfil these duties without fair contribution in terms of resources and support.

### Our policy proposals

#### Pre-application services

- 6.4 Our pre-application services proposals (see *section 4*) are similar to proposals contained in the ‘frontloading of the development management system’ consultation paper. LPAs will be expected to respond to any requests for pre-application services in the same way they would for applications made to them. We have specified types of services that LPAs would be expected to provide, and LPAs may charge for such advice in accordance with a national fee structure.
- 6.5 There will be an expectation on LPAs to cooperate in the pre-application process to ensure that applications for DNS are as complete and as informed as possible, enabling those applications to proceed in a timely manner. We will seek to make clear in guidance that cooperation in this manner should not be interpreted as support for a scheme.

#### Register of applications

- 6.6 LPAs are required to keep a register of all planning applications within their respective areas, along with associated documentation<sup>10</sup>. There will be a similar duty for the purpose of applications for DNS as introducing a second, separate register for applications for DNS would cause confusion to users of the planning system.

<sup>10</sup> The Town and Country Planning (Development Management Procedure) (Wales) Order 2012; Article 29.



- 6.7 While providing a useful administrative reference to the LPA, we consider that this arrangement will enable the public at large to access information relating to an application for DNS in the same way as they would for other planning proposals, such as through weekly planning lists and through contact with the LPA, should they not be aware of the process. PINS will maintain a website containing the application details should a physical visit to the offices of a LPA not be possible or practical.
- 6.8 PINS will be required to notify the relevant LPA(s) of receipt of an application for DNS and inform them that the application is valid and require the application to be put on the planning register. In practice, this registration requirement will be included in the notice of a valid application (see *paragraphs 5.5-5.7*). Any outcome of the application must also be placed on the planning register.
- 6.9 Applicants will be required to provide the relevant LPA(s) with a hard copy of the application documents as submitted to PINS. They will also be required to provide hard copies of any subsequent documents that are required to make the application a valid one. This is to ensure consistency between the information provided to the Welsh Ministers and LPAs.

#### Local Impact Reports

- 6.10 Once PINS have formally validated an application for DNS, the LPA(s) within which the development is situated will be required to prepare and submit a Local Impact Report ("LIR"). The LPA's input into the DNS process is important as certain local information and impacts may be overlooked without their input, hence this will be a requirement.
- 6.11 The LIR will be the LPA's opportunity to give details of the likely impact of the proposed development on the authority's area. The report will be used by LPAs as the means by which their existing body of local knowledge and evidence on local issues can be fully and robustly reported to PINS. The LIR is intended to inform the Inspector and the Welsh Ministers of any relevant potential impacts on the locality and will be a material consideration in the decision-making process.
- 6.12 Neighbouring LPAs and Town and Community Councils are not required to submit a LIR, although they may wish to submit a voluntary LIR should the proposal impact upon their area. A voluntary LIR will not be treated differently by the Inspectorate from a required LIR. As part of our wider agenda to encourage joint working between LPAs, we will encourage the submission of joint LIRs where a DNS affects a wider area, regardless of whether it is a requirement or is voluntary. Town and Community Councils may also submit joint reports.

- 6.13 The LIR is intended to be a technical and factual document which contains information relating to the development and its impact on the area it is situated in. It must provide the minimum prescribed information. We do not intend for the LIR to be used in a way which expresses political views, recommendations or a balancing exercise on the acceptability of a DNS. Whilst this is the case, we also do not intend to restrict the ability of a LPA to make representations on their views of a proposal. It is open to Council or individual Councillors to express their views separately as representations in response to third party consultation, and will be treated as such.
- 6.14 For such a report to qualify as a LIR, the Welsh Ministers will require the following information, as a minimum:
- The planning history of the site in question;
  - Any details of local site designations;
  - An explanation of the local planning policy framework;
  - A topic based technical assessment of the impacts that the development will likely have on the local area;
  - Any draft conditions or obligations which may mitigate the impacts arising from the proposal, should the Welsh Ministers choose to grant permission for the application for DNS;
  - Evidence that the application has been advertised in accordance with requirements (see *paragraphs 5.21-5.29*);
- 6.15 There will be different requirements for voluntary LIRs.
- 6.16 Where there is a requirement for a topic based technical assessment, the topics which are to be covered are at the discretion of the LPA, as they are best placed to decide the types of local impact that a DNS may bring. The types of impact that LPAs may wish to explore include cultural heritage, ecology, landscape, local highways, public health or Welsh language. We will seek to produce guidance on the production of LIRs for LPAs.
- 6.17 In compiling a LIR, we do not intend to place a requirement on LPAs to consult with the public, as they will be given the opportunity to make representations as part of the application process.
- 6.18 The Planning (Wales) Bill introduces the requirement for the Welsh Ministers to issue a notice in writing to each relevant LPA requiring them to submit a LIR. The notice must specify the deadline for receipt of the LIR, and a relevant local planning authority must comply with the notice.
- 6.19 Where the Inspectorate gives notice that an application for DNS is considered valid, they will also issue notice to the LPA(s) within whose area the proposed DNS is situated. The notice will specify a deadline of 5 weeks within which a LIR must be submitted.

- 6.20 In light of the importance attributed to the LIR, and the potential consequences related to the late or incomplete provision of a required LIR, we believe that it is in the best interests of a LPA to produce a quality LIR in a timely manner. It is intended to put in place measures to ensure that these are submitted by LPAs within the prescribed deadline. We do not expect local planning authorities to fulfil this duty without fair contribution in terms of resources and support.
- 6.21 It is therefore intended that the LPA receives a portion of the application fee in meeting the statutory requirement to provide a LIR (this will not apply in the case of voluntary LIRs). We expect this fee to cover other requirements associated with an application for DNS such as the costs associated with their role in publicising the application and administering the planning register. The payment of a fee will turn on the submission of an appropriate LIR in a timely manner. In circumstances where a LPA does not comply with the notice to provide a LIR within the deadline given, or the LIR does not meet all the minimum requirements, it is proposed that LPAs do not receive their portion of the application fee (see *section 7*). The authority will still be expected to meet the requirement to provide a LIR as soon as possible, although the Inspectorate may still proceed with examining an application for DNS without one.
- 6.22 In setting the level of this fee, we are continuing to seek evidence from LPAs which have produced a similar report in response to DCOs determined by the UK Government, and to quantify their involvement in that process. We would welcome any additional evidence from LPAs to aid us in setting a fair fee which is reflective of the work required to participate in the application process for DNS.
- 6.23 As mentioned above, a LIR may be submitted voluntarily by neighbouring LPAs or any Town and Community Council which considers the proposed DNS to impact upon their area. Such LIRs will be subject to similar requirements and timescales for submission as a required LIR, although there will be no requirement to document the site history or evidence of advertisement. Where a voluntary LIR is submitted, the relevant Council will do so at its own cost and will not receive a fee for their participation in the process. Voluntary LIRs that do not comply with minimum requirements will be treated as individual representations.

#### Planning functions following the determination of a DNS

- 6.24 Positive Planning outlined the responsibilities of the Welsh Ministers and LPAs following the determination of an application for DNS. LPAs are best placed to monitor approved schemes due to their presence in the local community. Internal processes for the purposes of enforcement, discharge and variation of conditions and minor material or non-material amendments have already been set up by LPAs.

- 6.25 That consultation paper outlined that, following the determination of an application for DNS, the LPA will retain responsibility for any subsequent actions or changes which materially impact upon any consent, but do not address the principle of development. This proposal received an overall positive response.
- 6.26 Local judgement will be important when considering the context and, more importantly, the result of a proposed change to a consent for DNS. Changes to conditions or those which are no more than minor material in nature do not require the reconsideration of the principle of a development. We consider it to be illogical and disproportionate to prescribe a formal process through which the Welsh Ministers or appointed persons must approve such changes.
- 6.27 Should the Welsh Ministers give consent to a development qualifying as DNS, the LPA will handle applications for;
- The removal or variation of conditions (which are not related to the extension of time limit or renewal of a permission);
  - Minor material amendments;
  - Non-material amendments; and
  - The discharge of conditions.
- 6.28 The form, content and timescale for such applications are to be in line with those requirements for other applications made to LPAs. No additional requirements are proposed for applications to vary consents which were originally made directly to and consented by the Welsh Ministers. LPAs will receive the relevant fee for such applications, where one applies<sup>11</sup>.
- 6.29 As the LPA is to remain the determining authority for applications to vary a DNS consent, there shall remain a right of appeal to the Welsh Ministers should such an application be refused or not determined within the prescribed timescale.
- 6.30 Where a post-determination amendment is more than minor material, there will be the requirement to submit an entirely new application for DNS to the Welsh Ministers. Applicants will be encouraged to put those amendments before the LPA in the first instance. Where the LPA considers an amendment to be more than minor material, it will ultimately be for PINS, on behalf of the Welsh Ministers, to determine whether an amendment warrants an entirely new application or can be dealt with by the LPA. In cases where the Welsh Ministers consider that applications to amend a DNS permission are of more than local importance<sup>12</sup>, they may exercise powers to call in the application.

<sup>11</sup> Welsh Government consultation paper: 'Review of Planning Application Fees' (6 October 2014).

<sup>12</sup> Welsh Government: Planning Policy Wales (Edition 7), Chapter 3: Making and Enforcing Planning Decisions (July 2014).

- 6.31 We propose that LPAs retain responsibility for the enforcement of schemes for Development of National Significance. Hence, upon approval of a DNS application, developers will be required give notice of the commencement of development to the LPA. We consider that the LPA is best placed to undertake any enforcement. There is a logistical advantage to retaining the enforcement function within the LPA as they have the necessary skills and local knowledge to ascertain whether any breaches have occurred.

### **Consultation questions**

- Q15:** Do you agree with the minimum requirements for Local Impact Reports? If not, why not?
- Q16:** Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.

### **Enabling powers in the Planning (Wales) Bill**

- 6.32 Section 21 of the Planning (Wales) Bill inserts sections 62I, 62J and 62K into the Town and Country Planning Act 1990.
- 6.33 Section 62I makes provision about the submission of a LIR in relation to applications under section 62D. The Welsh Ministers must give notice to each relevant local planning authority requiring a local impact report in respect of the application in question. An authority to which notice is given must comply with it. A local planning authority is a 'relevant local planning authority' if all or part of the land to which the application relates is in the authority's area.
- 6.34 Section 62J places a duty on the Welsh Ministers to have regard to the contents of any local impact report submitted to them by a relevant local planning authority. It also enables a local planning authority that is not a relevant local planning authority to submit a voluntary local impact report in respect of an application. The Welsh Ministers must similarly have regard to such a report in dealing with an application. A power is conferred upon the Welsh Ministers to make provision in a development order about the submission of voluntary local impact reports.
- 6.35 Section 62K provides that a local impact report is a report in writing that gives details of the likely impact of the proposed DNS and secondary consents on the area of the authority. The report must comply with any requirements specified in a development order.
- 6.36 Section 24 of the Planning (Wales) Bill inserts sections 62P and 62Q into the Town and Country Planning Act 1990.

6.37 Section 62P states that a decision of the Welsh Ministers on an application made direct to them will be final (resulting in no right of appeal to the Welsh Ministers). It also enables Welsh Ministers to direct a local planning authority or hazardous substances authority to do things in relation to an application made under those sections.

## **7. Fees and costs**

### **Overview**

- 7.1 The Welsh Ministers propose to use a mixture of fixed and variable fees for different elements of the DNS process with the aim of achieving full cost recovery.
- 7.2 The majority of functions of the DNS application process will be carried out by PINS and the fees charged will be related to their costs incurred in carrying out this work. The Welsh Ministers will determine the application, and this element of the application process will also be included in the fee regime. We propose that fees will consist of staff costs and overheads and, when applicable, venue costs and legal costs.

### **Our policy proposals**

#### General principles

- 7.3 LPAs are able to charge a fee for planning applications made to them, with the fee structure based around the size and type of development proposed. This fee structure is set out in secondary legislation.
- 7.4 The fees charged for DNS pre-application and application work will not replicate the model used by LPAs for planning applications. We propose a fee structure based on the recovery of costs incurred when carrying out the work to which the fee applies. This enables the Welsh Ministers to comply with HM Treasury rules, in particular that the cost of the work should be recovered through the fee charged.
- 7.5 At this point in the development of our DNS procedures it is not appropriate to identify what each proposed fee will be. This is due to the potential for the processes to change as a result of the consultation process. However, the fee structure will be a mixture of fixed and variable fees with the intention of full cost recovery. Fixed fees will be used where the work is of a standard nature and the effort required will be the same, on average, each time that piece of work is carried out. Where the work is likely to be more varied we will apply an hourly or daily rate and invoice the applicant appropriately. This approach provides developers with a high level of certainty regarding the cost of development, whilst retaining the flexibility to charge an appropriate fee that reflects the variable nature of the DNS application process.

#### Pre-application services

- 7.6 The Welsh Ministers will be required to provide pre-application advice in relation to DNS applications upon request. There will be a charge to the developer for the provision of this service.

- 7.7 This function will be delegated by the Welsh Ministers to the appointed person, PINS. We propose that the fee for this work should be charged at an hourly rate, with the majority of the work undertaken by planning officers. Where an Inspector is required, or requested, a different hourly rate will be applied for their input into providing pre-application advice. The Planning Inspectorate will invoice the developer once the advice has been provided. However, as this is intended to be an iterative process, invoices for work carried out may be issued at regular intervals as advice is requested.

#### Notification of intention to submit a DNS application

- 7.8 Developers will be required to submit a notification of intent to make a DNS application to the Welsh Ministers (see *paragraphs 4.15-4.20*). It will be PINS who will review this notification and respond with a notice of acceptance, which acts as a trigger for other statutory actions the developer must carry out before submitting their DNS application.
- 7.9 As this will be a standardised process, and for simplicity, we propose that developers pay a fixed fee for the submission of a notification. A notification will not be valid if the fee is not paid.
- 7.10 There may be instances where the notification is not accepted by PINS. This could be because the development does not meet the criteria for a DNS application, or the notification may not contain all the information and documents required. We propose that we will not refund the fee when a notification is submitted which is not accepted. This is because the work required to confirm that a notice of acceptance should not be issued is likely to be equivalent to the work which would lead to the notice being issued.

#### Application fees

- 7.11 An applicant submitting a DNS application will be required to pay a fee. This fee will be for the whole cost of determining the application, which will include the costs incurred by the Welsh Ministers' appointed person, PINS, and those incurred by the Welsh Government itself.
- 7.12 The DNS application process consists of standard and variable sections of work that will require a mixed approach to the fee structure, using a combination of fixed fees and daily rates. This approach will facilitate the recovery of the costs of the process at appropriate points. It will provide certainty of costs where possible, and a clear fee structure with clear points in the process where fee payments will be required.
- 7.13 The applicant will be required to pay a portion of the fee when they submit their application. This will be a validation requirement. This portion of fee will be fixed as it is intended to cover standard sections of work within the DNS application process that are the same for all applications submitted. Examples of these standard elements include



the validation process and the first five weeks of the DNS application process. The fixed fee will be derived from a standardised cost of carrying out the work.

- 7.14 The variable elements of the application process will be subject to a daily rate fee. This daily rate will be derived from the cost of Inspector time, support functions to an Inspector, administrator time, support functions to them, and other overheads. The daily rate will be charged in half and full day increments.
- 7.15 The variable nature of a DNS application stems from the different types of procedure used to consider the application. An application can be considered using one or all of the following procedures – written representations, hearing, and local inquiry (see *paragraphs 5.41-5.50*). The written representations procedure generally requires the lowest Inspector and administrator resource while local inquiries require the highest. PINS will determine the application procedure in accordance with published criteria after the representation period has finished. The choice of procedure will be determined by what is the best course for examining the relevant issues to the DNS application. It will not be influenced by financial considerations. This determination of procedure is expected to take place between week five and week seven of the application process.
- 7.16 At the point where the Inspector provides a report and recommendation to the Welsh Ministers, PINS will send an invoice to the applicant for payment of the remaining application fee for their portion of the process. The applicant will be expected to pay the remaining fee within two weeks of receipt of the invoice. It is possible that PINS may issue more frequent invoices during the course of the consideration of the application, especially for the longer hearing and local inquiry procedures, with a final invoice being issued when the report is sent to the Welsh Ministers.

#### LPA costs

- 7.17 The relevant LPA(s) for a DNS application will be required to produce and submit a LIR which meets minimum requirements and within a set timescale. This will be a statutory duty and is intended to provide the decision-maker with relevant technical information on the impact of the proposed development.
- 7.18 We propose that the LPA should receive payment for carrying out this statutory duty and other functions, such as updating the Planning Register and publicity actions. This payment is intended to provide the LPA with the resources to produce the report in good time and to the expected quality, and to carry out the other functions expected of them. Without this payment the LPA would have to draw on existing resources, which may have an unintended and negative impact on other planning work carried out the LPA.

- 7.19 Given the importance of the LIR, we propose that the amount of payment that the LPA receives should be dependent on their meeting minimum requirements for the content of the LIR, as well as providing the report within the relevant timescale. We propose that the LPA should receive the full payment if they meet the minimum requirements and timescale for submission. If they miss the timescale without good reason they may only receive part of the fee or no fee at all.
- 7.20 We propose that the payment for the LIR should be part of the fixed fee which is paid by the applicant when they submit their application. This fixed fee will be based on the average cost of producing the LIR and carrying out their other functions. PINS will pass on the relevant fee to the LPA as soon as the LIR has been provided in accordance with the requirements. The level of fee will depend on the LPA's performance in providing the LIR. Any part of the fee that is not paid to the LPA, due to late submission or not meeting the minimum prescribed requirements, will be refunded to the applicant. LPAs will be able to dedicate appropriate resources to the development of the LIR and carrying out other functions in the knowledge that, providing they meet the timescale and minimum requirements, they will receive a known fixed amount.
- 7.21 This payment will only apply to relevant LPAs. Other parties wishing to submit a voluntary LIR, such as a neighbouring LPA or a Town or Community Council, will do so at their own cost.

#### Other Costs

- 7.22 PINS may encounter additional costs which could not appropriately be included in the fixed fee or daily rates. These additional costs include venue costs for the hearing and local inquiry procedures; legal costs; and assessor costs. These costs are too case specific and variable to be included in the fees that are charged to all applicants.
- 7.23 We propose that these costs, when they are incurred, should be charged to the applicant and included in the final invoice issued when the Inspector provides the report to the Welsh Ministers. In this way the costs of the application are met, but are only paid when they are incurred.

#### Refunds

- 7.24 The fees paid by the applicant, particularly the fixed fee that is required when the application is submitted, covers work which will be carried out by PINS after receipt of the application. There may be occasions where this work will not happen because the application is invalid, or the applicant withdraws the application. When an application is submitted, PINS will allocate resources to an application. These resources are not easily re-allocated if the application is withdrawn.

- 7.25 Where an application is invalid we do not consider it to be appropriate for PINS to retain the entire fee paid by the applicant. However, the Inspectorate will have incurred costs through processing the application documents and reaching the point where the application is confirmed to be invalid. These costs should be met by the applicant.
- 7.26 We propose that the applicant should receive a refund of a proportion of the fixed fee, paid when the application is submitted, if the application is found to be invalid and no further work will be dedicated to it. The exact percentage to be retained will be set out in secondary legislation. The fee will reflect the amount of work carried out during the validation stage of the application process.

#### The Welsh Ministers' costs

- 7.27 The decision on a DNS application is to be made by the Welsh Ministers and will be based on the information gathered during the consideration of the application by PINS, including the recommendation of the Planning Inspector.
- 7.28 We propose that the Welsh Ministers' role in the application process should also be included in the fee paid by the applicant. We propose that this part of the fee should be based on a daily rate, charged in half day and full day increments. The Welsh Ministers will invoice the applicant prior to the issue of a decision. The Welsh Ministers may require the applicant to pay any remaining fee prior to the issue of a decision on a DNS application.
- 7.29 The Welsh Ministers may also incur additional costs which cannot be included in the daily rate. These are most likely to be legal costs incurred during consideration of any Section 106 Agreements. These additional costs will be included in the final invoice issued by Welsh Ministers.

#### Non-payment of application fees

- 7.30 There are several points in the DNS application process where the applicant is required to pay a fee. There is potential, therefore, for the fee not to be paid. If the applicant does not pay the fixed fee at the start of the process, when they submit their application, then the application will be invalid and no further work (and, therefore, cost) will be given to the application. At this stage the statutory timescale for the determination of the application will not have begun.
- 7.31 In situations where PINS or the Welsh Ministers issue an invoice based on the daily rate element of the fee, the applicant will be required to pay the fee within a specific time after the invoice is issued. Failure to pay the fee could lead to PINS or the Welsh Ministers taking debt recovery action through the Courts.

## Costs

7.32 The Costs regime will be applied to the DNS application process. This will enable the parties involved in the process to claim for their costs where they consider unreasonable behaviour has led to them incurring avoidable costs. The Planning Inspector will also be able to initiate awards of costs where he or she considers this to be appropriate. In this way, the behaviour of the parties during the DNS application process will be regulated, with unreasonable behaviour being subject to an award of costs to those affected.

### **Consultation questions**

**Q17:** Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and the appointed person, the Planning Inspectorate) costs in carrying out the work? If not, why not?

**Q18:** Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?

**Q19:** Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?

**Q20:** Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?

### **Enabling powers in the Planning (Wales) Bill / the 1990 Act**

7.33 Section 27 of the Planning (Wales) Bill introduces Schedule 4. The Schedule makes a number of consequential amendments to the 1990 Act, including section 303 (fees). Relevant to these proposals, it allows the Welsh Ministers by regulations to make provision for payment of a fee or charge to the Welsh Ministers in respect of the performance by the Welsh Ministers of any function they have in respect of applications made to the Welsh Ministers (including for any pre-application services provided).

7.34 Section 49 of the Planning (Wales) Bill also inserts section 322C into the 1990 Act which contains provisions concerning payment of costs incurred by the Welsh Ministers in relation to any application to them, whether it is considered at an inquiry or hearing or on the basis of written representations.

7.35 Section 303(1) of the 1990 Act provides that the Welsh Ministers may by regulations make provision for the payment of a charge or fee to a local planning authority in respect of the performance by the local planning authority of any function they have.

## Annex A: Proposed list of DNS thresholds.

Type of Development	Proposed Threshold
<p>The carrying out of operations for the purpose of creating underground gas storage facilities for the storage of gas underground in cavities or in porous strata;</p> <p>The development is starting to use underground gas storage facilities by a gas transporter, for the storage of gas underground other than in natural porous strata; or</p> <p>The development is starting to use underground gas storage facilities by a developer which is not a gas transporter for the storage of gas underground in natural porous strata.</p>	<p>The facility has a working capacity of at least 43 million standard cubic metres or a maximum flow rate of at least 4.5 million standard cubic metres per day.</p>
<p>The alteration of underground gas storage facilities for the storage of gas underground in cavities or in porous strata.</p>	<p>The effect of the alteration is expected to increase the working capacity by at least 43 million standard cubic metres or to increase the maximum flow rate by at least 4.5 million standard cubic metres per day.</p>
<p>Liquefied natural gas ("LNG") facilities</p>	<p><b>New LNG facilities:</b></p> <p>The storage capacity is expected to be at least 43 million standard cubic metres or have a maximum flow rate of at least 4.5 million standard cubic metres per day; or</p> <p><b>The alteration of existing LNG facilities:</b></p> <p>The existing storage capacity is expected to increase by at least 43 million standard cubic metres or by a maximum flow rate of at least 4.5 million standard cubic metres more per day.</p>
<p>Gas reception facilities</p>	<p><b>New gas reception facilities:</b></p> <p>The maximum flow rate of the facility is expected to exceed 4.5 million standard cubic metres per day; or</p> <p><b>The alteration of existing gas reception facilities:</b></p> <p>The maximum flow rate of the existing facility is expected to increase by at least 4.5 million standard cubic metres per day.</p>

<p>Airport related development and construction</p>	<p><b>New airports:</b></p> <p>The development of a new airport with a capacity of at least 1 million passengers per annum or at least 5,000 air transport movements of freight per annum.</p> <p><b>The alteration of existing airports:</b></p> <p>The development of an existing airport to increase the capacity by at least 1 million passengers per annum or at least 5,000 air transport movements of freight per annum.</p>
<p>Railways</p>	<p>The construction of a railway which, when constructed, will include a stretch of track that is a continuous length of more than 2km, or the alteration of a railway which will include laying a stretch of track that is a continuous length of more than 2 km and which, in both cases, is not on land that was either operational land of a railway undertaker immediately before the works began or is on land that was acquired at an earlier date for the purpose of the works.</p> <p>Construction and alteration of a railway does not fall within this category if it takes place on the operational land of a railway undertaker unless that land was acquired for the purpose of those works.</p>
<p>Rail freight interchanges</p>	<p>Following the alteration of an existing, or construction of a new, rail freight interchange, the interchange is capable of handling at least 2 goods trains per day.</p>
<p>Dams and reservoirs.</p>	<p><b>New dams and reservoirs:</b></p> <p>The volume of water to be held back by the dam or stored in the reservoir is expected to exceed 10 million cubic metres of water.</p> <p><b>The alteration of existing dams and reservoirs:</b></p> <p>The additional volume of water to be held back by the dam or stored in the reservoir as a result of the alteration is expected to exceed 10 million cubic metres.</p>

Transfer of water resources	<p>The volume of water to be transferred as a result of the development is expected to exceed 100 million cubic metres per year between:</p> <ul style="list-style-type: none"> <li>• River basins in Wales;</li> <li>• Water undertakers' areas in Wales; or</li> <li>• A river basin in Wales and a water undertaker's area in Wales.</li> </ul> <p>The development does not relate to the transfer of drinking water.</p>
Waste water treatment plant.	<p><b>New waste water treatment plants:</b></p> <p>The plant is expected to have a capacity exceeding a population equivalent of 500,000.</p> <p><b>The alteration of existing waste water treatment plants:</b></p> <p>The effect of the alteration is expected to increase the capacity of the plant by more than a population equivalent of 500,000.</p>
Hazardous waste facilities	<p><b>New hazardous waste facilities:</b></p> <p>Land fills or deep storage facilities which have a capacity of more than 100,000 tonnes per annum. In any other case, facilities able to handle more than 30,000 tonnes per annum.</p> <p><b>The alteration of existing hazardous waste facilities:</b></p> <p>The effect of the alteration to a land fill or deep storage facility is expected to increase the capacity by more than 100,000 tonnes. In any other case, the capacity of the facility is expected to increase by 30,000 tonnes per annum.</p>
<p>Pipelines not constructed by a gas transporter; or</p> <p>Overground pipelines constructed by a gas transporter.</p>	<p>The construction of a new pipeline (including the extension or diversion of an existing pipeline) over 2km and less than 16.093km (10 miles) in length wholly or partly in Wales.</p>
Onshore energy generating stations.	<p>The generating station has the capacity to generate energy at a rate of between 25MW and 50MW.</p>

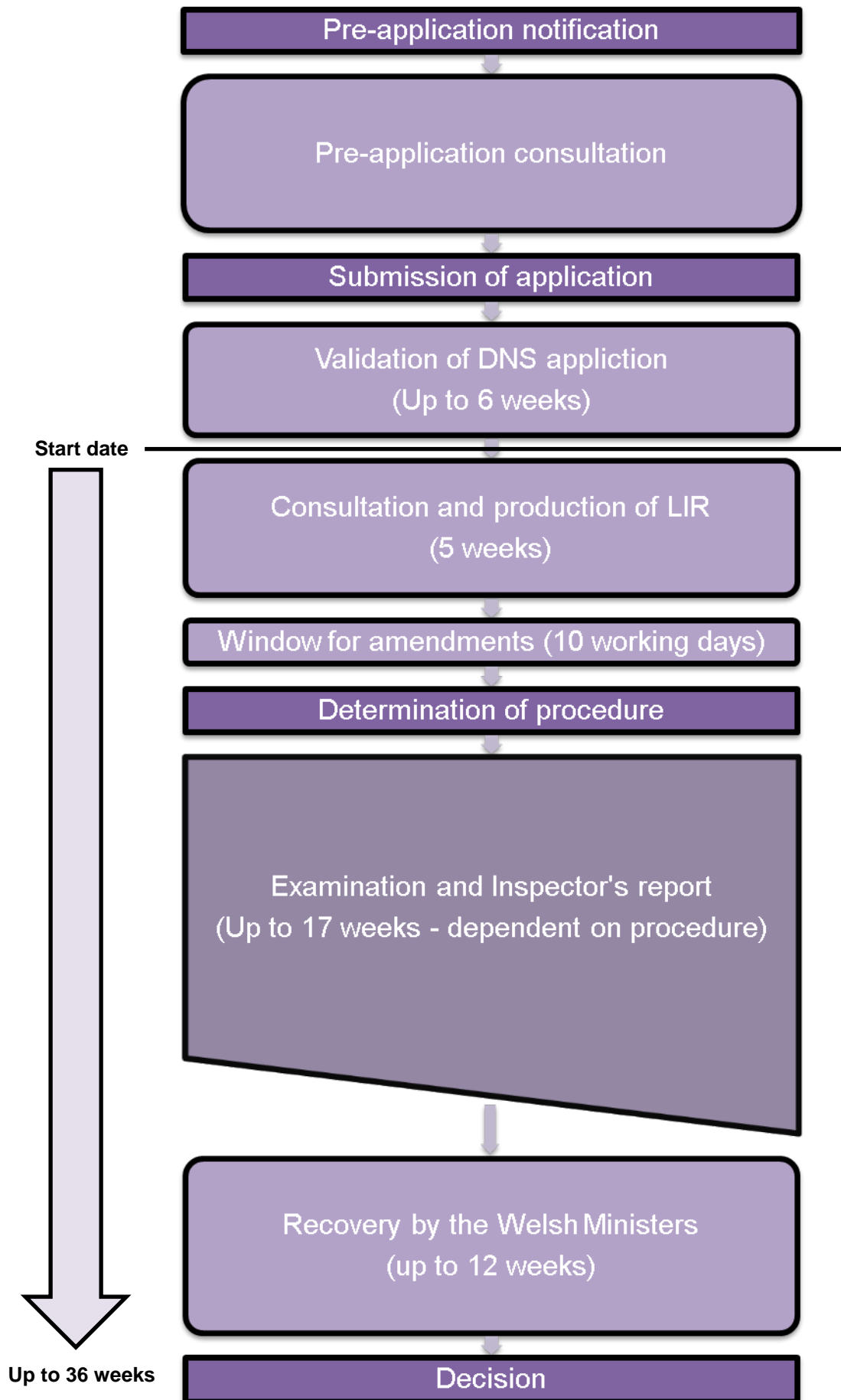
## Annex B: List of secondary consents

Legislation	Consent	Comments
Acquisition of Land Act 1981 – Section 19, and Section 28 and Schedule 3.	<p>Section 19: Exchange of land certificate– open space land or common land.</p> <p>Section 28 and Schedule 3: deals with the acquisition of rights by compulsory purchase and certification.</p>	Where a Compulsory Purchase Order involves common land, allotments or open space or rights over such land, certificates are required under s.19 (land) or s.28 (rights) otherwise the Order has to be subject of special Assembly procedures. This consent is relevant as it is our intention to prescribe powers for the compulsory purchase of land.
Ancient Monuments and Archaeological Areas Act 1979 - Section 2.	Control of works affecting scheduled monuments, grant of scheduled monuments consent.	This consent is relevant in view of the nature and location of ancient monuments and their wide geographical spread.
Commons Act 2006 - Section 38	Works on common land.	This consent is relevant as DNS proposals in rural areas may impact on common land.
Commons Act 2006 - Sections 16 and 17	Exchange of Common Land.	This consent is relevant as DNS proposals in rural areas may impact on common land.
Highways Act 1980 - Section 178	Restriction on placing rails, beams etc. over highway (consent).	This includes pipes, wires and cables and is commonly used for linear projects.
Planning (Hazardous Substances) Act 1990 - Sections 4, 13 and 17	<p>Section 4 - application for hazardous substance consent;</p> <p>Section 13 - applications for consent without condition attached to previous consent;</p> <p>Section 17 - application to continue consent on change of control of land.</p>	Section 3 of this Act defines the hazardous substances authority in special cases. The Welsh Ministers should be the hazardous substances authority for DNS applications, and these consents are therefore relevant.
Planning (Listed Buildings and Conservations Areas) Act 1990 - Section 8	Authorisation of work, listed building consent.	An on-site listed building could arise in any DNS application, hence it is relevant.
Planning (Listed Buildings and Conservation Areas) Act 1990 - Section 74	Control of demolition in conservation areas.	Some application sites may be located in wider landscape-based conservation areas.



Town and Country Planning Act 1990 - Sections 57 and 58	Requirement for planning permission and grant of planning permission.	Associated development for which additional planning permission is required may form part of a scheme for DNS.
Town and Country Planning Act 1990 - Section 226	Compulsory Purchase Order acquisition of land for development.	Some land forming part of the proposal may not be under the ownership of the applicant. Powers are required to enable that land to be acquired on behalf of the developer to facilitate the implementation of the DNS scheme.
Town and Country Planning Act 1990 - Section 247	Stopping up or diversion of highway.	May be required as part of a DNS project.
Town and Country Planning Act 1990 - Section 248	Highways crossing or entering route of proposed new highway.	May be required as part of a DNS project.
Town and Country Planning Act 1990 - Section 251	Extinguishment of rights of way over land held for planning purposes.	May be required as part of a DNS project.
Town and Country Planning Act 1990 - Section 254	Acquisition of land in connection with highways.	May be required as part of a DNS project.
Town and Country Planning Act 1990 - Section 257	Order - footpaths, bridleways or restricted byways affected by development.	May be required as part of a DNS project in a rural area.

**Annex C: Flow diagram of proposed DNS process**



# APPENDIX B

## Annex 1 - Consultation Response Form

### Developments of National Significance

We are seeking your views on detailed proposals to establish a new system for the Welsh Ministers to process 'Developments of National Significance' ("DNS"). This is a new category of planning applications.

***Please submit your comments by 12/08/2015.***

If you have any queries on this consultation, please email: [planconsultations-g@wales.gsi.gov.uk](mailto:planconsultations-g@wales.gsi.gov.uk) or telephone Lewis Thomas on 029 2082 3201.

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
<b>Name</b>	Marcus goldsworthy	
<b>Organisation</b>	Vale of Glamorgan Council	
<b>Address</b>	Cf634RT	
<b>E-mail address</b>	MJGoldsworthy@valeofglamorgan.gov.uk	
<b>Type</b> <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The Council is not convinced that, given the powers that already exist for the Minister to 'call-in' applications which are considered to be of more than local interest, there is a need for this power which will deal with only a very limited number of applications.</p> <p>Moreover the LPA is concerned about the democratic deficit and lack of local scrutiny that will result from this removal of these applications from consideration by the LPA. .</p>				

Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: See above				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: How do LPAs provide views on secondary consents - would this be part of the Local Impact Report?				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Annex B definitions are broad and as a result there are reservations as to how wide the net could be cast with the result that more decisions are made centrally rather than locally as the Welsh Ministers have the powers to 'call in' an identified type of secondary consent if they consider it to be connected with an application for DNS.  It is noted that paragraph 3.14 states that any changes to the list will be subject to further consultation.				

Q5	Do you agree with the minimum requirements for the notification of a	Yes	Yes (subject to	No
----	--	-----	--------------------	----

	DNS? If not, why not?		comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The proposals do not go far enough and we would like to see developers undertake a greater level of consultation including attending meetings to explain the proposals rather than just site notices, letters and press notices. We would like to see that developers place a copy of the consultation report on an accessible website and are required to notify all respondents that the report is available - this should be done independantly of the LPA.				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Requiring LPA to erect notices will create confusion in the eyes of the public and				

will involve the LPA in additional expenditure.

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The proposals are too vague and the LPA requests further guidance on SoCG and that LPAs be involved in the drafting of this guidance.

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

If as is often the case with planning applications submitted to LPAs, all the required/requested information is not available to the statutory consultee, the 5 week time period is unrealistic. Historically, delays have occurred when the applicant has not provided the necessary information to enable the statutory consultee to fully assess and comment on the application.

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Experience has shown that sometimes changes made to a scheme following comments from a statutory consultee/third party may make the development less acceptable to another. There should be flexibility to aim for the best scheme rather than discouraging amendments.

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<b>Q12</b>	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q13</b>	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q14</b>	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Paper copies should be made available at all times (as is required of LPAs), as some third party organisations may not have access to the relevant software to easily read complex documents and drawings.				



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<b>Q15</b>	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Given the nature of DNS, it may be necessary to commission specialist reports to be able to adequately assess the local impact. Who's responsibility will this be? Should these be identified and requested at the pre-application stage? If they are not available to the LPA undertaking the LIR should LPAs in the LIR flag up the need for more topic based assessments which PINS will then request or commission? If LPAs are to commission, 5 weeks is not a sufficient timeframe and they should be suitably reimbursed.</p>				

<b>Q16</b>	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>This answer is predicated on the basis that the LPA will be aware of the application prior to validation ie at pre-application stage to enable work on the LIR to commence.</p>				

<b>Q17</b>	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: LPAs should be involved in determining the fixed fee. As this is a new requirement, the fee level should be subject to revision in case an adjustment to the fee is required. The fee should be based on an equivalent planning application fees.				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: What about agreeing formal extension to the 5 weeks with PINS. Also in paragraph 6.21 it states that the LPA will receive a portion of the application fee. What proportion would this be and how will this be set. We assume that this will cover all costs not just the preparation of the LIR, ie it will cover adding to planning register, site notices etc. Also will LPAs charge the applicant direct for discharge of conditions etc.				

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
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		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>In para 4.13 it states that PINS and LPAs will respond to pre-application requests. Will this be co-ordinated so officials from both organisations are both present at a pre-application meeting or if a letter should there be a requirement for both organisations to share copies of correspondence and any meeting notes if both organisations do not attend. Will LPAs charge the applicant directly for pre-application advice and will this be a statutory set fee or set by the LPA?</p> <p>We note that WG will producing guidance on the production of LIRs, the LPA would suggest that it will be essential that all LPAs are included in the drafting process to ensure the documents are meaningful as clearly some Councils have already been involved in the NSIP process.</p> <p>Will LPAs be involved in the drafting of conditions as they will be responsible for discharging the conditions and removal or variation of conditions- should be noted that the Planning Inspectorate do not have a great track record for imposing enforceable consditions and regularly use condition which do not comply with circular advice.</p>			

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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## How to Respond

Please submit your comments in any of the following ways:

<b>Email</b>
<p>Please complete the consultation form and send it to : <a href="mailto:planconsultations-g@wales.gsi.gov.uk">planconsultations-g@wales.gsi.gov.uk</a> Please include 'Developments of National Significance - WG 25023' in the subject line.</p>
<b>Post</b>
<p>Please complete the consultation form and send it to: <b>Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ</b></p>
<b>Additional information</b>
<p>If you have any queries on this consultation, please: email: <a href="mailto:planconsultations-g@wales.gsi.gov.uk">planconsultations-g@wales.gsi.gov.uk</a> ; or telephone: Lewis Thomas on 029 2082 3201</p>

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 2 JULY 2015

REPORT OF THE DIRECTOR OF DEVELOPMENT SERVICES

9. PLANNING APPLICATIONS

Background Papers

The following reports are based upon the contents of the Planning Application files up to the date of dispatch of the agenda and reports.

**2009/00923/FUL** Received on 21 April 2015

Carter Lauren LLP Bevan House, Penarth Road, Cardiff, Vale of Glamorgan,  
CF11 8UQ  
EPT Partnership, Mr Steve Sidford, Ty Cefn, Rectory Road, Canton, Cardiff,  
CF5 1QL

### **Site adjacent to Bevan House, Penarth Road, Cardiff**

Redevelopment of redundant light industrial site with demolition of office and storage buildings and replacement with three new 2/3 storey B1 office buildings (revised proposals, 2015)

### **SITE AND CONTEXT**

The site is an existing car sales business on the northern edge of Penarth, within a commercial area, the site is within a row of units that are a mix of retail and office, all accessed off a private road that runs parallel with Penarth Road (A4160). This private access road has two access points off Penarth Road and is also set on a higher level, with a grass embankment between this private road and Penarth Road below. The site is roughly rectangular, with a maximum depth of approximately 75m and a width of 45m. To the rear is the train line that links Penarth and Barry with Cardiff.

The site consists of two buildings, including a large single storey industrial style unit with attached office / reception area, which runs along the northern boundary with gable end to the front and rear. There is also a small workshop to the southeast corner of the site. The majority of the plot, however, is used for car storage as part of the sales area. There are metal fences surrounding the property.

The applicants are based in the large Bevan House building to the north, which is a large warehouse type structure with an office to the front. To the south is Oak House, which is a two storey flat roof office block. The units along this private access road are generally a mix of warehouse type structures and two storey office blocks.

There are some residential dwellings in the vicinity, with Llandough Hill and Willowmere set opposite, to the west of the site. These residential streets are set to the side of a wooded hill and are at closest approximately 80m from the site.

### **DESCRIPTION OF DEVELOPMENT**

Please note - This application was reported to Planning Committee on the 3 February 2011. At that meeting, Planning Committee resolved to approve the proposals for three new office buildings, subject to a legal agreement relating to S106 planning obligations. Whilst progress towards the legal agreement was initially made, it became clear that the applicant was seeking amendments to reduce the scale of the proposals. Accordingly the reduced proposals are detailed below.



Figure 1 – Originally site layout plan;

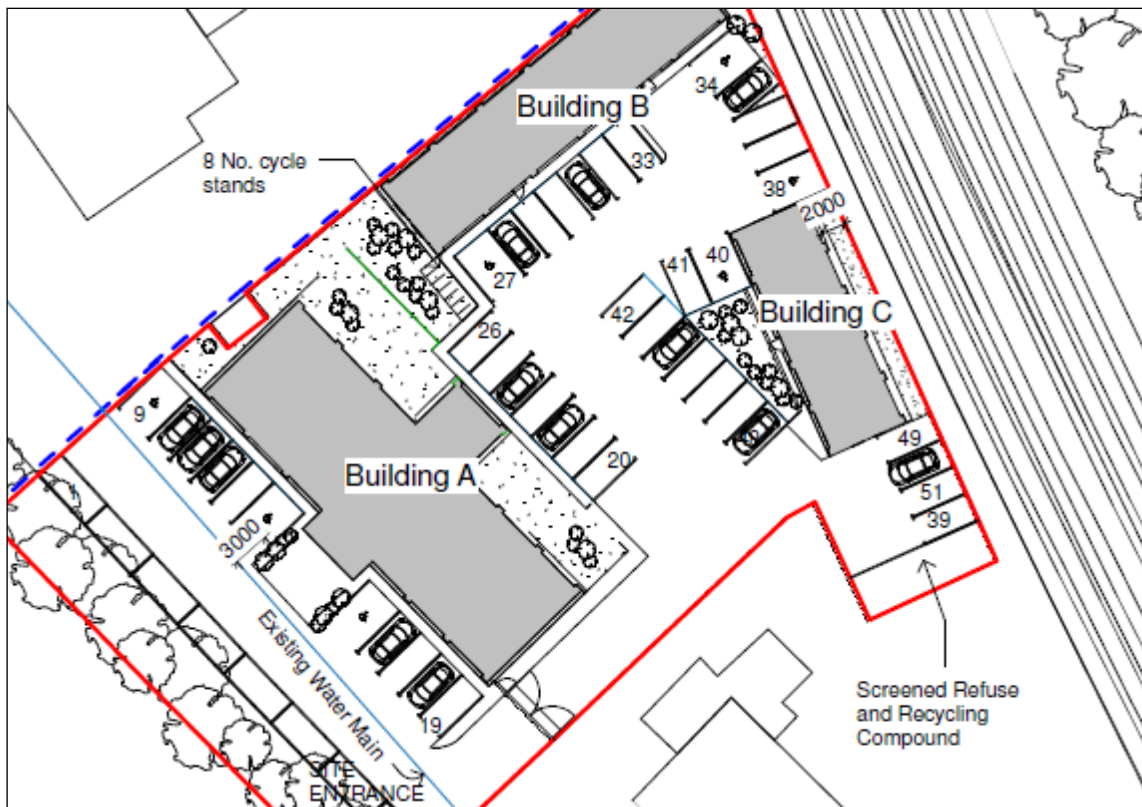


Figure 2 – Amended proposed layout plan with revised Building A;

The proposal is to replace the existing car sales business with a new office development. This will include the demolition of the existing on site buildings and replacing them with three main office buildings. All three buildings combined will provide 1575.9sqm of office floorspace.

Building A has been amended and reduced in size from that originally proposed. Building A will remain the largest of the three office buildings proposed and will be at the front of the site, facing across the private access road towards Penarth Road. Building B is positioned along the northern boundary with Bevan House, with Building C (the smallest of the three) set towards the rear boundary adjacent to the railway line. There will be parking for 11 cars (including disabled bays) along the front of Building A with another 8 bays on the opposite side of the access road. The remaining 31 spaces set to the rear of Building A, between the proposed buildings. Eight cycle stands are also proposed between buildings A and B. There is proposed a small screened refuse and recycling compound proposed in the southeast corner of the plot.

The revised Building A has a floor area of 914.60sqm (reduced from 1378.80sqm originally proposed) with a width of approximately 32m and a depth of 10.5m. The reduced office space is primarily as a consequence of a significantly reduced depth of Building A. The revised proposals also include a 4.8m rear projection (5.2m wide) positioned centrally to the rear elevation. The building will have facing brick walls with grey roof tiles. The rainwater goods will be black plastic with aluminium double glazed fenestration. This will be a two storey building with a high pitched roof with storage within the roofspace. The building is essentially rectangular in shape with a two storey projecting gable to the centre of the front and rear elevations. The ground and first floor will provide general office space, along with meeting rooms, WCs, storage rooms, a staff kitchen and a lift. The roofspace level will be kept for storage only, with 12 rooflights providing natural light.

The smaller buildings to the rear are as previously reported to Planning Committee. Building B is an office building, with the plans indicating it to be split into three separate office units, each over two floors and of equal size. Building B has a width of 29m with a depth of 7m approximately. Building C is also two storey though is not split into different units. This building will have a depth of approximately 6.5m and a width of 18.8m. Its height to ridge will be 7.9m. Both buildings B and C are to be built in the same style and materials as building A.

There is an access to the southwest corner of the site with a driveway along the side of Building A. Traffic can reach the site via the private drive accessed off Penarth Road.

### PLANNING HISTORY

2009/00738/FUL: Site adjacent to Bevan House, Penarth Road, Cardiff. Change of use from plant hire to car and van sales. Approved 26 August 2009.

### CONSULTATIONS

**Llandough Community Council** - No comments have been received to date.

Natural Resources Wales has no objection subject to condition requiring a pre-assessment of the land to deal with the risk of contamination and a separate verification report demonstrating completion of the works in accordance with the remediation strategy (required as part of the pre-assessment) (See Appendix A).



With regards the use of permeable surfacing, NRW also required that there would be no infiltration of surface water drainage into the ground other than with the express consent of the Local Planning Authority, where it can be demonstrated there would be no resultant unacceptable risk to controlled waters.

**The Council's Highway Development Officer** – No objection subject to the parking being laid out in accordance with the Council's parking standards and that the parking and cycle parking is provided before beneficial occupation of the offices. Also required a formal travel plan to be submitted prior to beneficial occupation.

**The Council's Economic Development Unit** – Supports the application

**The Council's Environmental Health Division** – Demolition is to be undertaken to HSE guidelines on Asbestos with no burning on site. 2009 comments: No requirement for further information subject to the works being in accordance with the geo-technical and geo-environmental survey already submitted to support the application. However, there is need for any new drinking water pipes to avoid the contaminated areas.

**Glamorgan Gwent Archaeological Trust.** No archaeology recorded in area and therefore it is "unlikely that archaeological features would be disturbed during the course of the proposed development".

**Llandough Ward Member.** No comments have been received to date.

**Dwr Cymru / Welsh Water** initially objected to proposals due to capacity issues at local pumping station. However, with proposals for permeable surfacing to drain surface water included, along with supporting evidence from the applicant's engineers, they withdraw their objection subject to a condition that requires full details of the final drainage strategy including that no surface water to drain into the sewer system. No further response has been received based on the amended proposals at the time of writing.

**The Council's Ecology Officer** has no objection; not likely to adversely impact protected species.

**Network Rail** has no objection due to amended plans moving the proposed buildings a minimum of 2m from the railway boundary. Further advice has been provided on related issues. (See Appendix B).

## REPRESENTATIONS

Neighbours to the site were consulted with a site notice and press advert also displayed. There were no neighbour or general public comments received.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

##### POLICY 5 - BUSINESS AND INDUSTRIAL USES

#### *Policy:*

ENV26	– CONTAMINATED LAND AND UNSTABLE LAND
ENV27	– DESIGN OF NEW DEVELOPMENTS
ENV28	– ACCESS FOR DISABLED PEOPLE
ENV29	– PROTECTION OF ENVIRONMENTAL QUALITY
EMP1	– LAND FOR EMPLOYMENT USES
EMP2	– NEW BUSINESS AND INDUSTRIAL DEVELOPMENT
EMP4	– PROTECTION OF LAND FOR EMPLOYMENT USES
TRAN9	– CYCLING DEVELOPMENT
TRAN10	– PARKING

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 12 – Design
- Technical Advice Note 23 – Economic Development (2014)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Model Design Guide for Wales
- Planning Obligations
- Public Art
- Sustainable Development - A Developer's Guide

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

### Issues

- Policy principle of development
- Size and design of proposed offices
- Impact to neighbouring properties
- Parking provision and access
- Environmental impacts of proposals
- Drainage capacity issues

### Considerations

#### Policy Principle of Development

The proposal is to be considered under the policies outlined above, including Policy EMP2, which relates to new business development. This policy includes nine criteria, covering issues such as design, pollution and parking provision. The site is outside of the Penarth Settlement Boundary, though is an existing employment site, with there being a car sales business currently in operation, with business and commercial units predominant in this area of Penarth Road.

The proposals will maintain an employment use at the site, with potentially enhanced levels of employees from that of the existing car sales business, with it noted that the applicant plans to move into the larger office block from the adjacent Bevan House. The offices proposed have the potential to add vitality and viability to this commercial area. The buildings could also be adapted relatively easily, with the buildings possibly used by multiple companies. Therefore the principle of the office development is considered acceptable, subject to the criteria as set out in Policy EMP8 and the provisions of the other related policies.

## Design and Scale of Proposals

Policy EMP2 has regard to the design and scale of the proposed development, with the supporting text stating that “it is important to ensure that industrial and commercial development is of a high standard of design and that proposals pay proper regard to the character and appearance of their surroundings” (5.4.29). The site for the proposed development is within a row of commercial and office buildings, with two storey offices and large retail warehouse style buildings along this private access road. In this context, the proposed 2/3 storey office buildings will suit the character of the area and will not appear incongruous within its setting.

The proposals consist of three office buildings within the site, replacing the two existing buildings. Building A, towards the front of the site, has been amended since this application was previously before Planning Committee in 2011. The volume of Building A has been reduced significantly due to a decreased depth of the majority of the building, which will also have an overall height of approximately 10.9m (similar to the originally proposed Building A). It is a two storey building, though there is a large roof space with high pitch (the height from eaves to ridge is approximately 5m). This building, though reduced in size with this revision, would still be large and visually prominent from certain vantage points. However, it is considered that as this will be in the same row as large warehouse style buildings, including Bevan House and Cambria House, it will not appear incongruous or overly prominent within its context.

Buildings B and C have not changed with this amendment from that proposed originally. These units are smaller and will be less prominent than Building A, especially from the Penarth Road perspective as they are set towards the rear of the site. Overall, the scale of the office buildings on site, in the context of this commercial area, is considered acceptable and an efficient use of the site.

The design is typical of many modern offices and is of sufficient quality, with the use of brick and artificial slate considered appropriate. It is also considered that the offices proposed would enhance the character of the area, improving the appearance of the site from that of the existing structures at the site. Some landscaping is proposed, mainly to the front of Buildings A and C and between Buildings A and B. Regarding this, a condition can be attached to any approval to require further details of the landscaping, which should act to soften the visual impact of the development. A condition should also be attached to require details of enclosure, with metal fencing and gates proposed in the application forms. The fencing will need to provide necessary security, though should not be visually detrimental to the area.

### Impact on Neighbouring Buildings

There are no near residential properties that could be detrimentally affected by the proposed office buildings. There are dwellings opposite to the west of the site, on Llandough Hill and the flats at Willowmere, though these are at a considerable distance away, with wooded areas obscuring views between the site and these dwellings. Therefore, there should be no overlooking or overshadowing impact that could significantly impact upon neighbour amenities.

The unit to the north is Bevan House, which is the current main office of the applicant, Carter Lauren, with the Itec House, which is a two storey office to the south. The proposed offices should not have any significant impact on any of the neighbouring commercial/office premises with it noted that there have been no objections received. The positions of the buildings proposed have been amended to avoid any conflict with the rail operators. Network Rail has no objection, based on the amended plans provided, with a 2m gap shown between the proposed buildings and the rear boundary.

### Parking and Access

The access to the site will be much the same as existing, with traffic reaching the site via the private access road that runs off Penarth Road. An access point into the site is indicated to the side of Building A, with the majority of the car parking central within the site. The traffic generated by the proposed office use is not considered to be significantly greater than the existing car sales business, though may be more concentrated to peak times of the day. However, it is considered that there is no capacity issue for Penarth Road, with no highway impacts raised.

The level of parking provision is considered acceptable to provide for the scale of development being proposed. The 51 spaces proposed has not altered from that originally proposed, even though there has been a reduction in the size of Building A. It is also noted that this site has good public transport links, with a bus stop adjacent and Cogan train station in close proximity. Cycle store facilities are also shown on the layout plan, with 8 spaces indicated. An enhanced public transport service will also be addressed through the 'Sustainable Transport' section of the S106 agreement.

The submitted Design and Access statement also includes a Travel Plan section, which is proposed to help reduce future employees of the offices reliance on private car travel. The Travel Plan is only in outline stage though includes aims and objectives, information regarding a staff travel survey and a travel plan coordinator, and the possible use of pool cars. Further information will be required with the final Travel Plan, though this can be required in full via condition.

For the reasons outlined above, the proposed parking/cycling provision and access is considered acceptable.

## Environmental Impacts

The site is within a designated flood plain, though as it is on an elevated position there has been no requirement for a flood consequence assessment by Natural Resources Wales (NRW). However, the site has been identified as possibly having areas of contaminated land, due to the current and previous uses of the land for industrial purposes. The Environment Agency (now Natural Resources Wales) originally considered the submitted geo-technical and geo-environmental report, produced by Terra Firma (Wales) in January 2009 and submitted with the application.

Historically, the site was used as rail land from Victorian times, with the land developed for commercial development post-war. The previous plant-hire and repair company had two tanks on the site. These are thought to be the reason that petroleum hydrocarbons (primarily diesel) have been found at one location within the site (position WS4 – central to the site) as part of the report's investigation. It was also found that the hydrocarbons had affected the groundwater. A potential receptor for these pollutants is the River Ely, though this was considered a "very low risk". The report suggested the use of pile foundations and suspended floor slabs. It also recommended further investigation, including the production of Remediation Strategies and a Validation Report to be submitted to the Council.

EA originally reviewed the submitted report and responded on the 26 October 2009. They stated that the planning application should only be granted if conditions to address the contamination were attached. The conditions they advise relate to a Remediation Strategy being submitted with following Verification Report, which demonstrates the completion of works in line with the approved Remediation Strategy. The Verification Report will include steps for monitoring and maintenance of the site for any pollutant linkages etc. This has been echoed in the NRW response to the revised proposal.

The development includes proposals for permeable surfacing as a form of sustainable drainage system (see the following section). Terra Firma produced a supplementary letter in April 2010 with regards the use of SUDS at the site. The report states that SUDS can be included, though the infiltrating water would have to drain towards the west of the site directly into fractured bedrock. With regard to the contamination, the letter does state that if the remediation works are undertaken then there should be "no detrimental impact upon the aquatic environment (as the contaminant source has been removed)". The letter also states that without the removal of the contaminants an underground storage tank would have to be used, to treat the water before disposal. However, it is considered that this would be difficult to achieve when using permeable surfacing rather than usual soakaways. In any case, it is considered the remediation works should be completed, as per NRW's requirements, prior to the laying down of any permeable surfacing, which should ensure contaminants are not mobilised. Any use of SUDS, such as a permeable surface to drain surface water, should be considered and fully incorporated into the remediation strategy to ensure that the drainage does not lead to the mobilization of contaminants. This will be addressed via condition, with consultation with NRW, to ensure the permeable surfacing does not result in any negative environmental issues.

## Drainage Capacity Issues

The proposals initially resulted in an objection being raised from Welsh Water. They were concerned that increased levels of foul drainage from the site, due to an intensification of use from that of the existing car sales business, would result in the pumping station being pushed to over-capacity. As a result of this, the applicant, with supporting evidence from their drainage engineers RVW consulting, proposed the use of permeable paving for the car parking areas. This would result in the surface water being drained into the land beneath the site rather than into the combined public sewer as it does at present.

If the surface water was not to connect to the Welsh Water sewer system then despite an anticipated rise in foul drainage from the site once developed, the overall flow rate would be reduced, especially in wet weather. It is clear therefore that the foul drainage, when all three office buildings are fully in use, would exceed that of the existing use. This has been recognised by the applicant, though with the re-direction of the surface water drainage via the use of SUDS (permeable surfacing in this case) into the ground rather than into the combined sewer there will actually be a net reduction in flows.

RVW consulting calculated that based on their estimates the flow to the public sewer will be reduced from 3.59 litres per second to 2.93 litres per second. This will be primarily due to the rainfall being drained into the ground with the proposed permeable surface for the car parking areas, though they also highlight that there will be no more washing of vehicles, which is common practice with the existing business, with all the drainage from this currently also linking with the combined sewer.

Welsh Water had some concern that the surface water actually ran to a storm drain and eventually discharging into the river Ely. However, after investigation it was found that this storm drain actually connected with the public sewer and therefore the proposed permeable surface solution and the predicted reduction in overall flows to the combined sewer still apply.

Welsh Water therefore withdrew their initial objection, subject to a condition requiring full details of the drainage proposals for the scheme, with the requirement that the surface water will not connect with the public sewer. There has been no updated response from Welsh Water to the revised proposals as yet, though as the revision is basically a reduction in the size of one of the buildings it is considered that the previous comments are relevant.

## Planning Obligations (Section 106) Matters

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan.



It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies. In this case, the application relates to a major office development and therefore obligations have been secured in respect of the following relevant matters.

**Sustainable Transport** - Local and National Planning Policies emphasise the need for new developments to be accessible by modes of travel other than the private car. The proposed development will increase the number of trips to and from the site. Therefore, it is reasonable to expect the developer to pay a financial contribution to improve sustainable transport facilities serving the site to encourage for sustainable travel options. This is in accordance with UDP Policies 2, 7, ENV 27(vii), REC 12, TRAN 7 & 9 and the guidance contained within Planning Policy Wales and Circular 13/97 on Planning Obligations. Based on the size and form of the proposed development, having regard to the existing buildings and use on site, a contribution of ten thousand eight hundred and twenty pounds (£10,820) would be required prior to beneficial occupation of the development to provide sustainable transport facilities serving the site (i.e. for public transport users, cyclists, pedestrians and car sharers). This has been negotiated and agreed with the developer to be paid in a phased manner split proportionally between each building as follows:

- Block A = 915m<sup>2</sup> (58.1% of floor area) = £6275.60
- Block B = 416m<sup>2</sup> (26.4% of floor area) = £2856.48
- Block C = 245m<sup>2</sup> (15.6% of floor area) = £1687.92

**Public Art** - The Council introduced a percent for art policy in July 2003 which is supported by the Council's adopted supplementary planning guidance (SPG) on Public Art. It requires that developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, as a rule, public art should be provided on site integral to the development proposal. This will be secured through a S106 Legal Agreement.

**Training and Development** - Part of the justification for permitting new developments such as this is the employment opportunities they present. Training local residents, especially those in deprived areas, to be able to apply for some of the new job opportunities helps to create sustainable communities. Therefore on major developments the Council looks for opportunities to maximise training and development for the Vale of Glamorgan's resident population. This may be provided by the developer on site, or provided in the form of a financial contribution to the Council to facilitate skills training to boost local economic development. In this case, it is considered reasonable to expect training (on a recognised training course) to be provided for at least 2 employees or alternatively pay the Council a contribution of £2,400 as an in lieu contribution. The financial contribution would be used to remove the barriers to work by providing assistance such as training, skills development, childcare etc. This will be secured through a S106 Legal Agreement.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV27 - Design of New Developments; ENV26 - Contaminated Land and Unstable Land; ENV29 - Protection of Environmental Quality; EMP2 - New Business and industrial Development; and TRAN10 – Parking of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is considered that the proposals are acceptable, by reason of their appropriate design, materials and scale, with no detrimental impact to the character of the area or the amenities of neighbouring occupiers, with suitable access and appropriate levels of parking provision proposals. The proposals therefore comply with the relevant planning policies and supplementary planning guidance.

## RECOMMENDATION

Subject to the relevant person(s) first entering into a Section 106 Legal Agreement or undertaking to include the following necessary planning obligations:

- The developer shall pay the sum of £10,820 to the Council to provide or improve sustainable transport facilities in the vicinity of the site, to be split as follows:  
  
Block A = 915m<sup>2</sup> (58.1% of floor area) = £6275.60  
Block B = 416m<sup>2</sup> (26.4% of floor area) = £2856.48  
Block C = 245m<sup>2</sup> (15.6% of floor area) = £1687.92
- The developer will provide public art on site to a value of 1% of the build costs of the development or provide a financial contribution to the same value in lieu of on-site provision for the Council's public art fund.
- The developer shall provide training (on a recognised training course) for at least 2 employees or alternatively pay the Council a contribution of £2,400 as an in lieu contribution.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the Legal Agreement (£1,848 in this case).

APPROVE, subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents: 2010 A, 2000 B, 2001 A, 2002 A, 2003 A, 2101 A, 2102 A, 1000, 1001, Design and Access Statement (2015 Revision), 2101, 2102, 2103, 2014, 2201, 2202, 2203, 2204, RVW Consulting 'Right to Drain and Implications of Connection to DCWW Sewers', C200 A, Geo-Technical & Geo-Environmental Report (Terra Firma - January 2009).

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Notwithstanding the submitted plans, prior to the commencement of development, further details (including sections across and through the site) of the finished floor levels of the office buildings, in relation to existing and proposed ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

In the interests of visual amenity, in order to protect the amenities of neighbouring properties and to ensure the development accords with Policies ENV27 of the Unitary Development Plan.

4. Notwithstanding the submitted details, further details of a scheme for foul and surface water drainage (to include details of the permeable surfacing paving) shall be submitted to and approved in writing by the Local Planning Authority, which shall ensure that foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system. The approved scheme shall be fully implemented in accordance with the approved details prior to first beneficial use of the offices hereby approved.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. Details of the screened refuse and recycling compound shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling compound shall then be developed and retained in accordance with the approved details, prior to the beneficial use of the offices hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure a suitable design and protect the visual amenities of the area, in accordance with Policy ENV27 of the adopted Unitary Development Plan.

6. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas, have been laid out in full accordance with the details shown on plan 2010 Rev A (received 9 July 2015) and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. Notwithstanding the submitted details, prior to the first beneficial use of the offices hereby approved details of secure and covered parking on site for 8 bicycles shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme of parking for bicycles shall be fully implemented on site prior to the first beneficial occupation of the development hereby approved and shall thereafter be so retained at all times.

Reason:

To ensure that satisfactory parking for bicycles is provided on site to serve the development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

8. Prior to the first beneficial occupation of the development hereby approved, a full Travel Plan (based on the submitted outline travel plan) shall be prepared to include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with UDP Policies 2, 8 and ENV 27 (Design of New Developments).

9. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

10. Prior to the commencement of development a scheme to deal with the potential ground contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority, with the submitted scheme being in accordance with the recommendations of the submitted Geo-Technical and Geo-Environmental Report (Terra Firma, January 2009). The submitted scheme shall include a preliminary risk assessment, a site investigation scheme leading to an options appraisal, a remediation strategy (which shall include full considerations of the potential impact of surface water drainage to present containments), a verification report demonstrating completion of any works set out as necessary in the remediation strategy, and a long term monitoring and maintenance plan setting out a time table of monitoring reports and any contingency action necessary in the future. The development shall thereafter be undertaken in accordance with the approved scheme and its recommendations.

Reason:

Due to contamination being known/strongly suspected at the site from potential previous pollution, and to meet the requirements of Policy ENV29 of the Unitary Development Plan.

11. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until 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. The development shall thereafter be undertaken in accordance with the amended remediation strategy.

Reason:

Given the size/complexity of the site it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated, and to meet the requirements of Policy ENV29 of the Unitary Development Plan.

12. Details of a scheme of landscaping for the site shall be submitted to the Local Planning Authority for their approval in writing prior to the first beneficial use of the offices hereby approved.

Reason:

To provide a suitable level of landscaping and to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

13. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

14. Prior to their use in the construction of the office buildings hereby approved, details of the materials to be used shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

**NOTE:**

1. **Before work is commenced the applicant must ensure that, where necessary, the appropriate Building Regulation consent has been obtained.**

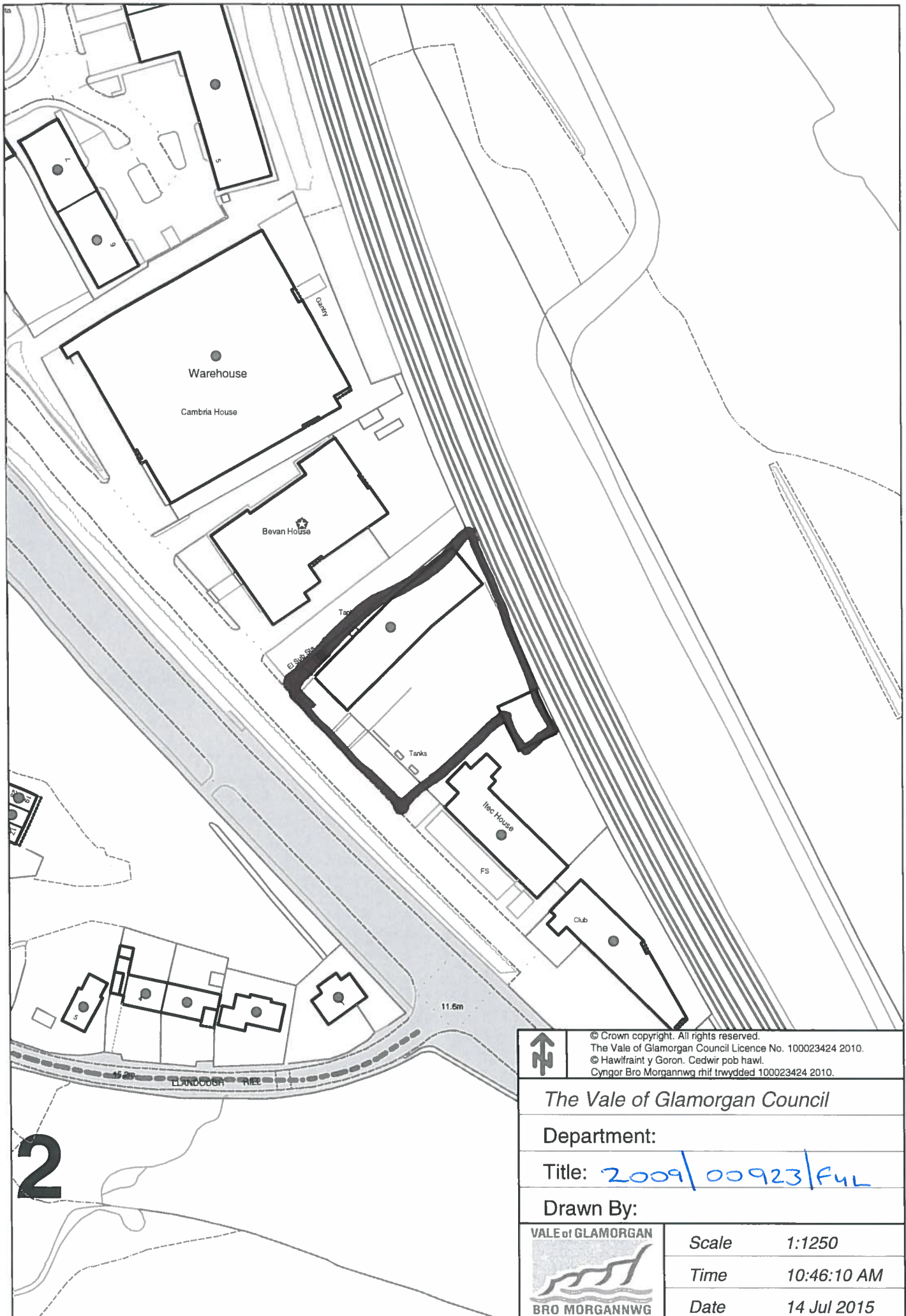
- 2. In accordance with the advice of the National Assembly for Wales regarding development of contaminated land I am giving you notice that the responsibility for safe development and secure occupancy of a site rests with the developer. Whilst the Council has determined the application on the information available to it, this does not necessarily mean that the land is free from contamination.**
- 3. This consent does not convey any authorisation that may be required to gain access onto land not within your ownership or control.**
- 4. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Countryside Council for Wales, 7 Castleton Court, Fortran Road, Cardiff; telephone number 02920 772400.**
- 5. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**



**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



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	<i>The Vale of Glamorgan Council</i>	
Department:		
Title: <i>2009/00923/F4L</i>		
Drawn By:		
	Scale	1:1250
	Time	10:46:10 AM
	Date	14 Jul 2015



**2013/01124/FUL** Received on 6 July 2015

Mr. G. Stoddart, 7, Plymouth Road,, Barry., CF62 5TY  
Reading Agricultural Consultants, Gate House,, Beechwood Court,, Long Toll,,  
Woodcote,, Oxfordshire., RG8 0RR

### **Penylan Barn, Llancarfan**

Conversion of a stone barn to a residential dwelling

#### **SITE AND CONTEXT**

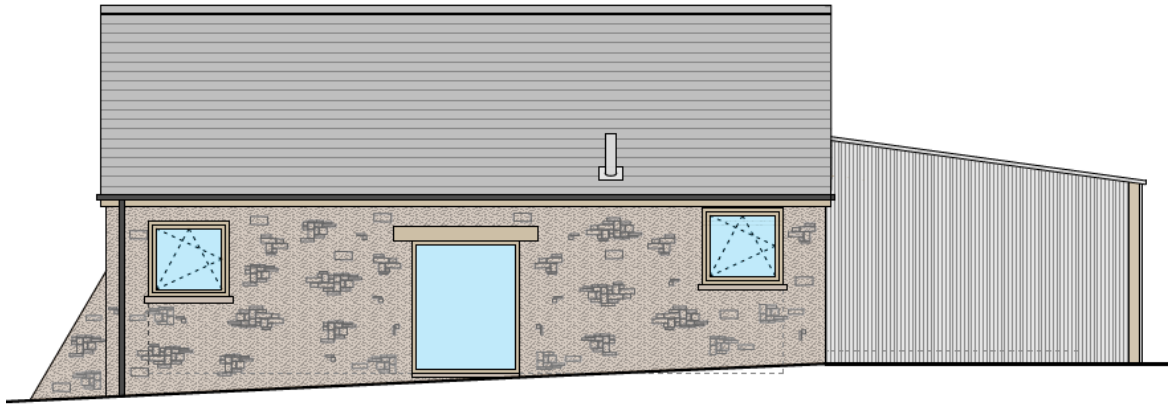
The application site is a single storey barn structure described as 'Penylan Barn, Llancarfan'. It is situated approximately 100m to the east of the settlement of Llancarfan with open fields to the east and as such falls within an area of open countryside as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. The property is accessed off an adopted dead end lane that leads to the property of Broomwell and also falls within the Nant Llancarfan Special Landscape Area. A public footpath runs to the east of the site.

The barn itself is stone built and is approximately 9.4 metres wide and 6 metres deep and has a pitched roof with a ridge height of approximately 4.7 metres. To the east of the main barn is a lean-to structure constructed mainly of corrugated iron which has a footprint of 4.3 metres by 4.1 metres. To the rear of the property are three doorway openings and in the front elevation are two smaller window openings and a larger opening that has been blocked up in the past.

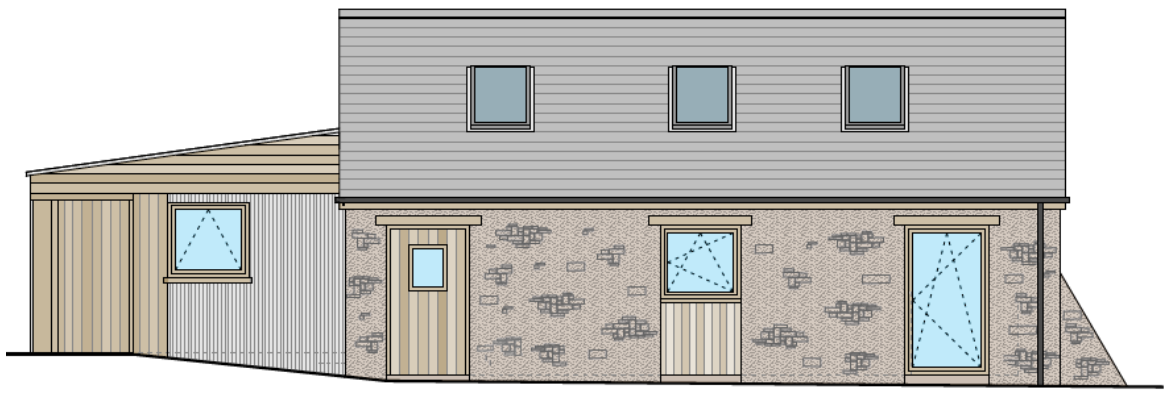
#### **DESCRIPTION OF DEVELOPMENT**

The application proposes the conversion of the existing barn for use as a two bedroom residential dwelling including the insertion of a mezzanine floor to provide additional living accommodation at first floor level. The living accommodation comprises an open plan kitchen, living and dining room, bedroom and shower room at ground floor level and a second bedroom and 'sitting space' at first floor level. The existing lean-to structure is proposed to be renewed to provide an external store.

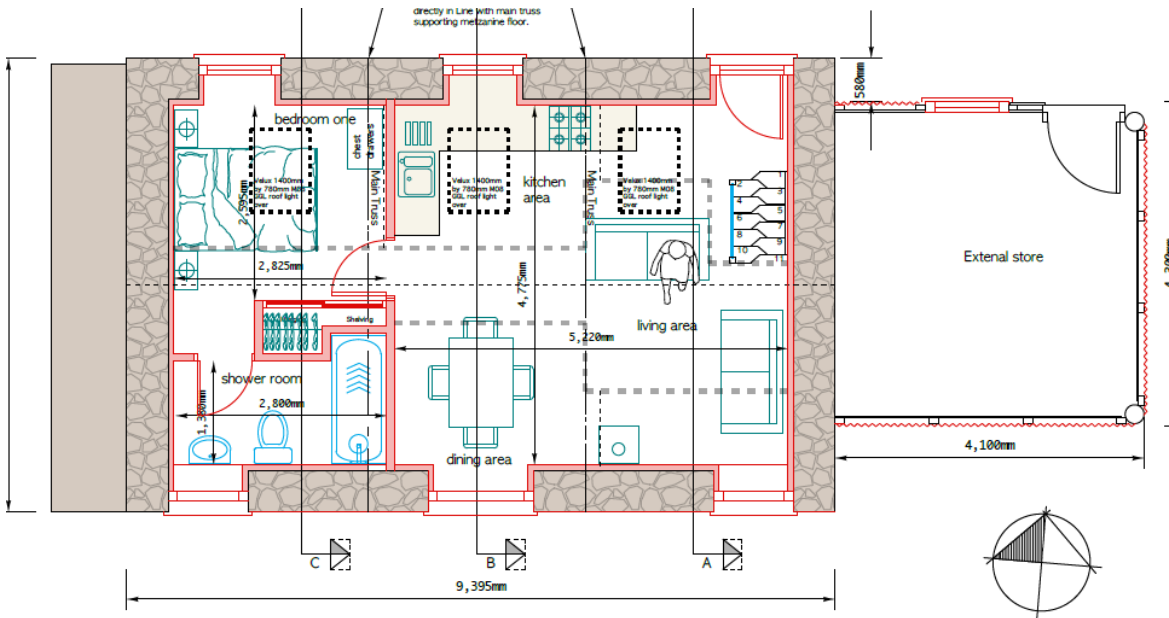
Three rooflights are proposed within the northern roofslope of the barn. A floor to ceiling opening is proposed in the previously blocked opening to the front elevation and windows within the existing openings. Windows and a new door are proposed within the existing openings within the northern rear elevation, whilst a new door and window are proposed within the lean-to structure. Plans and elevations are shown below:



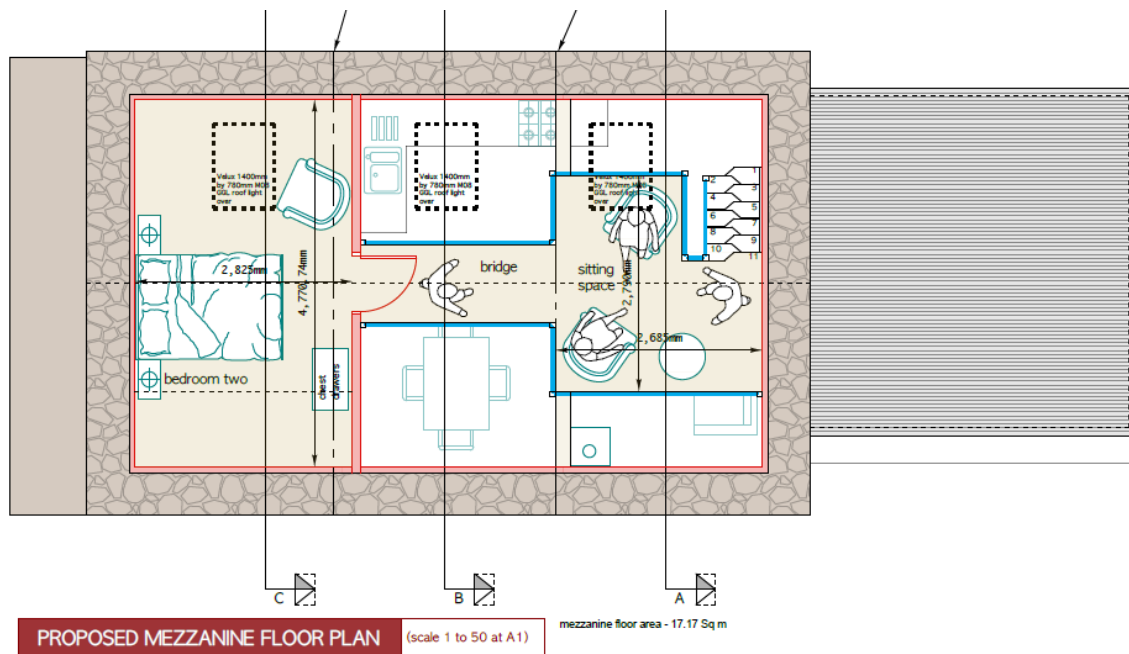
**PROPOSED FRONT ELEVATION** (scale 1 to 50 at A1)



**PROPOSED REAR ELEVATION** (scale 1 to 50 at A1)



**PROPOSED GROUND FLOOR PLAN** (scale 1 to 50 at A1) floor area - 40.49 Sqm



## PLANNING HISTORY

2007/01246/FUL : Penylan Farm, Llancafarn - Barn conversion into dwellinghouse - Refused

1994/00466/FUL : Pen-y-Lan Barn, Llancafarn - Barn conversion to form one dwelling - Refused

1990/01306/FUL : Penylan Barn, Penylan Farm, Llancafarn - Convert barn to farmhouse - Refused

## CONSULTATIONS

**Llancafarn Community Council** were consulted with regard to the application and no comments had been received at the time of writing this report.

**The Council's Public Rights of Way Officer** was consulted with regard to the application and note that no adverse affect should result to the right of way which should not be interfered with during and after any development.

**Rhose Ward members** were consulted with regard to the application. No comments had been received at the time of writing this report.

**Dwr Cymru Welsh Water** were consulted with regard to the application and indicate that as the applicant proposes the use of a septic tank that the LPA should consult NRW in this regard.

**The Council's Ecology Officer** were consulted with regard to the application and initially raised an objection to the proposed works by virtue of the lack of appropriate mitigation measures. Following further consultation and the receipt of amended plans including an amended scheme to mitigate the derogation of the roost, the Council's Ecologist withdrew objections subject to a suitably worded condition.

**Natural Resources Wales** were consulted with regard to the application and originally objected to the application by virtue of the destruction of the bat roost and inadequate provisions being made to mitigate this loss. Since this time they have informally indicated they are satisfied with the revised proposals although formal comments are awaited at this time.

## REPRESENTATIONS

The neighbouring properties were consulted on 25 November 2013 and a site notice was also displayed on 27 November 2013 although no representations had been received at the time of writing this report.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 8 – TRANSPORTATION

#### *Policy:*

ENV1	– DEVELOPMENT IN THE COUNTRYSIDE
ENV4	– SPECIAL LANDSCAPE AREAS
ENV8	– SMALL SCALE RURAL CONVERSIONS
ENV10	– CONSERVATION OF THE COUNTRYSIDE
ENV16	– PROTECTED SPECIES
ENV27	– DESIGN OF NEW DEVELOPMENTS
HOUS2	– ADDITIONAL RESIDENTIAL DEVELOPMENT
HOUS3	– DWELLINGS IN THE COUNTRYSIDE
TRAN 10	– PARKING

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).’*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is important as most other chapters of PPW refer back to it, part 4.2 in particular.

Paragraph 4.4.3 states that *‘planning policies, decisions and proposals should... locate developments so as to minimise the demand for travel, especially by private car’* and *‘Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car’.*

Paragraph 4.7.4 also states that *‘Local planning authorities should assess the extent to which their development plan settlement strategies and new development are consistent with minimising the need to travel and increasing accessibility by modes other than the private car.’*

*4.7.8 **Development in the countryside** should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.*

*7.6.5 In addition they should adopt a positive approach to the conversion of rural buildings for business re-use.*

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing.

*9.2.22 In planning for **housing in rural areas** it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. There should be a choice of housing, recognising the housing needs of all, including those in need of affordable or special needs provision. In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, in particular for affordable housing to meet local need, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages.*

*9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.*

*9.3.4 In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas.*

*9.3.6 New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area.*

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 12 – Design (2009)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Sustainable Development
- Amenity standards
- Biodiversity and Development
- Conversion of Rural Buildings
- Design in the Landscape

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection).*

*Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

### Issues

The principle issues to consider therefore are the principle of any conversion, the potential impact upon the character of the barn and the visual amenities of the surrounding area, provision of suitable amenity and car parking facilities and any potential impact that the proposal may have upon ecology.

### Principle of development and sustainability

As detailed, the application site falls outside of the residential settlement boundaries as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011 (UDP) and therefore amounts to the provision of a new dwelling within a countryside location. As such the provisions of policy ENV1 'Development in the Countryside' of the UDP is of particular relevance. Policy ENV1 is a criteria based policy relating to development within the countryside, noting that development will only be granted for appropriate uses including development essential for agriculture or other rural activities, appropriate recreational use, re-use or adaptation of existing buildings particularly to assist the diversification of the rural economy or development allowed under other policies of the plan. In this case, most relevant to that is the final Criterion of Policy ENV8, which in principle allows for small scale rural conversions.

This policy states that proposals which involve small scale rural development including conversions of rural buildings to new uses will be permitted if they comply with relevant criteria. In the case of the conversion of a rural building to residential use, the following criteria contained within this policy are considered to be of particular relevance:

- (iii) The building is structurally sound and the conversion can be achieved without substantial reconstruction of the external walls, or extension to the building. However, each proposal will be assessed as a matter of fact and degree, depending on the particular circumstances of the case;
- (iv) conversion work can be undertaken without unacceptably altering the appearance and rural character of the building;
- (v) where residential use is considered acceptable, amenity space can be provided within the curtilage of the site without undue incursion into the rural landscape;



Strategic Policy 2 of the Unitary Development Plan (UDP) highlights the need for new development to embrace the principles of sustainability through energy and resource efficiency, good design and reducing the need to travel, especially by car. The latter point is also reflected in UDP Policy 8. The Council's Sustainability SPG also states that:

*“Individual developments should provide easy and safe movement for all modes of transport, especially pedestrians and cyclists and connect to existing routes beyond the immediate development. Similarly, development proposals must give consideration to public transport provision and access and if appropriate contributions for either the provision of a new service or the upgrading of an existing public transport service may be sought through Legal Agreements”* (Section 11 refers).

The supporting text to Policy ENV8 on Small Scale Rural Conversions also states:

*“Isolated conversions in particular are unsustainable”. ..” They can place an unacceptable burden on local services, are often at a distance from local public transport services, thereby increasing the need to travel by car to work, school or for shopping.”*

The SPG on the Conversion of Rural Buildings also echoes the above and states that the conversion of isolated buildings for residential purposes is generally unacceptable. However, as previously noted the barn is situated approximately 120 metres to the east of the settlement of Llancarfan and as such is considered to be within practicable walking distance of the village and the services contained therein. As such for the purposes of the aforementioned policies the barn is not considered to fall in an isolated location. It is considered therefore that the proposed barn would not be wholly reliant on the use of the private motorcar for access to everyday, local services and as such does not represent an unsustainable form of development.

Furthermore it is considered that the barn is a good example of a building of this sort and therefore has significant architectural merit. As such it is considered that the introduction of a residential use within this barn would on balance be acceptable in principle and situated in an adequately sustainable location, subject to assessment of the other criteria of the aforementioned policies.

#### Impact upon character

As noted previously the building is situated off a minor rural lane, in the corner of an open field set approximately 12 metres back from an agricultural entrance to the field and a gate serving the public footpath. Given the open nature of the site there are currently unobstructed views of the front of the barn from the public footpath and road to the front, appearing as a simple, traditional agricultural building. The area to the rear of the barn and the proposed access to the south-west of the building are enclosed by a post and wire fence, although there is no enclosure to the south of the barn with the adjacent field.

Given the openness of the site, it is considered that the building as converted would be particularly prominent from the adjacent road and footpath. Indeed it should be acknowledged that previous application 2007/01246/FUL was refused for the following reason:

*By virtue of the rural and open nature of the site, the associated curtilage and parking area and the new window opening, it is considered that the proposal would serve to overly domesticate the barn and surrounding land, intruding into the rural landscape to an unacceptable degree and failing to preserve the unspoilt rural landscape of this part of the Special Landscape Area. The proposal is therefore contrary to Policies ENV1 - Development in the Countryside, ENV4 - Special Landscape Areas, ENV8 - Small Scale Rural Conversions and ENV27 - Design of New Developments as well as advice in Planning Policy Wales 2002 and the Council's approved Supplementary Planning Guidance on the Conversion of Rural Buildings.*

The previous application was materially different from the current scheme given that an enlarged parking and garden area was proposed to the south and east of the property which would have encroached to a harmful extent into the adjoining field. The Council's UDP Policy and Supplementary Planning Guidance seeks to ensure that conversions safeguard the character of the barn itself and do not result in an undue incursion in the wider rural landscape, either by virtue of works to the building itself or from the associated curtilage. The supporting text to Policy ENV8 of the UDP states that:

*"The creation of a new residential curtilage around a newly converted building can have a harmful effect on the character of the countryside, especially in areas of high quality landscape."*

The Council's Supplementary planning Guidance on the Conversion of Rural Buildings states:

*"The spaces surrounding rural buildings are generally restricted by the nature of their original use. Unless unobtrusive and sufficient amenity space can be provided around a building without conflict with surrounding uses, the proposal will not be favourably considered. The provision of adequate amenity space should avoid the creation of a suburban style curtilage around the building."*

The current application proposes to utilise an existing access into the site which is currently overgrown and an area to the north and east of the barn for use for parking and amenity provision which similarly is overgrown. To the northern boundary of the barn there currently is relatively mature hedgerow and vegetation and to the east there is an existing post and wire fence. No further extension of the curtilage is proposed into the adjoining field either to the south or the east. The proposed parking and amenity area to the north of the barn would be more discreet than under the previously refused application, and is considered to significantly reduce the potential harm that would have been caused through encroachment into adjacent fields.

The provision of an amenity area of approximately 67 m<sup>2</sup> (not including) the access and parking areas) to the north of the property would minimise the intrusion whilst providing an adequate area of amenity space for functional requirements for a property of the size proposed, which is considered to overcome that part of the reason for refusal of the previous application. A condition requiring the submission the details of any enclosures to be erected for the approval of the LPA is proposed to be attached to any consent granted.

The proposed conversion of the building would largely utilise existing openings, with the two existing windows and reinstatement of the larger opening to the southern elevation and the use of the door openings to the rear elevation. The re-use of these openings is considered to accord with the aims of policy ENV8 and the Rural Conversions SPG. However, the initially submitted plans indicated that a nominal increase in height of the wall plate of the barn (approximately 0.2 metres) was proposed, one rooflight proposed in the southern front elevation and three in the rear northern elevation, whilst it appears that the existing store which is in a poor state of repair was shown to be largely rebuilt and clad in timber. There was concern that the replacement of the store building to the side of the property with a wood built structure coupled with the installation of a rooflight would domesticate this building, whilst there was also concern that any increase in the height of the walls would detract from the architectural interest of the barn.

The agent indicated that the store building would remain as existing when viewed from the south albeit with some alterations to the more secluded northern elevation, whilst also confirming that the rooflight to the front elevation was removed. The retention of the store building and the removal of the rooflight from the southern roofslope are considered to be a material improvement and minimise potential detriment to the rural character of the host barn.

With regard to the proposed increase in wall plate height the agent states that this is proposed due to problems with the conversion to allow the creation of a sound insulated roof without substantial additional expenditure and allow the provision of a limited area of additional accommodation at first floor level. The modest increase in wall plate, repointing and localised rebuilding of walls coupled with the re-roofing of the barn as identified within the submitted structural report is not considered to amount to 'substantial reconstruction' of the external walls as noted within policy ENV8 nor would such an alteration cause a demonstrable adverse impact to its rural character.

Overall therefore it is considered that the proposed conversion of the barn would not unacceptably detract from the character of the building, rural environs of the site, countryside or Nant Llancarfan Special Landscape Area and is therefore considered to be acceptable.

#### Impact upon amenity of neighbouring residential properties

The barn is set a substantial distance from the nearest neighbouring residential property (in excess of 100 metres) and therefore any potential impact upon the amenity enjoyed by occupiers of said properties will be negligible.

### Parking and access

The property will be served by two spaces to the rear accessed by a track to the side of the property. It is considered that the provision of two spaces for a property of the size proposed would be acceptable. A condition will be attached to any consent given requiring details of the finish of the access track and parking area to ensure that this does not unacceptably detract from the rural character of the property.

The dwelling would be served by an existing vehicular access and it is considered that the proposal would not significantly intensify the existing use. There is space within the site for turning (although not shown on the plans) and a condition is recommended for details of a turning space to be agreed and implemented, to ensure that vehicles can leave in a forward gear.

### Ecology

The submitted ecology report identifies the use of the building by bats with both common and soprano Pipistrelle bats appearing to use the barn as 'at the very least, a day roost' whilst there was also evidence of use of the barn by a myotis species, 'probably a Natterer's bat'. The submitted survey therefore suggests a precautionary approach should be adopted including the provision of a multi-species roost and the retention of the adjoining vegetation and 'dark corridor' to the north of the building which is used for foraging by the bats. It was also noted that the building had been used as nesting site in the past by a thrush species.

The Council's Ecologist and Natural Resources Wales initially raised an objection to the proposals, given the lack of suitable mitigation shown for bats or birds utilising the building and indicate that further details including a method statement, replacement roost, lighting strategy should be considered by the applicant. Following extensive negotiation with the applicant's agents, it was finally decided that the replacement roost would be provided within the adjacent barn which would be repaired and upgraded to provide suitable mitigation for the bats currently utilising the barn. At the time of writing this report the Council's Ecologist and Natural Resources Wales have informally confirmed that they are satisfied with the proposed mitigation being provided within the barn some 9 metres to the north of the building to be converted, in conjunction with suitable provisions for crevice dwelling species within the barn to be converted and an appropriate mitigation scheme to accompany an application for a licence.

As such subject to conditions being attached to any permissions given that any works requiring details of the licence and method statement provided to the licensing body (NRW) for the works to be carried out, it is considered that the ecological constraint does not represent a reason to refuse permission. An informative should also be attached to any permission given informing the applicant that a derogation licence would be required.

Policy ENV16 of the UDP relates to protected species and states that permission will only be given for development that would cause harm to or threaten the continued viability of a protected species if it can be clearly demonstrated that:- (i) there are exceptional circumstances that justify the proposals; (ii) there is no satisfactory alternative; and (iii) effective mitigation measures are provided by the developer. This is supported by the Council's SPG on Biodiversity and Development, and is in line with national guidance including the most recent Conservation of Habitats and Species Regulations 2010 ('habitat regulations'). Survey work undertaken, identified the presence of protected species on the site, namely Soprano Pipistrelle Bats, and therefore the need for a licence from the Welsh Assembly Government.

In assessing the application the Council must have regard to the Habitats Directive's requirement to establish a system of strict protection and to the fact that derogations are allowed only where the three conditions under Article 16 of the EC Habitats Directive are met (the 'three tests') (TAN5, 6.3.6). It is essential that planning permission is only granted when the LPA is satisfied that all three tests are likely to be met as noted below.

Test i) - The derogation is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

The conversion of the barn would allow the provision of an additional dwelling within what is considered to be a sustainable location. The barn is in close proximity to the settlement of Llancafarn and the services provided within the village, such as the primary school and the public house. It is considered that a conversion of this nature would provide an additional dwelling within close proximity of an existing settlement which is considered to accord with relevant policy provision. Background evidence to support the emerging Local Development Plan also notes that small developments of this sort can also aid in providing small scale windfall developments to help achieve the projected housing supply within the Vale. The provision of a dwelling in this locale would provide modest, affordable accommodation and would also benefit local services which is considered to be both socially and economically beneficial. It would also ensure the retention of a characteristic stone barn that contributes positively to the rural landscape.

Test ii) - There is no satisfactory alternative

It is not considered that there is a satisfactory alternative to the proposed conversion given that the existing building is already in situ, which is considered to be of some historic significance. The conversion of this barn would secure the long term future of this building which contributes to the rural aesthetic of the Vale. Furthermore a new build dwelling in this location would be contrary to policy.

Test iii) - The derogation is not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

The applicant has submitted ecological surveys and subsequently accompanying mitigatory measures with the application. Given the removal of objections from the Council's Ecologist and Natural Resources Wales it is considered that the provision of alternative roosts and other measures, would safeguard the maintenance of the populations found within the barn to be converted and as such that the works would not be detrimental to the favourable conservation status of the species identified.

Overall therefore it is considered that the works would comply with the above tests and as such the proposals would not cause undue harm to protected species identified within the accompanying documentation.

### CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV1 (Development in the Countryside), ENV4 (Special Landscape Areas), ENV8 (Small Scale Rural Conversions), ENV16 (Protected Species), ENV27 (Design of New Developments) and TRAN10 (Parking) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is considered that the proposals are acceptable, by reason of their appropriate design, materials and scale, with no detrimental impact to the character or ecology of the area or the amenities of neighbouring occupiers. The proposals are therefore considered to broadly comply with the relevant planning policies and supplementary planning guidance.

### RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall only relate to the amended plans reference 122-22 (existing plans and elevations (Refurbished Barn)), 122-23 (Proposed plans and elevations (Refurbished Barn including bat roost mitigation measures)) 122-05 Rev B Proposed plans elevations and sections 122-06 Rev A Proposed site plans received on 6 July 2015 and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used (including all hardstandings, the access track and parking area), including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) the dwelling hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 and the Town and Country Planning (General Permitted Development) Order 1995, (or any Orders revoking or re-enacting those Orders with or without modification), no gates, fences, walls or other means of enclosure (other than those approved under the terms or conditions of this planning permission) shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a purpose incidental to the enjoyment of the dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, or any Order revoking or re-enacting that Order, no windows other than those expressly authorised by this permission shall be inserted the development hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

8. Prior to the commencement of development, the local planning authority shall be provided with:
  - a) a licence issued by Natural Resources Wales pursuant to Regulation 53 of the The Conservation of Habitats and Species Regulations 2010 (as amended) authorising the specified activity/development to go ahead; or
  - b) A Method Statement agreed by the relevant licensing body which will allow the works to be undertaken, providing they are undertaken in accordance with the Method Statement, and will therefore not require a licence.

Reason:

To safeguard protected species, in accordance with Policy ENV16 of the Unitary Development Plan.

9. Notwithstanding the details shown on the approved plans, all means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. The means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use and maintained as such thereafter unless otherwise agreed by the Local Planning Authority.



Reason:

To safeguard local visual amenities and protected species, and to ensure compliance with the terms of Policies ENV27 of the Unitary Development Plan.

10. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works on site which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

12. Full details of a comprehensive scheme of drainage shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details and maintained as such thereafter.

Reason:

To ensure the adequate drainage of the site, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. A method statement detailing the cleaning, repair, repointing of the stone elevations shall be submitted to and approved in writing by the Local Planning Authority prior to any works to the external elevations, and the development shall be constructed in full accordance with the agreed method statement and so thereafter so maintained at all times. Any new areas of stonework shall be in accordance with samples of stone that shall first be submitted to and agreed in writing by the Local Planning Authority.

Reason:

In order to protect the character of the barns and to ensure compliance with Policies ENV8 and ENV27 of the Unitary Development Plan.

14. Notwithstanding the submitted details, further details of all new windows, rooflights (which shall be flush fitting), doors, eaves and rainwater goods, including sections to a scale of 1:20, shall be submitted to and approved in writing by the Local Planning Authority, prior to their use in the development. The development shall be constructed in full accordance with the details as agreed and thereafter so maintained at all times.

Reason:

In the interests of local visual amenities and to ensure compliance with Policies ENV8 and ENV27 of the Unitary Development Plan.

15. Notwithstanding the submitted details, prior to the beneficial occupation of the dwelling hereby approved details of a revised parking and turning area to serve the development shall be submitted to and approved in writing by the Local Planning Authority; the approved scheme of parking and turning shall be laid out in accordance with the approved details prior to the first beneficial use of the dwelling and shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

**NOTE:**

1. **Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.**

- 2. You should note that the building / site may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**
- 3. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
- 4. Before work is commenced the applicant must ensure that, where necessary, the appropriate Building Regulation consent has been obtained.**
- 5. Please note that this application relates to a conversion of the building(s) only and does not imply any consent for demolition or partial demolition and rebuilding of the barn(s) other than as may be shown in the approved details. Should work not outlined in the application and the structural survey be required then you should immediately contact my department. Demolition or partial demolition of the barn(s) will not comply with the consent as granted and subsequent planning consent will not normally be forthcoming for rebuilding a new dwelling.**
- 6. Surface water run-off from the proposed development must not connect either directly or indirectly (i.e. via any existing or proposed private drainage system) to the public foul sewer under any circumstances.**

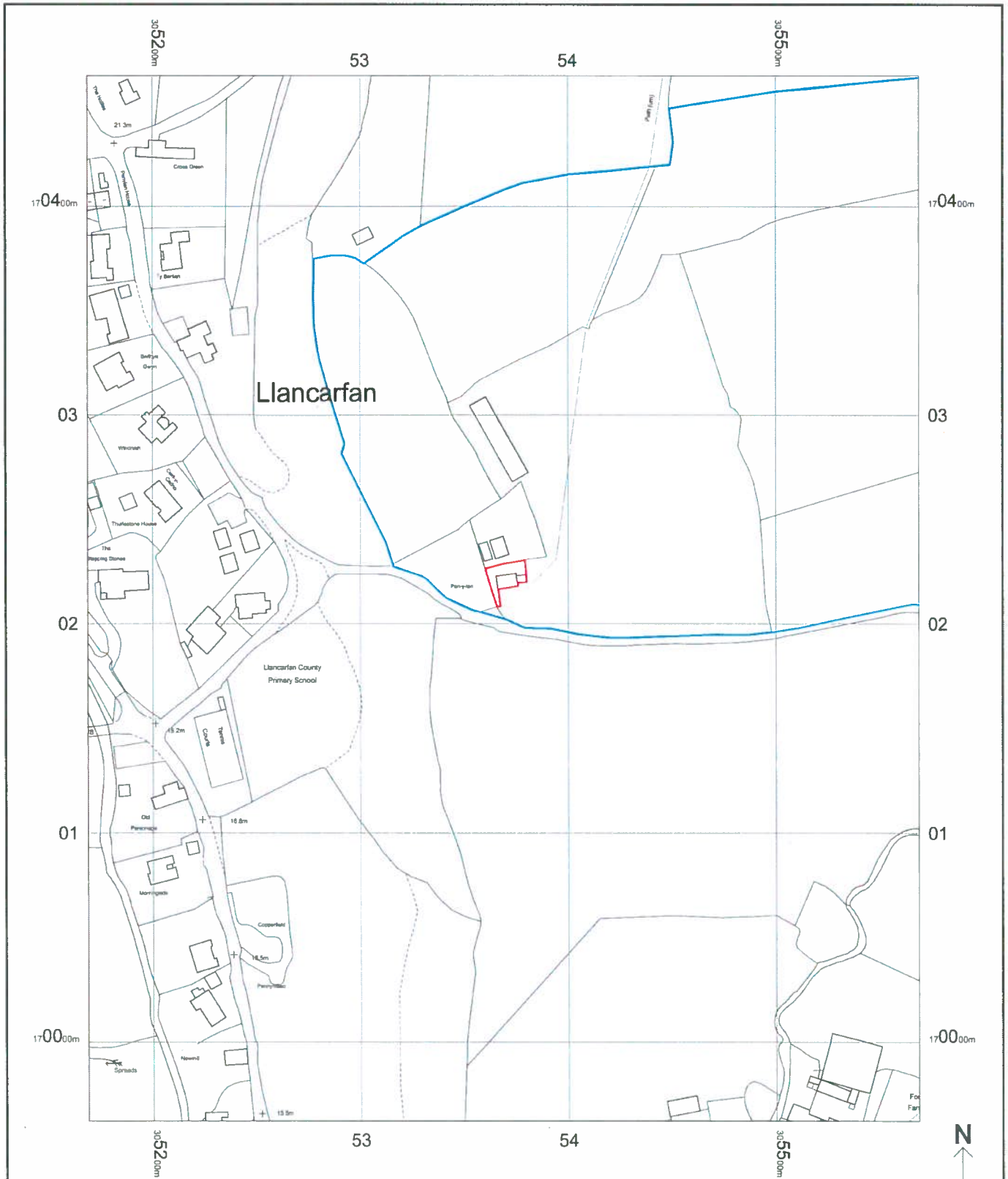
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**

2013/01124/FUL



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DRAWING TITLE

**LOCATION PLAN**

CONTRACT

**PENYLAN BARN,  
LLANCCARFAN,  
VALE OF GLAMORGAN**

**Reading Agricultural Consultants Ltd**  
Gate House  
Beechwood Court  
Long Tail  
Woodcote  
RG8 0RR  
Tel: 01491 684233 Fax: 01491 680800  
www.readingagricultural.co.uk



MK	REVISION	DATE	Drawn	Ch. kd.	Rev.
			AL	IDW	
			Scales 1:2,500 @ A4	Date Nov 2013	RAC/5906/1

Gareth Harry  
Peter Legg DLP Architecture

**Elim Pentecostal Church, Pyke Street, Barry**

Demolition of remaining Church Hall annex and development of four two bedroom and two one bedroom flats with associated access and amenity areas

**SITE AND CONTEXT**

The application site sits on the corner of Pyke Street and Crossways Street and was formerly the site of the Elim Pentecostal Church situated approximately 125 metres north of Holton Road. The property sits in a predominantly residential area within the settlement of Barry as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011.

**DESCRIPTION OF DEVELOPMENT**

Members will recall that the application has previously been reported to the September 2014 Committee where it was resolved to approve the application subject to a legal agreement. Since that time, ownership of the site has changed hands and amendments are proposed to both the plans and the proposed legal agreement. The original officer report is attached at appendix A for information.

Members may recall the application had been proposed as 100% affordable housing, and the Committee Resolution included the requirement that a Section 106 agreement be secured with an obligation that the dwellings built pursuant to the permission be built and remain affordable housing in perpetuity. It is now proposed that no such restriction be placed on the dwellings, which is considered in further detail in the report below.

The application remains for the erection of four two bedroom flats and two one bedroom flats contained within a part-three storey, part-two storey and part-single storey block, although changes to the plans are proposed. The amended plans and elevations are shown below:





In summary the principal changes submitted are as follows:

- Amended pattern of fenestration, with changes in window form and doors, position of doors and additional windows proposed within the northern side elevation fronting 59 Pyke Street
- Amended internal layout
- Changes in floor levels
- Alterations to main roof to rear including raised 'triangular section' to provide additional head room over stair well

The previous resolution required the applicant to enter into a legal agreement requiring a contribution towards offsite improvements to Public Open Space and for the units to be built for the purposes of affordable housing and to remain as such in perpetuity. Due to changes in the manner by which the scheme is to be funded however, the applicant and the Housing Association in question have requested that the wording of the legal agreement be varied. This is discussed in greater depth later within the report.

## PLANNING HISTORY

2012/00544/PND : Elim Pentecostal Church, Pyke Street, Barry. Demolition of church building. Approved further information

1982/00813/FUL : Elim Pentecostal Church, 60/61, Pyke Street, Barry. Extension to minor hall and new toilets. Approved.

1981/00896/OUT : 'Elim Pentecostal Church', 60/61, Pyke Street, Barry. Demolition of screen wall to yard, extending the small hall (in the existing school room) refurbishing the toilets and reducing the boiler room in area. Approved.

## CONSULTATIONS

**Barry Town Council** were re-consulted with regard to the revised proposals and raised 'no objection'.

**The Council's Highway Development Team** were re-consulted with regard to the revised proposals although no additional comments had been received.

**The Council's (Environmental Health) Section** was re-consulted. Although additional comments were not received they request a Construction Environmental Management Plan be provided prior to works taking place, in respect of the previous consideration.

**Local Ward Members** were re-consulted with regard to the application although no additional comments had been received at the time of writing this report.

Comments had been received from Councillor Ian Johnson in relation to the original scheme for seven units. The Councillor raised concerns that the proposals represent an overdevelopment of the site, lacking adequate parking and amenity space. Comments were also received from Councillor Fred Johnson noting concerns relating to parking.

**Dwr Cymru Welsh Water** was re-consulted with regard to the scheme. Their comments with regard to the previous scheme requested that conditions be attached to any consent given relating to foul and surface water discharges, surface water not connecting direct to the public sewerage system, land drainage not discharging to sewerage system and requiring the developer to provide a scheme for comprehensive drainage of the site.

Comments were received from **South Wales Fire Service** including a number of advisory notes for the developer.

**Glamorgan Gwent Archaeological Trust** commented on the application noting that they have 'no objection to the positive determination of this application.'

**The Council's Ecology Officer** was consulted with regard to the application although no comments had been received at the time of writing this report.



**The Council's Housing Strategy Section** was re-consulted with regard to the proposals noting the proposals were no longer for affordable housing. Noting this they note that given the Housing Association are already in contract to purchase the units from the developer they are content that the requirement for the units to be maintained as affordable units in perpetuity can be removed.

## REPRESENTATIONS

The neighbouring properties were consulted on 7 February 2014, on 8 August 2014 and again on 17 April 2015 and a site notice was also displayed on 10 February 2014. At the time of writing this report 12 letters of representation (eleven to the original proposal and one to the amendments) were received with regard to the application, raising the following points:

- Inadequate parking provision, exacerbating existing problems in the area.
- Proposals out of character with the surrounding area.
- Overdevelopment of the site.
- Potential overlooking.
- Loss of boundary wall to 59 Pyke Street.
- Security issues relating to rear lane.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

STRATEGIC POLICIES 2, 3, 8 AND 9

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

HOUS12 - AFFORDABLE HOUSING

REC3 - PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS

TRAN 10 - PARKING

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

In this case, the relevant material considerations are considered to be as follows:

*National Planning Policy:*

Planning Policy Wales (Edition 7, 2014)

*Technical Advice Notes:*

TAN2: Planning and Affordable Housing  
TAN12: Design  
TAN22: Designing for Sustainable Buildings

**Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

**Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

TAN2: Planning and Affordable Housing  
TAN12: Design  
TAN22: Designing for Sustainable Buildings

**Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

### *Supplementary Planning Guidance:*

Affordable Housing  
Amenity Standards  
Planning Obligations

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

### *Background Evidence:*

Affordable Housing Background Paper (2013)  
Affordable Housing Viability Study (2013)

## Issues

The principle of the development was established within the previous report and the current proposal seeks to make changes largely to the form and design of the building, which do not include altered house types or numbers and therefore it is not considered that the proposals would result in any fundamentally greater highway impact over and above that considered previously, while noting that affordable housing may result in lower levels of car ownership. Furthermore the area of amenity space to the rear of the building is shown to be of the same size and form as under the scheme subject of the previous positive resolution.

As such the principal 'amenity' issues to consider relate to the impact of the proposed changes in terms of their visual impact and the impact upon the amenity of neighbouring residential properties.

However, the application had been proposed as 100% affordable housing, and the Committee Resolution included the requirement that a Section 106 agreement be secured with an obligation that the dwellings built pursuant to the permission be built and remain affordable housing in perpetuity. It is now proposed that no such restriction be placed on the dwellings, which needs to be considered in terms of the acceptability of the development.

## Affordable Housing

Members were previously advised of the need for affordable housing in the area and this was identified as a material consideration in favour of the proposed development. In particular, the issue of parking was considered in light of the fact that the proposals were for affordable housing (meeting identified need) and having regard to lower car ownership levels amongst occupiers of affordable housing schemes. However, given the sustainable location of the site, and the previous use of the site, it is considered that the lack of parking provision for the development is acceptable irrespective of the tenure.

In terms of the scale, form and design of the development, it is considered acceptable in its own right as a market housing scheme, without the affordable housing restriction.

It is noted that the developer does intend (and has signed an agreement) to lease the properties to a Registered Social Landlord for at least the first 10 years of occupation, however, due to their funding arrangements they cannot accept a tie for affordable housing in perpetuity controlled through a Section 106 agreement or planning conditions. For the reasons set out above, this does not make the development unacceptable in planning terms.

### Visual impact

To the front elevation of the building an amended pattern of fenestration, with amended layout of rooflights and lower first floor windows, is proposed given issues relating to the provision of adequate ceiling heights particularly within flat 6 within the roofspace. A thicker band of brick coursing is shown above first floor windows and an amended design of the bay window is proposed. Considering all these changes, it is not considered that the amended plans would result in an unacceptable degree of detriment to the visual amenities of the area.

Changes to the Crossways Street elevation are minor in terms of their scope and not considered to unacceptably detract from the visual amenities of the street scene when compared to the previous elevations.

Additional windows are shown to the northern elevation fronting onto the blank side elevation of 59 Pyke Street whilst other doors and windows are also proposed to be repositioned. The additional windows are not considered to result in a cluttered appearance to this elevation, whilst only partial glimpses will be visible of this elevation due to there being only a modest gap of 1 metre between the proposed building and 59 Pyke Street. Similarly a modest increase in roof height is proposed to the rear of the main roofspan to provide headspace to the stairwell serving the block. These amendments are considered to be minor in terms of their extent and scale and are not considered to unacceptably impact upon the visual mass and appearance of that which previously gained a positive resolution.

Overall the proposed amendments from the previous plans are not considered to unacceptably impact upon the visual amenities of the scheme.

### Impact on residential amenity.

The proposed increase in height of the roof is relatively modest in terms of its scale. The neighbouring property of 59 Pyke Street is blank with no side facing windows and as such this alteration would not be visible from the neighbouring property to cause any form of overbearing impact. Similarly the additional windows within the side elevation of the building would front onto the blank pine end of the adjoining terrace and would not result in an unacceptable degree of overlooking of the neighbouring dwelling.

The proposals would result in an internal reconfiguration of flat 5 with a bedroom now proposed where a kitchen and bathroom were previously. As such a bedroom window would now be proposed facing towards the neighbouring property of 59 Pyke Street. Notwithstanding this, this proposed opening would front onto the blank side elevation of the neighbouring property and would not unacceptably detract from the amenity of the occupiers of neighbouring residential properties by reason of overlooking.

The proposed changes to the development would not cause unacceptable detriment to the amenity of neighbouring residential properties.

## Planning Obligations

### Public Open Space

As noted above, given the number of units, a contribution is required in accordance with the adopted Planning Obligations SPG a contribution towards Public Open Space and given the confines of the site no on-site area of Public Open Space can be provided at the site. However, given the location and proximity of nearby public open spaces, the property's town centre location, it is considered that the agreed contribution of £13,680 would adequately meet the needs of future occupiers of the development by making improvements to facilities in the vicinity of the site, such as at George Street Play Area or central park or open space at Aneurin Road. The applicant has confirmed that they are agreeable to a contribution of this nature.

### Planning Obligations Administration Fee

From 1 January 2007 the Council introduced a separate fee system for progressing and the subsequent monitoring of planning agreements or obligations. The fee is calculated on the basis of 2% of the total financial contribution being sought under the agreement, or 20% of the planning application fee, whichever is the greater, subject to a minimum fee of £150. On the basis of the application fee, this would equate to £462.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Subject to the interested person(s) first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- The developer shall pay the sum of thirteen thousand six hundred and eighty pounds (£13,680) to the Council to provide or enhance Public Open Space in the vicinity of the site, at George Street Play Area, Central Park or the open space at Aneurin Road, to be payable on or before first beneficial occupation of the development.
- The Legal Agreement will include the standard clause requiring the payment of an administration fee (£462.00 in this case) and legal fees.

## RECOMMENDATION

### APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used, including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

3. This consent shall only relate to the amended plans reference P454 L\_002 received 16 April 2015 and P454 L\_200, P454 L\_201, P454 L\_202, P454 L\_210, P454 L\_211, P454 L\_212 and P454 L212 rev A all received 18 February 2015 and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

4. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to beneficial occupation of any unit which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

6. Prior to the first beneficial use of the development hereby approved details of the bin storage area and bicycle storage shall be submitted to and approved in writing by the Local Planning Authority and the approved bin store and bicycle storage areas shall be fully installed on site prior to the first beneficial use of the development hereby approved and shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To safeguard the visual amenities of the area and to ensure the environment is protected in accordance with the requirements of Policies ENV27 and ENV29 of the Unitary Development Plan.

7. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the first beneficial occupation of the building. The means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use and maintained as such thereafter unless otherwise agreed by the Local Planning Authority.

Reason:

To safeguard local visual amenities and protected species, and to ensure compliance with the terms of Policies ENV27 of the Unitary Development Plan.

8. Foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.



9. Within one month of the date of this consent a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented and thereafter maintained at all times in accordance with the approved scheme.

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, and to comply with Policies ENV27 and HOUS8 of the Unitary Development Plan.

10. Within one month of the date of this consent a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Within one month of the date of this consent, details of the finished levels of the site and building in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the amenity and visual appearance of the area are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

12. The area of amenity space shown on the plans hereby approved shall be provided prior to the first beneficial occupation of any of the flats and shall be so retained at all times thereafter as a shared area of amenity space to serve all of the units.

Reason:

In order to ensure adequate amenity space is provided and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

**NOTE:**

- 1. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 2. Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their 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. You should therefore contact the DCWW Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Please note that under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.**



**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



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	<b>The Vale of Glamorgan Council</b>	
Department:		
Title: <i>2014/00104/F4C</i>		
Drawn By:		
	Scale	1:662
	Time	11:35:32 AM
	Date	16 Jul 2015

Holton County  
Infants  
School

Renishaw PLC c/o Agent  
Barton Willmore, Ms. Joanne Russell, Regent House, Prince's Gate, 4, Homer Road, Solihull, West Midlands, B91 3QQ

**Land south of Junction 34, M4, Hensol**

Outline planning permission with all matters reserved except for access, for development comprising class B1, B2 and B8 uses; a hotel/residential training centre (class C1/C2); and ancillary uses within class A1, A2, A3; associated engineering and ground modelling works and infrastructure, car parking, drainage and access for all uses; provision of infrastructure (including energy centre(s)); landscaping and all ancillary enabling works

**SITE AND CONTEXT**

The application site is located on the northern edged of the boundary of the Vale of Glamorgan approximately 2km to the north of the village of Pendoylan. It comprises an area of 67.77ha of predominantly agricultural land around an existing commercial facility, currently occupied by Renishaw, but formerly the Bosch manufacturing plant. The site is characterised by field parcels of undulating grazing land, areas of woodland (particularly on the western side), and a network of watercourses, drains and wetland.

The application site lies immediately to the south of the M4 carriageway with Junction 34 located adjacent to the north-west corner. To the west is the spur road off the M4 which provides direct access to the site (part of which lies within the site edged red) and also links with the junction of the main road to Pendoylan. The south western boundary to the site is defined by the main South Wales railway line as well as the existing Renishaw buildings, whilst the south and eastern boundary includes the watercourses of the River Ely and the Nant Coslech, and a sewage treatment plant.



FIGURE 4: Aerial Site Photo and Immediate Context

The application site lies in the countryside and within the Ely Valley and Ridge Slopes Special Landscape Area as defined in the Vale of Glamorgan Unitary Development Area. Parts of the site also lie within a Flood Risk Zone. Other designations include, the Ely Valley SSSI to the south of the site; a sand and gravel resource also in the southern section of the site; Tree Preservation Orders covering a number of separate areas across the full width of the site; and a section of a Public Footpath on the eastern boundary, Public Right of Way No. 9 Peterston Super Ely. There is also a Scheduled Ancient Monument, Felin Isaf Castle Mound, just outside of the site edged red close to the existing buildings.

## DESCRIPTION OF DEVELOPMENT

This is an outline application for the development of the site to include Class B1, B2 and B8 uses; a hotel/residential training centre (Class C1/C2); ancillary uses within Classes A1, A2, A3; associated engineering and ground modelling works and infrastructure, car parking, drainage and access for all uses; the provision of infrastructure (including energy centre(s)); and landscaping and all ancillary enabling works. All matters are reserved except for access, which shows the use of the existing service road which runs directly off junction 34 of the M4 into the site, with its continuation up to a new roundabout structure providing three spurs off to the proposed development sites. Details are also provided of proposed upgrades to the M4 junction.

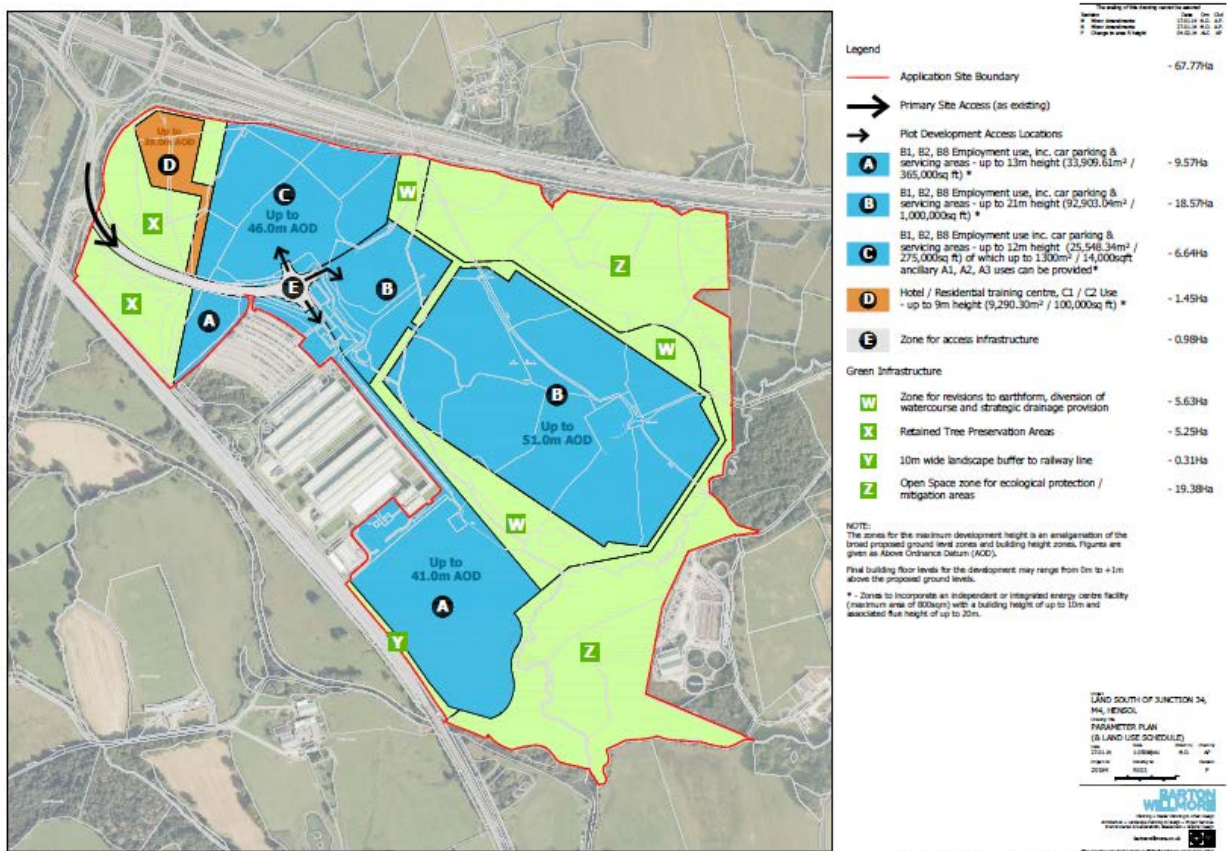
A Parameter plan/Master plan provides the minimum information required on the uses proposed, including the amount of development proposed for each use, indicative layout, scale parameters with upper limits for height, and indicative access points. The accompanying Design and Access Statement (DAS) provides more detailed information on the layout and scope of the different zones of development. There is also an Illustrative Layout Plan, which the applicants indicate does not form part of the formal planning application.



Illustrative Layout Plan

In summary the key elements of the proposal are:

- Up to 151,060.99sqm of industrial floor space comprising Class B1, B2, B8 uses;
- Up to 9,290.30sqm of Hotel/Residential Training Centre(Class C1/C2);
- Up to 1,300sqm of ancillary Class A1, A2 and A3 uses;
- Up to 3200 car parking spaces;
- 30.51 Ha of Green Infrastructure, comprising landscaping, water balancing areas;
- Access and servicing arrangements; and
- Ancillary services, including power/utilities (with potential to incorporate energy centre (s)).



The Parameter plan identifies zones of development which include:-

Zone A – 9.57ha comprising B1, B2 and B8 employment uses of 33,909.61m<sup>2</sup>, up to 13m height, and including car parking and servicing areas.

Zone B – 18.57ha comprising B1, B2, B8 employment uses of 92,903.04m<sup>2</sup>, up to 21m height, and including car parking and servicing areas.

Zone C – 6.64ha comprising B1, B2, B8 employment uses of 25,548.34m<sup>2</sup>, of which 1300m<sup>2</sup> will be ancillary A1, A2 and A3 uses, up to 12m height, and including car parking and servicing areas.

Zone D – 1.45ha comprising hotel/residential training centre Class C1/C2 use of 9,290.30m<sup>2</sup>, up to 9m height.

Zone E – 0.98ha for access infrastructure.

All of these zones would incorporate an independent or integrated energy centre facility, maximum area 800sqm, with a building height of up to 10m, and associated flue height of up to 20m (all from finished ground level). In addition development platforms will be created in parts of the site to enable the employment units to be built and protected from flood risk. A tributary of the Nant Coslech watercourse will be realigned to accommodate the layout of the building, with the diversion sized to accommodate flood flows and maximise ecological potential. Thus the maximum building heights in zones A and B is 41m AOD and 51m AOD respectively, and 46m AOD and 39m AOD respectively in zones C and D.

Other zones identified on the Parameter plan include:-

Zone W – 5.63ha comprising revisions to earth form, diversion of watercourse and strategic drainage provision.

Zone X - 5.25ha comprising retained Tree Preservation areas.

Zone Y – 0.31ha comprising a 10m wide landscape buffer to the railway line.

Zone Z – 19.38ha comprising an open space zone for ecological protection/mitigation areas.

The above areas total 30.57ha, however the Non-technical summary of the Environmental Statement refers to the development including only 30.51ha of green infrastructure, which will include areas of open space, strategic drainage provision, ecological protection and mitigation areas, retained Tree Preservation Areas and landscaping. In addition the Non-technical summary refers to proposed ecological enhancement and mitigation measures which include:-

- Marshy grassland of nature conservation value to be retained and managed appropriately;
- Balancing ponds to be designed for nature conservation and managed appropriately;
- New tree and shrub planting on banks;
- Species rich grassland to be retained and managed appropriately;
- Recently established wet woodland to be retained and managed appropriately.

Chapter 21 of the DAS identifies the phasing and delivery of the proposed development which is envisaged in two phases, and has mistakenly assumed outline permission towards the end of 2014. Despite this Phase 1, which contains up to 70,048.25 sqm of employment, the hotel/residential training centre and associated uses (including the extension to the existing Renishaw units), is anticipated to take place over a period of 2 years starting from 2016. Areas not developed during phase 1 will be temporarily retained as existing land uses. Phase 2 comprises the development of the larger B2/B8 employment site, which contains up to 92,903.04sqm of floor space, and again, subject to favourable market conditions, it is envisaged that enabling works could commence in 2016.

The DAS emphasises that in parallel with the delivery of new employment buildings the phasing programme must ensure that provision of all necessary on and off-site infrastructure keeps pace with the demands of future occupants. Accordingly it notes that the phasing programme ensures that all relevant matters (utility services, foul and surface water drainage regimes, green infrastructure, etc.) are taken into account on a sequential basis. The DAS also indicates that a landscape and ecology phasing strategy will be prepared and submitted for approval prior to the commencement of development.

### Supporting Documentation

In addition to the DAS the application is accompanied by a number of supporting documentation. The application has been identified as an Environmental Impact Assessment (EIA) application due to the scale and nature of the proposals and the location and characteristics of the site. As such an Environmental Statement has been provided. Members will note that the Non-technical Summary (NTS) of the environmental statement can be found at the following web link:

<http://vogonline.planning-register.co.uk/PlaRecord.aspx?AppNo=2014/00228/EAO>

The ES sets out the results of an Environmental Impact Assessment of the proposed development. The EIA process aims to ensure that any significant effects arising from a development are systematically identified, assessed and presented to help local planning authorities in determining planning applications. If measures are required to minimise or reduce effects then these should be clearly identified.

Although the NTS refers to not having received a response to their Scoping Opinion request at the time of writing the NTS, it will be noted from the planning history that a decision was issued on 27 March 2104, reference, 2013/01071/SC2. This determined that the ES should covering the matters referred to in the scoping request, along with additional matters referred to in the accompanying report, which included comments from the Council's Landscape section referring to additional viewpoints; comments from the Council's Ecologist on the detail of required survey work, with Rhondda Cynon Taff noting the wider context of habitat connectivity; and comments from NRW on the cumulative effects of the proposal and other strands of sustainable development, e.g. the consideration of economic and social aspects. The NTS notes that the ES considers the current conditions identified ('the baseline conditions'), and the potential effects of the development, and addresses the following matters:-

- Socio-Economics;
- Landscape & Visual Effects;
- Archaeology & Cultural Heritage;
- Traffic & Transport;
- Noise & Vibration;
- Air Quality;
- Ground Conditions;
- Agricultural & Soil Resources;
- Flood Risk & Drainage; and
- Ecology & Nature Conservation.



The ES was initially publicised in accordance with section 13 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and Article 8 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 on 27 March 2014 in the Barry Gem, and on site in various locations on 8 April 2014.

The submitted documents include:

Environmental Statement and Technical Appendices, comprising  
Main Text and Figures  
Technical Appendices Part 1  
Technical Appendices Part 2  
Technical Appendices Part 3

Non-Technical Summary to Environmental Statement February 2014.

Design and Access Statement February 2014.

Planning Statement February 2014.

Statement of Community Engagement February 2014.

Arboricultural Survey & Tree Survey Report January 2013.

Sustainability Appraisal February 2014.

Energy Strategy January 2014.

Site Waste Management Strategy February 2014.

Minerals Resource Assessment September 2010.

Utilities Statement January 2014.

Transport Assessment February 2014 and Addendum received 2 June 2015.

Travel Plan February 2014.

Flood Consequences Assessment dated January 2014.

Air Quality February 2014.

Archaeological Assessment March 2014.

Nature Conservation/Ecological Assessment (Surveys dated January 2013) and Amended Ecological Mitigation Strategy March 2015.

Ground Conditions Surveys May 2012.

Noise Impact Assessment Surveys January 2014.

Landscape Assessment, including Landscape Strategy Plan February 2014.

Members should note that this is not an exhaustive list of all documentation that has been submitted, but is intended as a guide as to the level of information and detail that has been submitted as part of the application.

## PLANNING HISTORY

### Recent applications relating to the current site operator Renishaw:-

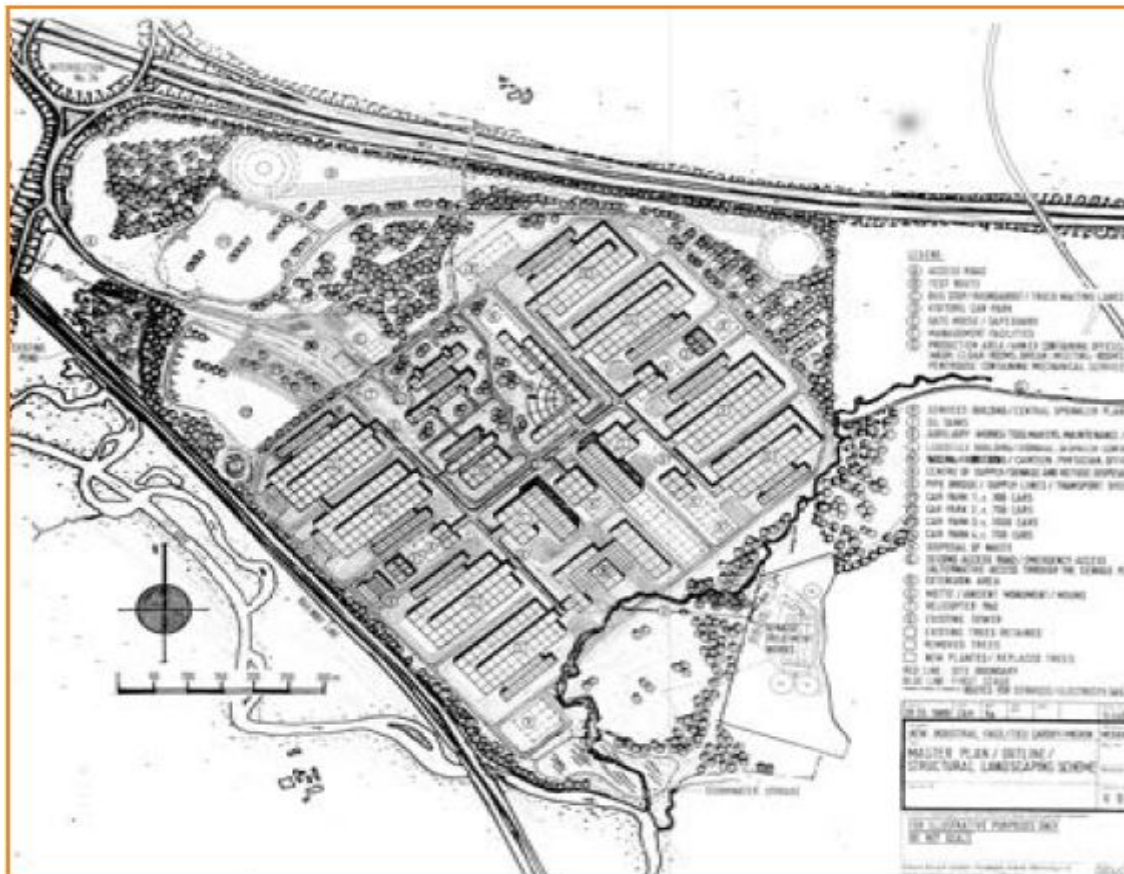
2012/00043/FUL - 13m stack for an anodising process plus three air conditioning condensers – Approved 21 March 2012.

2012/00558/ADV - Installation of company signage to the side of Hall 1 and rear of Hall 2 – Approved 25 July 2012.

2013/01071/SC2 - Construction of industrial and commercial units – Scoping opinion issued 27 March 2014.

There is also a long history of planning applications on the site relating to the former Bosch Plant. These include:-

1989/00931/OBS - Industrial development, including ancillary buildings, car parks, service roads and test track (Regulation 5) – No objections – conditions requested 24 July 1989.



1989/00932/OBS - Stage 1 of Phase 1 of proposed industrial development (Regulation 5) – No objections 25 July 1989.

1990/00463/FUL - Erection of a oil, waste and chemical store etc. and cooling water pumphouse etc – Approved 8 June 1990.

1990/00555/FUL - Erection of a gatehouse and canopy – Approved 6 July 1990.

1990/00949/RES - Construct annexe and glazed link to production hall no.2 to provide office, workshop and amenity areas – Approved 23 October 1990.

1990/01133/RES - Logistics building & services bridge extension to comprise warehouse, goods receiving facilities and some office and amenity areas – Approved subject to conditions 20 November 1990.

1991/01307/FUL - The deposition of subsoil arising from civil engineering works and restoration of agricultural use - Withdrawn 22 February 1993.

1995/00281/FUL - Extend existing car park – Approved subject to conditions 19 May 1995.

1995/00442/FUL - Renewal of planning application 90/00949/RES to construct annexe and glazed link to production hall no. 2 to provide office, workshop and amenity areas - Approved 30 June 1995.

1998/00483/FUL - Erect a liquid nitrogen storage vessel on site – Approved 26 June 1998.

1998/00575/FUL - Spaceframe cover to motorcycle parking area – Approved 10 July 1998.

1998/00837/FUL - To erect a staff shop utilising the existing space frame construction in our security department - Approved 18 September 1998.

2001/01193/FUL - Construction of security control point on approach road to site to include lodge, barriers and suitable road markings/signage – Refused 7 February 2003 on the grounds of highway safety.

2003/00983/FUL - Construct security lodge and barrier on approach road to include turning head – Approved subject to conditions 26 March 2004.

Tree Preservation Order (No. 4) 1977 – Woodland including Alder, Birch and Oak, and Tree Preservation Order (No. 5) 1976 – Woodland areas, including Oak, Ash, Sycamore, Willow, etc.

## CONSULTATIONS

**Pendoylan Community Council** – In principle the Council has no serious complaints with the outline proposals especially as the Company and its agents are taking serious the detailed concerns and appear to have a positive approach to how the site will be developed. There are some outstanding concerns which the Council believes will be the issue of discussion and need for resolution when more detail is submitted.

**Peterston Super Ely Community Council** – No objection, however, they are very concerned over the amount of new traffic, especially coming through the lanes to come out onto the A48 or through the Peterston Super Ely Village to get to Cardiff. They would like the Council to ensure that the appropriate infrastructure is put in place to deal with the added congestion.

### **Welsh Assembly Government – Transport Division –**

#### Comments following receipt of Addendum to the Transport Assessment -

“The Developer is proposing highway mitigation at Junction 34 in line with drawing BMW/2024/oo1/PS. Therefore, the Welsh Government, as the Highway Authority for the Motorway and Trunk Roads in Wales, has no objection in principle to this Development. However, the Welsh Government, as the Highway Authority for the Motorway and Trunk Roads in Wales, would direct the following conditions should be included in any Planning Consent you are mindful to grant.”

A copy of the WG letter is reproduced at Appendix B, however, in summary, the directed conditions include: applicant required to enter a S278 Agreement without which any consent may not be implemented; developer to commission and pay for a safety audit of the scheme; no drainage from the scheme allowed into the trunk road drainage; no works which could affect the stability of the trunk road embankments in vicinity of Junction 33 and 34; shall include any necessary adjustment of public utilities; provide an assessment of any road restraint system on the trunk road; detailed design drawings and calculations for geotechnical risk; proposed signalised junctions shall be MOVA controlled; any existing boundary feature is the property of WG and shall not be removed/interfered with; and the applicant to provide wheel-wash facilities at the site exit.

### **Natural Resources Wales –**

Comments following the receipt of additional ecology information and amendment to Appendix 9.14 Ecological Mitigation Strategy – “As you are aware, we previously objected to the scheme in our letter of the 12 August 2014, we requested further information from the applicant on the proposal’s effects on bats, a European Protected Species. Since the issue of our letter we have been in contact with the scheme’s ecological consultant and as a result a revised Ecological Mitigation Strategy has been prepared for development at the site. We have now reviewed the revised mitigation strategy prepared by Hyder Cresswell for Renishaw Plc for development at Land south of Junction 34, M4, Hensol dated March 2015.

On the basis of the revised information, we remove our objection to the proposed development providing the following issues are addressed through appropriate planning conditions and/or obligations secured to any permission.

The revised mitigation strategy document provides us with an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of bats. However we note that the details of the earthforms works that will be required within Zone W are still not known at this stage. Therefore we advise that once these are known and prior to the any development on site, there will be a need to fully assess the potential impacts, both direct and indirect, associated with any earthworks required in the vicinity of the bat tree roosts.”

In summary the suggested conditions/planning obligations include: implementation in accordance with the amended mitigation strategy March 2015; no development until details of a scheme to protect bat tree roost 1; no development until an agreed method statement for otters; no development until a lighting in relation to bat use; and NRW request that they are consulted on the submission and discharge of these, including any subsequent amendments/alterations. They also confirm that their previous advice (see Appendix A) on otters, badgers, habitats, designated sites, flood risk, surface water, the water framework directive, invasive species and waste should still be considered in the determination of the application.

**Dwr Cymru/Welsh Water** - Have requested that their standard Conditions and Advisory Notes be attached to any consent. These relate to foul, surface water and land drainage, and include:-

- Details of a scheme for the comprehensive and integrated drainage of the site.
- Foul and surface water discharges to drain separately from the site.
- No surface water, nor land drainage run-off to connect/discharge to the public sewerage system.
- Provision of a suitable grease trap.

In addition they note that the site is crossed by a 750mm combined public sewer and that no development (including changes in ground level) will be permitted within 8m either side of the centreline of the public sewer.

As regards water supply again there is no objection to the proposal. They note that the development is crossed by a 500mm trunk/distribution watermain, and it may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991.

**Cadw** – “I can confirm that there are no scheduled ancient monuments, historic parks and gardens or historic landscapes affected by this proposal. Cadw therefore, does not have any concerns to raise in respect of this application.”

**Glamorgan Gwent Archaeological Trust** – Conclude that the proposed works will require archaeological mitigation.

They note that the Archaeological Desk-Based Assessment and Heritage Impact Assessment submitted in support of the application note the presence of the Scheduled Ancient Monument of Felin Isaf Castle Mound (GM370) to the west of the project area, the Grade II Listed Miskin Manor to the northwest, and the presence of several important historic hedgerows within the project area. In addition, the former Cryngallt farmstead is located within the project boundary. A geophysical survey of the eastern portion of the property identified a number of archaeological features that required further investigation. It should be noted that the subsequent archaeological evaluation did not include the Cryngallt farmstead due to the presence of protected species, and the conclusions reached within the Environmental Assessment and other application documents precede the findings of the evaluation.

The evaluation confirmed the presence of archaeological features in the eastern portion of the property, but revealed that they are of far greater significance than had previously been thought. Based upon the artefacts recovered, the report concludes that the archaeological site is likely to represent a Late Iron Age or Romano-British farmstead; known sites of this type are rare in this part of south Wales. The environmental samples suggest that occupation of the site may have continued into the Early Medieval period, while the origins of Cryngallt farmstead, located a short distance to the northeast, are thought to date to the Medieval period. Therefore, it is possible that this location has direct evidence of approximately 2,000 years of continuous human habitation and associated agricultural activities. As a result, it may be of national significance and should be preserved either by record (excavation) or preservation in place. The proposed development will destroy the archaeological remains identified through the evaluation, and will remove a substantial number of historically important hedgerows. However, they consider it unlikely that there will be a significant impact to the Scheduled Ancient Monument of Felin Isaf Castle Mound.

Consequently, whilst they do not object to the granting of planning permission for this development, they recommend that a condition be attached to any consent that is granted ensuring that a programme of archaeological investigation be implemented prior to and during the construction work. It is envisaged that this programme of investigation would include, prior to construction, the full excavation of the Late Iron age/Romano-British farmstead and its associated features, the evaluation and potentially full excavation of Cryngallt farmstead, and the recording of all important historic hedgerows that are to be removed. In addition, it will include a watching brief during construction for all groundwork in the areas surrounding the excavated farmsteads, with suitable contingency arrangements in place to allow for sufficient time and resources to enable any archaeological features or finds that are discovered, including any human remains, to be fully investigated and recorded. We recommend that the condition should be worded in a manner similar to the model given in Welsh Office Circular 60/96, Section 23, i.e. that no development shall take place until the implementation of a programme of archaeological work in accordance with an agreed written scheme of investigation.

**Network Rail** – No objection subject to their requirements for the safe operation of the railway and the protection of Network Rail’s adjoining land. These include:- the erection of trespass resistant fencing, with no removal of existing; there is no right of support to the development in respect of foundations; all surface water drainage to be directed away from Network Rail’s land; Network Rails ground disturbance regulations will apply; Network Rails defined access points must be maintained; recommended that all buildings be situated at least 2m from the boundary fence; details of any vibro-compaction/displacement piling plant to be used to be agreed with Network Rail; full details of any excavations/earthworks near the railway undertakers boundary to be agreed; recommended distances for new tree planting; advice on the positioning of plant/scaffolding/cranes; all lighting (including vehicle lights) not to interfere with signalling and train driver vision; and information on safety barriers.

**South Wales Police** – No objections at this stage but have made a number of comments and recommendation relating to crime and anti-social behaviour in a comprehensive report. This is available to view in full on file, however, in summary the mains points include:-

- Layout of roads/footpaths – Features such as road narrowing, changes in surface may be used to define defensible space, with footpaths as wide and straight as possible and well lit.
- Perimeter fencing – Important to define a boundary and demarcate public and private areas, and recommend a perimeter fence around the development to a minimum of 2.4m.
- Site entrance – Good signage is recommended and secure entrance gates.
- Vehicle parking – Bays should be designed with a one way circulatory system, including traffic calming measures and surveillance from adjacent buildings.
- Lighting – Lighting along all access roads and footpaths with security lighting installed in all areas where surveillance is considered important.
- Landscaping – Trees and shrubs should be positioned away from buildings and hard landscaping should be securely fixed.
- Doors and windows – Recommendations on BS for glazing and locking.
- CCTV – Recommendations on the nature of any such system.
- Alarm system – A comprehensive system to approved standards should be installed on each individual unit.
- Utilities – Meters should be located in securing housing outside and to the front of any unit

In addition information is provided on the ‘Secured by Design’ initiative operated by SWP.

**Assistant Chief Fire Officer** – The following comments should be brought to the attention of the committee/applicant. It is important that these matters are dealt with in the early stages of any proposed development. The developer should consider the need for the provision of:-

- a. adequate water supplies on the site for firefighting purposes; and
- b. access for emergency firefighting appliances.

Also attached are details of their standard requirements for access for fire appliances, pedestrian priority, water supply, etc.

**Rhondda Cynon Taff County Borough Council – Initial comments** - Having carried out consultation with their own internal consultees and reported the matter to their Planning Committee, their raise no objection, subject to the 2 conditions:-

1. The securing of a transport tariff contribution of £169,725 through a Section 106 Legal Agreement towards improving the strategic highway network.
2. The formal consultation with and input from the Council on the Ecological Mitigation and Management Plan to be implemented as a result of the proposed development.

A copy of their Committee report is attached with their comments and is available to view in full on file.

Re-consulted on the TA addendum on 5 June 2015 – No comments received to date.

**Cardiff County Council – Initial comments** - No objections.

Further comments following re-consultation on the TS addendum – No comment in respect of the amended proposals.

**The Council's Ecology Team** – Holding objection - There are issues that need expanding upon before the LPA can be confident of no negative impact on biodiversity as a result of the development.

The loss of significant areas of Habitats of Principle Importance for Conservation of Biological Diversity in Wales (*Natural Environment and Rural Communities Act 2006, [NERC] Section 42 list*) is noted. In particular the permanent loss of entire SINC 25 part and Wet woodland SINCS; and Priority Habitats:- Marshy Grassland, Wet Woodland and Pond. Whilst the measures for mitigation and compensation that have been put forward are supported, there are some reservations regarding the deliverability of the proposals, for two main reasons relating to Habitat Creation/Improvement, and Resourcing. In summary the issues include:-

1. Habitat creation/improvement
  - Marshy Grassland - Mitigation/compensation measures for the loss of marshy grassland (SINC 25 part) as proposed include the creation of similar habitat through long-term enhancement of the fields in the south east corner of the application site (s9.136). The hydrological studies have demonstrated that the conditions present in this part of the site are different to those supporting the habitats being lost. The proposed compensation includes the enhancement of existing habitat and creation of different habitats (reed bed, and ponds).



However even with this mitigation/compensation in place, there remains a net loss of Priority habitat. The development should aim for no net loss. Therefore, whilst the principles of the proposed mitigation/compensation are accepted, it is unclear how the proposals will be delivered.

- Wet woodland & wet woodland SINCS - The development would result in a permanent loss of 4.35ha of wet woodland SINCS, including SINCS 22 and 24, which includes a pond. The mitigation/compensation proposed includes sufficient funds for the management of 1.5 times the area of habitat lost, ie 6.53ha. Management of existing habitat is an important part of mitigation, however, the development should result in no net loss of habitat. As a result, proposals for compensation should include the creation of habitat in addition to management of existing management. This would include the provision of appropriate funds to facilitate this.
  - Hedgerows - The significant loss of 3,141m of hedgerow as a result of the development and that mitigation relies on the Local Wildlife Sites Project is noted. Whilst this is accepted in principle, there are issues with delivery. There should be no net loss of habitat as a result of development and therefore mitigation/compensation must involve, as a minimum, the creation of a minimum 3,141m of hedgerow. SPG recommends 1:1.5 of which the remaining 1,517m (4,712m – 3,141m) could be enhancement. It is acknowledged that this may involve a large degree of off-site compensation. We recommend that off-site compensation is targeted at areas which would most benefit species of Principle Importance For Conservation of Biological Diversity (S42 species) and/or enhance other Habitats of Principle Importance For Conservation of Biological Diversity (S42 Habitats).
2. Resourcing - With a reduction of ecology staff in the Vale of Glamorgan Council, the authority is currently unable to actively participate in the Local Wildlife Sites Project. However we consider this to still be a viable compensation scheme in principle. To deliver the compensation and mitigation, it will be necessary for details to be provided to demonstrate how this can be achieved, and any necessary funding.

**The Council's Director of Legal, Public Protection and Housing Services - Environmental Health – Pollution Section** – Based on the detail in the ES comments are offered in relation to noise, vibration, air quality, light and contaminated land. No objection to the progress of the development subject to confirmation and implementation of the following:-

Noise and vibration – Concur with the recommended mitigation measures for each phase, including construction phase as outlined in the ES report, paragraphs 13.81 to 13.92.

Air quality – Concur with the recommended mitigation measures as outlined in the ES report at table 12.24.

Lighting – All new lighting schemes must avoid the introduction of obtrusive light onto existing residential amenity, with schemes having regard to “Guidance Notes for the Reduction of Obtrusive Light GN01:2011.”

Contaminated land – Satisfied that the scheme can progress in accordance with the summary of findings in Table 15.9 of the ES.

**The Council’s Highway Development team** – “The Traffic Engineer has confirmed that the recently submitted Addendum to the TA has addressed the previous concerns with regard to the distribution of traffic flows and comments as follows:

- The overall methodology used to estimate trip generation and distribute trips is acceptable.
- The proposed junction improvement including the signalisation serving the un-named road leading to Pendoylan is acceptable in principle (subject to detail design).
- The junction modelling indicates that overall there will be capacity problems, resulting in delay and queuing in future year scenarios. However the proposed improvements do indicate an overall improvement when compared to the existing layout even with the additional traffic. Also the approach roads/arms within the Vale of Glamorgan responsibility will remain within capacity and delay/queuing traffic will be kept to a minimum.
- To conclude there is no technical objection based on the information provided but it must be pointed out however that there remains a concern that it is inevitable that there will be an increase in traffic movements, albeit not significantly high levels, along the un-named rural lane between the A48 and the development particularly if a high number of employees originate from the Barry area. This route will therefore suffer from more local congestion due to the configuration of the rural lane and as such it is imperative that a financial contribution is provided as suggested in the TA to enable a suitable feasibility study to be carried out to identify a series of improvement measures considered necessary for implementation to improve road safety and aid the free flow of traffic.

The Principal Transport and Road Safety Officer has confirmed acceptance of the Bus Service Provision proposals outlined in Section 8 of the Addendum to the TA and agrees with the response in Section 9 with regard to consideration of the Active Travel Bill but states that it is imperative that sufficient pedestrian footways to all bus stops will be required and that buses can move freely within the site without having to negotiate inconsiderate parking and traffic congestion within the site.

In view of the above comments there are no highway objections to the proposal subject to the following highway requirements being fully satisfied:

- In accordance with Section 7 of the Addendum to the TA, a feasibility study be carried out along the un-named road between the A48, Pendoylan and the junction with J34 of M4 to determine the most beneficial traffic calming/safety measures required and that the mitigation measures identified be implemented, subject to the approval of the Highway Engineer, prior to beneficial occupation of the proposed development.

- All off-site highway improvement works including the signalised junctions as identified on submitted Plan No. BMW/2024/001/P3 to be designed in accordance with the design standards, methodology and good design practice contained in the current Design Manual for Road and Bridges and be submitted to the Highway Engineer for approval. The design and subsequent implementation to be subject to and in full compliance with the Road Safety Audits in accordance with HD/19/03.
- No beneficial occupation of the development until such time as the approved off-site highway works/safety improvements including the signalised junctions have been fully constructed and implemented to the complete satisfaction of the Highway Engineer.
- No works whatsoever will commence within the adopted highway until the appropriate Highway Legal Agreement between the Developer and the Authority has been signed and sealed.
- Applicant to provide a Construction Management Plan to include proposed haul route and site delivery times to be agreed and approved with the Highway Engineer.
- Surface Water Drainage Strategy to be submitted to and approved by the Council's Drainage Engineer.
- Parking provision to be in accordance with the current edition of CSS Wales Parking Standards – Zone 6, and parking areas, delivery/loading areas, turning facilities and bus stop areas including internal footway links to be approved by the Highway Engineer and implemented accordingly prior to beneficial occupation of the development.
- Submitted Travel Plan to be closely monitored to ensure realistic targets are achieved.
- Wheel washing and sweeping facilities to be provided within the boundary of the development to ensure no mud or loose material is dragged out onto the adopted highway to the detriment of highway safety.”

**The Council's Public Rights of Way Officer** – “Public Right of Way P5/9 (Peterston-Super-Ely 9) must be kept open and free for use by the public at all times, or alternatively, a legal diversion or stopping-up order must be obtained, confirmed and implemented prior to any development affecting the Public Right of Way taking place. No barriers, structures or any other obstructions should be placed across the legal alignment of the paths. No adverse affect should result to Public Rights of Way used to access the site or that are otherwise involved in the development works. The applicant should ensure that materials are not stored on the Public Right of Way and that any damage to the surface as a result of the development is made good at their own expense.”

**The Council's Operational Manager Highways and Engineering** – The application submitted indicates surface water will be discharged through SUDS. A scheme must be submitted and approved by the LPA. The plans also indicate that works could impact on an ordinary watercourse, which requires the consent of the Council as Lead Flood Authority and a Water Framework Directive Assessment. In addition a written declaration is required detailing the responsibility for the adoption and maintenance of all elements of the drainage system. In light of this it is recommended that no development commence until a detailed scheme for the drainage of the site is submitted and approved, and implemented before beneficial occupation.

**The Council's Operational Manager Visible Services** – Comments submitted in relation to Waste Management. In summary it is noted that individual development scheme's waste management storage and collection arrangements will need to be submitted to the council for approval. Storage and collection of waste must be taken into account at the outset of development and unsatisfactory provision could lead to refusal of an application as it is essential that appropriate waste management facilities are provided in new developments to ensure adequate storage for waste and recyclables well designed bin storage and located in a position that provides easy and safe access for both waste producers and collectors taking into account consideration of ease of use for older persons or persons with disabilities.

If 'Communal' bin storage areas are proposed they should be planned as an integral part of the design of the development and must be easily accessible to all, with the enclosed area provided with appropriate drainage to assist cleaning. The siting and design of communal bin storage areas should also have regard to the impact of noise, smell, room for filling and emptying, be well lit and ventilated, and provide for residual and recycling to segregate the two waste types.

**The Council's Landscape Section** – There are no issues arising from the Landscape assessment which is comprehensive in its review of the site. There is general satisfaction with the level of mitigation and landscape strategy being proposed. The only concern is the depth of boundary planting/buffer being proposed along the south west edge of the site adjacent to the railway line which is suggested should be increased.

**The Council's Economic Development Section** – Were consulted on 11 March 2014. No comments have been received to date.

**SWALEC** – Were consulted on 11 March 2014. No comments have been received to date.

**The Badger Group** – Were consulted on 11 March 2014. No comments have been received to date.

## REPRESENTATIONS

The occupiers of neighbouring properties were notified on 11 March 2014. In addition the application was also advertised as an EIA application in both the press and on site on 27 March and 8 April 2014 respectively. No representations have been received to date.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT.  
POLICY 4 - ADDITIONAL EMPLOYMENT LAND.  
POLICY 5 - BUSINESS AND INDUSTRIAL USES.  
POLICY 7 & 8 - TRANSPORTATION.  
POLICY 9 & 10 - SHOPPING FACILITIES.  
POLICY 12 - MINERALS.

#### *Policy:*

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE.  
ENV2 - AGRICULTURAL LAND.  
ENV4 - SPECIAL LANDSCAPE AREAS.  
ENV7 - WATER RESOURCES.  
ENV10 - CONSERVATION OF THE COUNTRYSIDE.  
ENV11 - PROTECTION OF LANDSCAPE FEATURES.  
ENV12 - WOODLAND MANAGEMENT.  
ENV14 - NATIONAL SITES OF NATURE CONSERVATION IMPORTANCE.  
ENV15 - LOCAL SITES OF NATURE CONSERVATION SIGNIFICANCE.  
ENV16 - PROTECTED SPECIES.  
ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT.  
ENV18 - ARCHAEOLOGICAL FIELD EVALUATION.  
ENV19 - PRESERVATION OF ARCHAEOLOGICAL REMAINS.  
ENV26 - CONTAMINATED LAND AND UNSTABLE LAND.  
ENV27 - DESIGN OF NEW DEVELOPMENTS.  
ENV28 - ACCESS FOR DISABLED PEOPLE.  
ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY.  
EMP1 - LAND FOR EMPLOYMENT USES (Allocated site No. 19).  
EMP2 - NEW BUSINESS AND INDUSTRIAL DEVELOPMENT.  
EMP3 - GENERAL INDUSTRY.  
EMP4 - PROTECTION OF LAND FOR EMPLOYMENT USES.  
TOUR1 - NEW HOTELS IN THE COUNTRYSIDE.  
TRAN9 - CYCLING DEVELOPMENT.  
TRAN10 - PARKING.  
SHOP2 - NEW AND IMPROVED SHOPPING FACILITIES.  
SHOP10 - NEW TAKEAWAY OUTLETS.  
SHOP12 - NEW RETAIL DEVELOPMENT OUTSIDE DISTRICT SHOPPING CENTRES.  
REC12 - PUBLIC RIGHTS OF WAY AND RECREATIONAL ROUTES.  
MIN3 - PROTECTION OF FURTHER LIMESTONE RESOURCES AND POTENTIAL RESOURCES OF SAND AND GRAVEL.

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, Chapter 2 of Planning Policy Wales Edition 7, 2014 (PPW) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).’*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales Edition 7, July 2014 (PPW) is of relevance to the determination of this application, in particular Chapter 3-Making and enforcing planning decisions, including paragraphs 3.3-Environmental Impact Assessment, 3.6-Planning conditions and 3.7-Planning obligations; Chapter 4-Planning for sustainability, including paragraphs 4.3 and 4.4.3; Chapter 5-Conserving and improving natural heritage and the coast, including paragraphs 5.1, 5.2 and 5.5; Chapter 6-Conserving the historic environment, including paragraphs 6.1 and 6.5; Chapter 7-Economic development, including paragraphs 7.3.2 and 7.6.1; Chapter 8-Transport, including paragraph 8.7; Chapter 10-Planning for retail and town centres, including paragraphs 10.1 and 10.3; and Chapter 13-Minimising and managing environmental risks and pollution, including paragraphs 13.2 and 13.4.

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

TAN5 - Nature Conservation and Planning.

TAN10 - Tree Preservation Orders.

TAN11 - Noise.

TAN12 - Design, including paragraphs 2.6, 2.7, 4.3, 4.11 and 5.12, including:-

*“5.12.2 Large new employment buildings can often make a bold statement of their purpose. Recognising the functionality of business premises is important to ensure they contribute to the economic success of the occupier. However, robust design, high quality materials, flexibility of exterior and interior layout and appropriate landscape treatment such as earth form or planting, can help to integrate new business premises into their surroundings, minimise the need to artificially cool buildings and allow for easier conversion by successive occupiers. Service and utility features, exposed and imaginatively detailed, may in many cases provide elements of interest in otherwise plain facades. The need to consider the building and landscape maintenance processes once the development is completed is also essential to ensure that the development remains integrated.”*

TAN15 - Development and Flood Risk.

TAN16 - Sport, Recreation and Open Space.

TAN18 - Transport.

TAN23 - Economic Development, in particular paragraph 2.1, including:-

*“2.1.2 Where economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary. There will of course be occasions when social and environmental considerations will outweigh economic benefit. The decision in each case will depend on the specific circumstances and the planning authority’s priorities.”*

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Biodiversity and Development.
- Design in the Landscape, including DG5-Mitigation of large scale visual detractors.
- Sustainable Development.
- Trees and Development.
- Planning Obligations.
- Public Art.

## **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April/May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales Edition 7 July, 2014(PPW) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Designation of Landscape Character Areas (2013 Update).
- Designation of Special Landscape Areas (2013 Update).
- Designation of SLAs Review Against Historic Landscapes Evaluations (2013 Update).
- Employment Land and Premises Study (2013).
- Habitat Regulations Assessment Appropriate Assessment Screening Report (2007.)
- Habitat Regulations Assessment Screening Review (2009).
- Identification of SINC's (2013).
- Minerals Background Paper (2013).
- Plan Preparation and Assessment of Flood Risk (2013).
- Sustainable Transport Assessment (2013).



### **Other relevant evidence or policy guidance:**

- Conservation of Habitats and Species Regulation 2010 (as amended).
- Circular 13/97 – Planning Obligations
- The Community Infrastructure Levy Regulations 2010 (As Amended)

### Issues

This major EIA application is the culmination of extensive pre-application discussion undertaken by the applicants over the past few years with not only the Vale of Glamorgan Council but also neighbouring local authorities, statutory bodies such as Natural Resources Wales (NRW), Welsh Government, elected Members and local residents. The proposal seeks to deliver a large scale employment site with a hotel/residential training centre and ancillary retail uses. Some of the employment uses will be an expansion of the applicant and owner Renishaw's existing business use. The site lies close to the strategic highway network of the M4, and whilst part of the site is allocated for employment uses in the both the Unitary Development Plan and the emerging Local Development Plan, it is nevertheless an environmentally sensitive site, due to flood risk and important ecological habitats.

Within this context the proposal is assessed below against the following key issues, many of which are identified with the supporting ES:-

- Justification and policy background.
- Ecology.
- Flood Risk and drainage.
- Design and visual impact.
- Highways and transportation.
- Pollution.
- Archaeology and cultural heritage.
- Sustainability.
- Requirement for legal Obligations under s106 to mitigate the impacts of the development.

### **Justification and policy background**

In policy terms the greater part of the site is allocated for employment uses in the current Unitary Development Plan (UDP). Policy EMP1(19) allocates 54.3ha of land for Class B1, B2, B8 uses. This allocation has also been taken forward into the emerging Local Development Plan (LDP) with the land part of the employment allocations under policy MG9 and more specifically under policy MG11, which notes a gross allocation of 51.1ha for Class B1, B2, and B8 comprising 28.26ha (net) for strategic needs, and 6.64ha likely to meet local needs. The remainder of the application site is currently countryside and subject to restrictions to development under policy ENV1 of the UDP. However, it is noted that the applicants have submitted representations to the Deposit LDP to extend the boundary of the allocation in line with the current application. The Council has since considered this and are now proposing to amend the allocation boundary as a Focused Change to the LDP so that the allocation will be consistent with the current application.

In terms of the uses now proposed it is noted that in addition to the employment uses and green infrastructure (34.78ha employment and 31.55ha green infrastructure compared to the LDP allocation of 34.90 net developable, and 30.35 green), the development includes a hotel/residential training centre of up to 9,290.30sqm plus ancillary uses within Class A1, A2 and A3 up to 1,300sqm. Reference is made in Council's LDP background paper, Employment Land and Premises Study (2013), to an allowance for non B class employment uses for a hotel or residential training centre. The supporting documentation outlines the need for this element of the scheme, both in terms of employment opportunities, but also in relation to Renishaws need for growth in their existing business. The economic case for the development is examined in more detail below, but essentially the justification relates to Renishaws Research and Development (R&D) programme and their developing links with universities. Renishaw already has R&D premises at Heriot Watt in Edinburgh and Exeter University, and are fostering new relationships with South Wales universities. Thus as the supporting Planning Statement notes at paragraph 7.43:-

*“The ability for Renishaw employees to train on site and have ready and available access to research and development and production line operations is essential and links the proposed hotel/training centre to the existing and proposed key operational Renishaw buildings on the application site. Whilst normally a C1/C2 use of this scale, when assessed against planning policy within the Development Plan or PPW may normally be expected to be located within a town centre, the unique relationship shared with the production and proposed research and development operations at the Renishaw part of the Site, is such, that separating the training facility away from this Site and locating it into a town centre for example, would actually increase traffic generation by necessitating trips between the two sites.”*

As regards the proposed Class A1, A2 and A3 uses, in policy terms there are generally restrictions to retail development in a countryside location such as the proposed development site, including policies SHOP2 and SHOP12 of the UDP. This is not only due to the unsustainable nature of such development but also because of the likely impact on the vitality and viability of established shopping centres. In addition EMP4 of the UDP seeks to protect allocated employment land and restricts the development of other uses. The supporting documentation explains that the uses are intended to be ancillary only to the main employment uses, and would support the sustainability of the site. Paragraph 4.18 of the Planning Statement notes:-

*“The land agents advising Renishaw have commented that an element of ancillary A1, A2 and A3 floor space, potentially at ground floor level within this Area C could contribute to the sustainability of the site on a day to day basis and meet the daily needs of employees and visitors to the Application Site. The proposals therefore include within the 25,548 sqm of floor space at this Area, an element of ancillary floor space totalling 1,300sqm. This could be divided into a series of small-medium sized units offering on site facilities such as a coffee shop, bar/restaurant, solicitors or other financial services, dry cleaners etc. Providing these facilities on site would negate the need for employees to travel off site at lunchtimes for example, and provide a more sustainable working environment.”*

It is considered that such uses would only be acceptable on such an ancillary basis, and, as such, it will be necessary to seek to restrict this element of the scheme in the subsequent reserved matters. An appropriate condition could be imposed on any outline consent restricting the timing of the delivery of the units and requiring supporting evidence as to the ancillary nature of the development to the main employment use.

The allocations in both the UDP and LDP acknowledge that there are several constraints to the site. These include:-

#### Agricultural land

Policy ENV2 of the UDP requires that the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from irreversible development, save where overriding need can be demonstrated. The ES includes an assessment of the effect on agricultural land and soil resources. In summary this identifies that approximately 70% of the site is agricultural land, and that until November 2013 a grazing agreement was in place as part of a larger agricultural unit. The loss of this land from the farm business, should the grazing agreement be renewed, has been assessed as likely to have a minor adverse effect on farm viability. As regards the quality of the land the ES finds that around 60% of the site is poor Grade 5 with only 19% being classed as best and most versatile. It acknowledges that this will be permanently lost to agriculture, with no scope to mitigate for the loss, and as such the proposal will have a moderate adverse effect on agricultural land. Weighed against the need for the development which is explored below, it is not considered that such an impact would justify a refusal of the application.

#### Mineral resource

Part of the south east corner of the site is identified in both the UDP and emerging LDP as a minerals resource. The submitted Parameter plan shows the developable Area A in this location, which proposes 33,909sqm of employment use earmarked for the expansion of Renishaws existing business. Policy MIN3 of the UDP notes that the site is a potential resource for sand and gravel and seeks to protect it from permanent built development. In the emerging LDP policy MG20 contains the same safeguarding principles but new development is allowed where certain circumstances can be demonstrated, including, any reserves can be economically extracted prior to commencement; extraction would have an unacceptable impact on environmental or amenity considerations; the resource is of poor quality/quantity; and the development would have no significant impact on possible working of the resource. The applicants have instructed a survey to assess the minerals potential of this part of the site and have submitted the findings to the Council as part of the LDP process and to support the current application. This concludes that there is limited economic viability for the extraction of minerals in this location. In addition there is potential for adverse impacts on the River Ely SSSI. Given this, and the likely economic benefits of the proposal outlined below, it is not considered that the loss of such reserves would justify a refusal of the application.

## Ecology, trees and flood risk

Other constraints to the development of the site are also outlined in the Council's background paper Employment Land and Premises Study (2013). At p80 of the background paper a list of constraints are highlighted, including watercourses, field boundaries and farm tracks; Tree Preservation Orders; Site of Special Scientific Interest, Special Landscape Area and multiple other areas of high ecological value; and flood risk with limited surface water drainage capacity and an adjacent wastewater treatment plant. These constraints indicate that 30.35ha of the site should be left undeveloped as green infrastructure and for flood attenuation. It is noted that the application proposes 31.55ha of green infrastructure. A detailed examination of the impact of the development on these interests is undertaken later in this report.

## Economic justification

Despite these constraints local policy has allocated the site recognising that national guidance is supportive of economic development. Paragraph 7.6.1 states:-

*“Local planning authorities should adopt a positive and constructive approach to applications for economic development. In determining applications for economic land uses authorities should take account of the likely economic benefits of the development based on robust evidence. In assessing these benefits, key factors include:*

- *the numbers and types of jobs expected to be created or retained on the site;*
- *whether and how far the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing employment opportunities or upgrading the environment;*
- *a consideration of the contribution to wider spatial strategies, for example for the growth or regeneration of certain areas.”*

Further advice is offered in TAN23-Economic Development which states at paragraph 2.1.2:-

*“Where economic development would cause environmental or social harm which cannot be fully mitigated, careful consideration of the economic benefits will be necessary. There will of course be occasions when social and environmental considerations will outweigh economic benefit. The decision in each case will depend on the specific circumstances and the planning authority's priorities.”*

The advice suggests that where a planning application could cause harm to the environment, the authority should ask three questions in order to help clarify and balance the economic, social and environmental issues. These questions should be used to assist the normal planning decision making processes and include, consideration of Alternatives; the Jobs accommodated; and Special merit. The TAN indicates that in all cases robust evidence should be provided to support these tests. Whilst such an assessment of the need and suitability of the site has been undertaken to inform the emerging LPD, nevertheless the supporting documentation submitted with the application has further addressed these.

On the issue of alternative sites this has been explored in detail in the accompanying ES at Chapter 5, and a summary of the conclusions is offered at paragraphs 7.34 to 7.37 of the Planning Statement. It is evident that there are no alternative sites offering the advantages of size, proximity to the strategic highway network and the protection and expansion of the existing business use.

As regards the generation of job opportunities, again the supporting documentation provides robust evidence of the potential for job creation, not merely in terms of numbers but also the quality of the employment. Chapter 7 of the ES outlines the potential for job generation of between 2,555 and 3,069. The information shows that some of the new jobs will be within a specialist and skilled sector in the case of the proposed expansion of Renishaws existing business. Approximately 20% of the employees in the current facility are former Bosch employees and have been retrained as part of Renishaws commitment to 'on the job' training. The proposal will offer expanded opportunities for training with the development of the hotel/residential training centre. As paragraph 7.45 of the Planning Statement notes:-

*"The skills sets within manufacturing and advanced engineering fields present in South Wales in particular are useful to harness. There are relatively few advanced engineering and manufacturing companies of this scale, investing within the valleys of South Wales, and this is a significant opportunity for local employment."*

The third test relates to the issue of special merit, which has already been touched upon in the above assessments. On this point TAN 23 refers to the contribution to policy objectives and gives the example of a "production plant of a high-technology firm that could bring supply-side benefits by raising skills and introducing innovation." The supporting documentation provides extensive information on Renishaws existing operations and the unique opportunities provided by their sole ownership of the application site. Renishaw operate globally with more than 70 offices in 32 countries and some 94% of sales are made outside the UK. Renishaw officially opened the existing facility in 2012 expanding their UK operations. The Planning Statement argues that as a significant employer, the largest private sector employer in Gloucestershire (1,900 staff), and both a national and international company, Renishaw's proposals will have an immediate knock on effect on their supply chain, new market opportunities in Wales and the local labour force.

Additional economic arguments in support of the proposal relate to 'clustering opportunities' and the need for 'enabling development'. This is due to the refurbishment costs associated with the current buildings formerly occupied by Bosch and to seek a return on the investment in the land that has been made. The protection of existing business use is supported by policy EMP4 of the UDP as well as national guidance. The proposal would allow the business operations of Renishaw to continue within South Wales and to contribute further to the local and regional economy. As the Planning Statement notes at paragraph 7.38:

*"The opportunity for an expansion of this size within the recent and indeed current economic climate presents exceptional and unique circumstances that could not have been planned for within the normal development plan making process, and are also significant points to be given weight in the consideration of where the proposals depart from the extent of the allocation in the Development Plan."*

Thus in terms of local and national policy it is considered that a strategic employment site with enabling development and ancillary uses is an appropriate form of development in this location. Indeed the current submission is closely aligned to the allocation in the emerging LDP. Notwithstanding the above it remains necessary to consider the effect of such development in relation to the identified constraints on the site, and how such impacts can be mitigated and/or compensated for.

## **Ecology**

One of the most sensitive issues in the development of the site is the consideration of ecology and biodiversity. This is dealt with under Chapter 9 of the ES, and supported by Appendices 9.1 to 9.13. As already noted the Ely Valley SSSI lies to the south and is partly within the site. In addition the ES identifies five proposed Sites of Importance for Nature Conservation (SINCS) located within the site, with one located immediately adjacent. In policy terms relevant policies and guidance include policy ENV16-Protected Species of the UDP and national guidance contained in PPW and TAN5-Nature Conservation and Planning. Paragraph 5.1.3 of PPW states:-

*"A key role of the planning system is to ensure that society's land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, conservation and development can often be fully integrated. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created. For example, new development on previously developed land provides opportunities to restore and enhance the natural heritage through land rehabilitation, landscape management and the creation of new or improved habitats."*

In summary the ES establishes that there is potential for effects on the SSSI as a result of hydrological changes and therefore 'Ely Valley SSSI' has been classified as a Key Ecological Receptor. As regards the SINCs, NRW have indicated that the majority of SINC 25 and additional areas adjacent to it, and the entire western meadow of SINC 26, are of national nature conservation value. The proposal would result in habitat loss of parts of these areas and therefore significant effects would occur. There is also potential for habitat degradation of the retained areas as a result of hydrological changes or airborne contamination. These areas have therefore been classified together as the 'Areas of national nature conservation value' Key Ecological Receptor. Similarly SINCs 22, 23 and 24 have been classified together as the 'Wet woodland SINCs on site' Key Ecological Receptor, along with SINC 27 located adjacent to the site also designated for its wet woodland habitat and therefore classified as a Key Ecological Receptor.

### Habitats

A number of habitats on site were identified and where possible these have been retained, enhanced or through on site mitigation and compensation, new habitats have been proposed. In summary these include:-

- Marshy Grassland of National Nature Conservation Value - Area of National Nature Conservation Value will be retained and managed. Implementing the Hydrological strategy to ensure the ongoing hydrological regimes necessary to support the habitat.
- Existing Marshy Grassland - The existing marshy grassland to the west of the Nant Coslech is to be retained and positively managed in to form a buffer to the River Ely SSSI to the south and maintain habitat connectivity within the site.
- Proposed Wetland and Marshy Grassland - A new wetland/enhanced marshy grassland habitat area will be created to the southeast of the site, between the Nant Coslech and Nant Criafol watercourses, retaining the existing trees along the watercourses and drainage channels. Shallow scrapes and deeper ponds will be created with areas of reedbed and species-rich marshy grassland will be established.
- Wet Woodland and Swamp - Existing wet woodland and swamp are to be retained and positively managed, including thinning, removal of non-native species and supplementary planting where required.
- Species Rich Grassland - Areas of existing species-rich neutral grassland and semi-improved species-poor grassland are to be retained and enhanced through positive management, where possible. Areas modified to accommodate revisions to earthform or strategic drainage provision are to be replanted with native species.

- Existing Stream Channel - As much as possible of the existing trees, woodland, scrub, hedgerows and marshy grassland will be retained along the existing stream channel and adjacent areas between the proposed development platforms, allowing for the creation of development platforms and Sustainable Drainage Systems. Vegetation will be enhanced and positively managed to provide a green corridor between proposed buildings and infrastructure and to assimilate the built form into the wider landscape.
- Diverted Stream Channel - Proposed trees, scrub and marshy grassland will be planted along the diverted stream channel, to create a landscape and habitat corridors between development platforms.
- Boundary Planting - Existing woodland, trees and scrub along boundaries to be retained and enhanced to provide visual screening of the proposed built development and assimilate the development into the surrounding landscape.
- Balancing Ponds - Balancing ponds will be designed to maximise opportunities for wildlife, and maintain hydrological regimes within the marshy grassland areas.

NRW have commented on the scheme in respect of the habitat impact and acknowledge that the proposal will result in losses to a number of semi natural grassland habitats of significant biodiversity importance. They note that the main issue raised during pre-application discussions was the requirement to construct a single 1 million sq. ft. building to accommodate the distribution centre. The majority of losses of important habitats associated with the scheme primarily arise as a result of the requirement for this single large warehouse type of design and layout. Alternative layouts incorporating multiple smaller buildings could well be built without the direct losses that occur as a result of a single building of such a large scale.

*“We have concerns that after full planning permission is gained and the plateau of the centre is built, including infrastructure, you may receive applications for a group of smaller units on the plateau. Smaller units could, however, have been accommodated in a different way, avoiding the loss of important habitats that would occur by constructing a single large plateau.”*

Notwithstanding this they acknowledge the proposed use is a strategic employment allocation within the emerging LDP but strongly recommend that the Authority put measures in place so that any outline permission granted is conditioned to ensure the development is bound to the parameters described in the ES. They also recognise that the scheme contains comprehensive mitigation proposals set out to manage and enhance the remaining habitats, along with proposals to promote the development of other areas unaffected by the development, and the proposed contributions to existing conservation initiatives being undertaken by third party conservation organisations. They note that overall the details of the mitigation are adequate but note that there will be a need to carefully consider the detail through the proposed Ecological Mitigation and Management Plan (EMMP).



They also highlight the importance of the topsoil on the site as a valuable resource to be re-used within the site. As for the proposed contributions to existing conservation initiatives, they suggest that this is best secured through a S106 agreement. In contrast, the Council's Ecology Officer has indicated a holding objection on the grounds that there is currently no clarity on how such measures will be delivered. The proposal may involve a large degree of off-site compensation, which should be targeted at areas which would most benefit species of Principle Importance For Conservation of Biological Diversity (S42 species), and/or enhance other Habitats of Principle Importance For Conservation of Biological Diversity (S42 habitats). This is a viable compensation scheme in principle, however, to deliver this it will be necessary for details to be provided to demonstrate how this can be achieved, along with the level of necessary funding. However as this is an outline application it is considered such detail can be sought as part of any detailed proposals submitted following the determination of this outline consent given that these principles of mitigation are considered acceptable.

### Protected species

Policy ENV16 of the UDP relates to protected species and states that permission will only be given for development that would cause harm to or threaten the continued viability of a protected species if it can be clearly demonstrated that:- (i) there are exceptional circumstances that justify the proposals; (ii) there is no satisfactory alternative; and (iii) effective mitigation measures are provided by the developer. This is supported by the Council's SPG on Biodiversity and Development, and is in line with national guidance including the most recent Conservation of Habitats and Species Regulations 2010 ('habitat regulations'). This requires the establishment of a system of strict protection, with derogations allowed only where the three conditions under Article 16 of the EC Habitats Directive are met (the 'three tests') (TAN5, 6.3.6).

The ES identifies that two European Protected Species were recorded within the site, i.e. bats and otters. A maternity roost site for brown long-eared bats and an additional roost site for small numbers of an unknown bat species have been identified in trees on the site within Zone W. In addition a further six trees, with supporting features suitable for use by roosting bats, are likely to be directly impacted by the development. A minimum of six species of bats have been recorded using the site. As such a Habitats Regulations derogation licence will be required from NRW. Initially NRW raised an objection to the proposal on the grounds that the ES was inadequate and incomplete, with significant uncertainty with regard to the likely environmental effects of the project on a European Protected Species. However, following the receipt of additional ecology information and an amendment to Appendix 9.14 Ecological Mitigation Strategy, they have now removed their objection to the proposed development. They note that the revised mitigation strategy document provides them with an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of bats. However the details of the earthforms works that will be required within Zone W are still not known at this stage.

Therefore they advise that once these are known, and prior to the any development on site, there will be a need to fully assess the potential impacts, both direct and indirect, associated with any earthworks required in the vicinity of the bat tree roosts. A number of conditions are suggested including, implementation in accordance with the amended mitigation strategy March 2015; no development until details of a scheme to protect bat tree roost 1; no development until an agreed method statement for otters; no development until a lighting in relation to bat use; and NRW request that they are consulted on the submission and discharge of these, including any subsequent amendments/alterations. They also confirm that their previous advice (see Appendix A) on otters, badgers, habitats, designated sites, flood risk, surface water, the water framework directive, invasive species and waste should still be considered in the determination of the application.

Thus the following points are noted in relation to the three tests for derogation.

**Test i) - The derogation is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.**

As outlined in the justification section of this report, and evidenced by the supporting documents, including the ES, the proposal is of significant importance to both the local and the wider economy of Wales. The site is an allocated employment site in both the existing UDP and the emerging LDP. In addition the site has an existing employment use which will be supported and enabled to grow as a result of the proposed development. As such the proposal is considered to be of overriding public interest of a social and economic nature that offers long-term benefits of primary importance.

**Test ii) - There is no satisfactory alternative**

Again this report has already highlighted the evidence provided in the ES as to the economic case for the development, which has also explored possible alternative sites, and the need for the development in relation to Renishaw's existing facility on the site. It is considered that this evidence is sufficient to conclude that there is no satisfactory alternative.

**Test iii) - The derogation is not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.**

As regards this third test, although the Council's Ecologist has currently submitted a holding objection, NRW have confirmed that they no longer have an objection to the proposal subject to certain conditions/obligations.

NRW have advised that the revised mitigation strategy document provides them with an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of bats. However as the details of the earthform works that will be required within Zone W are still not known at this outline stage, further details will be required prior to any development to allow for a full assessment of the potential impacts, both direct and indirect, associated with any earthworks in the vicinity of the bat tree roosts.

Thus subject to the implementation of the proposed mitigation/compensation measures the proposed development will not result in detriment to the favourable conservation status of the species concerned, which include brown long-eared bats and otters. The conditions/obligations advised by NRW include, implementation of the development in accordance with the revised mitigation strategy; no development until agreement and implementation of a scheme to conserve bat tree roost 1; no development until a method statement is agreed to avoid potential impacts on otters during the construction phase; no development until agreement and implementation of a lighting scheme for bats; no development until agreement of a scheme for the provision and management of a 7m buffer zone along the diverted Nant Coslech watercourse; and no development until agreement of a method statement for Japanese Knotweed and Himalayan Balsam.

Thus it is considered that the proposal meets all three tests for derogation, and is in line with local and national policy, guidance and regulations, including, policy ENV16 of the UDP, the Council's SPG on Biodiversity and Development, and national guidance contained in TAN5 - Nature Conservation and Planning and the Conservation of Habitats and Species Regulations 2010.

### **Flood Risk and drainage**

A further constraint on the development of the site relates to flood risk. There are several watercourses and drainage ditches present on the site, with parts of the site identified within Flood Risk Zones, including Zone C, of the Development Advice maps (DAM) of TAN15-Development and Flood Risk. A Flood Consequence Assessment has been undertaken for the site and Chapter 14 of the ES assesses the likely significant effects of the development on the environment in respect of flood risk and drainage.

It is noted that the proposal envisages the realignment of a watercourse within the site to accommodate the layout of proposed key buildings identified in the Parameters Plan. The proposed diversion is from a point within the grassland to the north of Development Area B, and will be sized to accommodate flood flows. However, the supporting documentation suggests that it should be made to maximize the ecological potential of the diversion by promoting aquatic and riparian habitat creation. The diversion will take the watercourse south through development Area B where it may be necessary to provide a culvert or bridge. The impacts of this realignment are detailed within the Drainage Strategy of the ES (Appendix 10.2), and chapters 9 and 14 of the ES. In addition the proposal will entail the raising of ground levels to create a suitable development plateau above the floodplain to ensure protection from flooding.

As for surface water drainage, a strategy has been prepared which will limit surface water runoff to existing greenfield rates and provide attenuation in the form of SuDS features including two balancing ponds. It is noted that the submitted FCA concludes that the development of the site will not pose a flood risk on site or downstream, once the development is completed.

NRW have commented on the submitted information and note that they agree with the findings of the FCA. They note that Development Areas 1 and 2 propose a mix of less vulnerable uses, as defined in TAN15, and the ground raising mitigation proposed in the FCA to remove the areas from the predicted 1 in 1000 year (0.1%) annual fluvial flood outlines, allows the proposed development to be within the guidance. Development Area 3 proposes the hotel/residential training centre, which is identified as a highly vulnerable use within TAN15. However as this is not within NRW's 1 in 100 year (1%) or 1 in 1000 year (0.1%) annual probability fluvial flood outlines, they do not raise an objection on flood risk to this part of the development. As for the flood risk elsewhere on the site, NRW note that comparing the results for the pre and post development scenarios shows there is a loss of floodplain with no direct compensation, which would be accompanied by a localised increase in flood levels. The increase in flood levels is shown to create new flood plain areas within the site boundary, but as this is within the site boundary and provided the applicant accepts this, they have no further comments to make on this approach. In addition NRW also note that the FCA has shown there to be no impact on flood levels in the wider catchment up to and including the 1 in 100 year (1%) with an allowance for climate change fluvial flood event. To ensure the development is carried out in accordance with the FCA NRW advise the imposition of a condition requiring the development is only carried out in accordance with the approved FCA and mitigation measures relating to ground levels which should be set at 29.08m AOD for Development Area 1 and 28.39m AOD for Development Area 2. NRW have also recommended a condition relating to surface water requirements to ensure the effective management of surface water run-off from the development site to prevent flooding elsewhere. The scheme should ensure that run-off from the development will not exceed "Greenfield" runoff rates for this area of the catchment and that details of adoption and management are agreed to ensure that the scheme/systems remains effective for the lifetime of the development. As such a surface water management should be submitted and agreed by the Local Planning Authority.

In considering the proposals against the guidance in TAN15 paragraph 3.1 notes that where development has to be considered in high risk areas (Zone C) only those developments which can be justified on the basis of tests outlined in section 6 and section 7 should be located within such areas. Chapter 6 of TAN15 relates to the justification for the location of development and notes at paragraph 6.1:-

*"Much urban development in Wales has taken place alongside rivers and in the coastal plain. It is therefore inevitable, despite the overall aim to avoid flood risk areas, that some existing development will be vulnerable to flooding and fall within zone C. Some flexibility is necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment in existing urban areas, and the benefits of reusing previously developed land."*

Paragraph 6.2 goes on to state:-

*“Development, including transport infrastructure, will only be justified if it can be demonstrated that:-*

*i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement1; or,*

*ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,*

*iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,*

*iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.”*

Clearly as a large part of the application site is ‘greenfield’ it does not meet part of criterion (iii) above. However, it is considered that that the proposal concurs with the aims of PPW, and that the potential consequences of a flooding event have been satisfactorily considered. In addition, as has been outlined previously in this report the proposal will meet key objectives of the Council’s Development Plan in facilitating the delivery of a strategic employment site, and attracting new inward investment to the Vale of Glamorgan and job opportunities. Finally the original approval for the development of the land by the former South Glamorgan County Council must be considered as a fall back position. As such it is not considered that the fact the site is ‘greenfield’ would justify a refusal in this instance.

### **Design and visual impact**

As already noted the site lies within the Ely Valley and Ridge Slopes Special Landscape Area, and there are a number of Tree Preservation Orders relating to existing tree coverage. Although an outline application, the Parameter Plans that accompany the submission, along with the information in the DAS, including the materials palette, provide an indication of the likely scale and form of the proposed development. It is also known that in order to accommodate the design concept of single level platforms, a significant earthworks programme is necessary on site. Clearly a development of the nature, size and scale proposed cannot be ‘hidden’ within the landscape. Indeed the supporting documentation notes at paragraph 7.94 of the Planning Statement:-

*“The proposed layout for the application proposals is intended to provide visibility of the premises from the M4 without having a detrimental impact upon the landscape.”*

The landscape and visual effects of the proposal is considered in chapter 8 of the ES, and with a visual analysis contained within the DAS. Relevant local and national policies include policy ENV4-Special Landscape Areas and ENV11-Protection of Landscape Features of the UDP, and Chapter 5 of PPW, including paragraph 5.1.1 which states:-

*“The natural heritage of Wales includes its geology, land forms and biodiversity and its natural beauty and amenity. It embraces the relationships between landform and landscape, habitat and wildlife, and their capacity to sustain economic activity and to provide enjoyment and inspiration<sup>1</sup>. The natural heritage and valued landscapes of Wales are not confined to statutorily designated sites but extend across all of Wales – to urban areas, the countryside and the coast<sup>2</sup>. Attractive and ecologically rich environments are important, both for their own sake and for the health and the social and economic well-being of individuals and communities. Biodiversity and landscape are important in the economic life of many communities and the quality of the environment is often a factor in business location decisions.”*

The ES contains a summary of the assessment of the landscape and visual impact. This identifies the varied rural character of the site, with its strong landscape framework of established woodland, tree belts and hedgerows, but also the urbanising influences due to the adjacent M4 and existing industrial complex, heavily engineered access roads and parking, and the adjacent sewage treatment works. The visual appraisal demonstrates that the site is well contained due to its low lying position and the undulating character of the surrounding topography. The Parameter Plan takes into account the existing landscape features, habitats and hydrological regimes of the site in determining the location of the proposed development, with a commitment to ongoing positive management of the landscape and biodiversity features. With regard to effects on landscape features, the Proposed Development will result in the permanent loss of approximately 60% of fields, 32% of woodland and the medium-term loss of 62% of hedgerows. The loss of trees across the site is highlighted by the Council’s Tree Officer who notes that it will result in complete removal of a large woodland W1, protected by Tree Preservation Order No.5, 1976. This will be marginally mitigated by the retention of W2 and W3 woodlands. The ES acknowledges that the proposal will result in a major adverse effect on woodland and hedgerows; a major to moderate adverse effect on fields; and a moderate to minor adverse effect on watercourses at Year 1. However, the implementation of the Landscape and Ecological mitigation measures will result in no major adverse residual effects at Year 15, and moderate adverse residual effects on woodland and fields. A Landscape Strategy Plan sets out the proposed landscape and visual mitigation measures, which have been developed in conjunction with the Ecological Mitigation Strategy to achieve a balance between ecological and hydrological requirements and the need to integrate the development into the surrounding landscape and maintain the visual enclosure of the site. Table 8.1 of the ES contains a summary of the likely significant effects of the proposal, the mitigation measures proposed, and the residual effects, as described in this summary.

The Council's Landscape section have indicated that the Landscape assessment is comprehensive in its review of the site. The level of mitigation and the landscape strategy proposed is considered acceptable. However it is suggested that the depth of boundary planting/buffer proposed along the south west edge of the site adjacent to the railway line should be increased. This can be considered in the detailed landscaping plans that will be required with subsequent reserved matter applications for the site.

The Council's Conservation Officer has also indicated general satisfaction with the submitted assessments. However, it is noted that no reference is made to the Council's Design in the Landscape SPG. Again this is something that can be given further consideration to when the detailed plans are prepared. Of particular relevance is DG5 of the Design in the Landscape SPG which refers to the mitigation of large scale visual detractors. It is noted that the submitted assessments have already followed much of the guidance in this document.

### **Highways and transportation**

This outline application has been submitted with all matters reserved other than access, as the proposal intends to utilise the existing access road to Renishaw's existing facility. Apart from the new internal roads that will be required as part of the final layout of the proposed development, the main highway impact to be considered in the assessment of the current application relates primarily to the external highway network, including the local highway to the south and Pendoylan, but more significantly, the M4 to the north of the site.

Chapter 11 of the ES assesses the likely significant effects of the proposal in respect of transport and access. It acknowledges that the development will increase traffic movements and change travel patterns on the local highway network. Further details in respect of transport and movement are also provided within the Transport Assessment, the Travel Plan and the Transport Implementation Strategy submitted in support of the planning application.

In summary, the TA sets out the approach towards encouraging the use of sustainable modes of transport and the process by which the detailed Travel Plan(s) will be prepared. Relevant local policy and national guidance include policy ENV27 of the UDP and TAN18-Transport.

The proposal has been assessed by both the Council's own Highway Engineers and the Transport Division of Welsh Government. Initially the Welsh Government raised concerns over the traffic modelling identifying a number of fundamental flaws. An independent check on the submitted TA highlighted areas needing further information, including, trip rates and the need for sensitivity tests; traffic distribution at junction 34 needs further supporting evidence; and use of existing traffic queues to validate the base year model is need to ensure robust predictions. Following the receipt of the Addendum to the Transport Assessment, the Transport Division of WG have confirmed that they have no objection in principle subject to a number of conditions.

A copy of the WG letter is reproduced at Appendix B, however, in summary, the directed conditions include: applicant required to enter a S278 Agreement without which any consent may not be implemented; developer to commission and pay for a safety audit of the scheme; no drainage from the scheme allowed into the trunk road drainage; no works which could affect the stability of the trunk road embankments in vicinity of Junction 33 and 34; shall include any necessary adjustment of public utilities; provide an assessment of any road restraint system on the trunk road; detailed design drawings and calculations for geotechnical risk; proposed signalised junctions shall be MOVA controlled; any existing boundary feature is the property of WG and shall not be removed/interfered with; and the applicant to provide wheel-wash facilities at the site exit.

The Council's own Highway Engineers have also confirmed that the recently submitted Addendum to the TA has addressed the previous concerns with regard to the distribution of traffic flows. The Principal Transport and Road Safety Officer has also confirmed acceptance of the Bus Service Provision proposals outlined in Section 8 of the Addendum to the TA and agrees with the response in Section 9 with regard to consideration of the Active Travel Bill. However it is considered imperative that sufficient pedestrian footways to all bus stops will be provided and that buses can move freely within the site without having to negotiate inconsiderate parking and traffic congestion. Thus the Council's Highways have confirmed that there are no highway objections to the proposal but have requested a number of conditions, many of which are similar in nature to those outlined by WG Transport Division.

It is noted that a number of these conditions relate to required works that are off-site and outside of the site edged red. As such any conditions imposed would need to be 'Grampian' in nature. In addition a number of the requested conditions relate to a requirement for the developer to enter into other agreements such as S278 highway works. Such a condition cannot be imposed on a planning permission but can be included as an informative. Nevertheless, the works required can be conditioned to ensure delivery at an appropriate time. A further point to note relates to the proposed timing of the required works, with the requested conditions seeking no commencement or occupation until such time as the full implementation of the required off-site works. Such a condition could be considered unreasonable bearing in mind the extent of the outline proposals. As the supporting Planning Statement notes:-

*"A strategic employment site of between 2,555 and 3,069 jobs (based upon the ES Socio Economic Chapter) will undoubtedly give rise to access and movement issues that require investment. However it is critical that this impact is assessed against the current use of the premises south west of the Application Site, by Renishaw. The former Bosch plant employed up to 1800 employees at its peak, and these mainly vehicular trips were using the current infrastructure serving the site. Renishaw can legitimately and legally use those buildings and generate similar levels of traffic without any new planning permission or infrastructure investment. However, given that Renishaw is a high tech engineering company, as detailed earlier in this Chapter, it is unlikely that Renishaw would exceed 1500 employees within both the current and proposed floor space (Area A) that meets their requirements. It is on this basis that Renishaw do not consider it would be appropriate to apply a trigger to the Area A expansion, that requires the improvement of junction 34 for example."*



On the basis of the above it is considered reasonable to impose a 'Grampian' style condition to restrict the commencement of development on all but that element of proposal that relates to the proposed extension of the existing Renishaw facility.

Finally, the comments from both the Council's Highways and WG Transport Division suggest the need for certain S106 contributions to mitigate for the likely impact of the development on the surrounding highway network, including traffic calming/safety measures along the un-named road between the A48, Pendoylan and the junction with J34 of M4. These are examined in more detail in the S106 Planning Obligations section of this report.

## **Pollution**

The potential impact of the development in relation to pollution are covered in a number of chapters of the ES, including chapter 12-Air Quality, chapter 13-Noise and Vibration, and chapter 14-Ground Conditions. Relevant policies and guidance include policies ENV29-Protection of Environmental Quality and ENV26-Contaminated land and unstable land of the UDP and national guidance in chapter 13 of PPW which relates to minimising and managing environmental risks and pollution.

In summary the ES finds that there is a need for some mitigation measures, including a Construction Environmental Management Plan, for both air quality and noise and vibration, however, the overall effects should not be significant. As for the ground conditions, again nothing of significance is identified within the ES which noted, amongst other things, that the contaminants considered were present in soils at concentrations below the screening criteria for commercial and industrial end-use; based on the soil assessment completed it is unlikely that significant groundwater contamination is present in areas of the site that have not been tested to date; there are no pollution incidents listed that have had a detrimental effect to the surface water; and the zinc or copper leachate results fell within the acceptable range considered likely to be natural background concentrations within the soils and are not deemed to represent a significant contamination risk.

Both NRW and the Council's own Environmental Health section have commented on this issue and neither have raised any objections. NRW have noted that the proposed development may require a permit under the Environmental Permitting Regulations (EPR) 2010. They also indicate that the planning authority should be confident that any development will not result in unacceptable risks from pollution controlled by another pollution prevention regime, such as EPR. Therefore the LPA should not focus on controlling pollution where it can be controlled by EPR. As for the Council's Environmental Health section they confirm that based on the detail in the ES they have no objection in relation to noise, vibration, air quality, light and contaminated land. This is subject to the implementation of the proposed mitigation measures.

## **Archaeology and cultural heritage**

Chapter 10 of the ES assesses the likely significant effects of the proposal on the environment in respect of archaeology and cultural heritage, and is supported by the Technical Appendices of this ES, including Appendix 10.1 – Archaeological Desk Based Assessment; Appendix 10.2 – Heritage Impact Assessment; and Appendix 10.3 – Geophysical Survey. In addition an Archaeological –Evaluation Report has been prepared by Wessex Archaeology. Relevant policies and guidance include policies ENV17- Protection of Built and Historic Environment, and ENV18 &19 which relate to Archaeology of the UDP, and national guidance contained in chapter 6 of PPW.

In summary the archaeological report concludes that the archaeological evaluation and geophysical plot clearly indicate that there are archaeological remains within the site of Late Iron Age and Romano-British date, and an, as yet, undetermined potential for a medieval origin for the farm at Cryngallt.

The Council's archaeological advisors Glamorgan Gwent Archaeological Trust have commented on the proposal and conclude that the proposed works will require archaeological mitigation. They note that the evaluation confirmed the presence of archaeological features of far greater significance than had previously been thought. It is possible that this location has direct evidence of approximately 2,000 years of continuous human habitation and associated agricultural activities, and as a result, it may be of national significance and should be preserved either by record (excavation) or preservation in place. They recognise that the proposed development will destroy the archaeological remains identified through the evaluation, and will remove a substantial number of historically important hedgerows. However, they consider it unlikely that there will be a significant impact to the Scheduled Ancient Monument of Felin Isaf Castle Mound. Thus, whilst they do not object to the granting of planning permission for this development, they recommend that a condition be attached to any consent that is granted ensuring that a programme of archaeological investigation be implemented prior to and during the construction work.

The Council's Conservation Officer has also commented in relation to the above ground heritage assets and is satisfied that the impact on these has been fully considered in the ES.

## **Sustainability**

As part of the submission a Sustainability Appraisal Statement has been submitted and a Sustainability Strategy prepared for the proposed development. The Planning Statement notes that this demonstrates that:-

- i. The development is sustainable in terms of the location of the site and the proposed layout/design; construction techniques that might be employed; and the potential initiatives on the site e.g. grey water recycling;

- ii. There is potential to explore the use of renewable energy technologies where they are viable and meet a specific energy requirement of a building;
- iii. In accordance with national planning policy documents, there is an expectation that new developments will achieve BREEAM Very Good and achieve the mandatory excellent credits for BREEAM Ene 01 reduction of carbon emissions, i.e. 25% in comparison with the notional building;
- iv. There are opportunities for reuse and recycling of materials and to minimise waste on site;
- v. Principally the strategy at the Strategic Employment Site will be to reduce energy demand where viable and practicable to do so, use low water usage appliances and rainwater recycling.

In terms of the sustainable site location, it is noted that the site is associated with an existing employment facility, has immediate access to the M4, and the development proposed associated uses such as the hotel/training centre and ancillary retail.

In addition, the proposal will provide for 'Energy centres'. It is envisaged that each separately identified development area will be served from a central energy centre. The site wide energy centre will provide a highly efficient heating solution via a district heating network.

### **S106 Planning Obligations**

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances.

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the application relates to an outline application for the development of the site to include Class B1, B2 and B8 uses; a hotel/residential training centre (Class C1/C2); ancillary uses within Classes A1, A2, A3; and associated works including car parking, drainage and access for all uses; the provision of infrastructure (including energy centre(s)); and landscaping. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

In light of the particular circumstances of this development, the following planning obligations have been considered, negotiated and agreed by the developer.

### Sustainable Transport

UDP Policy 2 favours proposals which are located to minimise the need to travel, especially by car and which help to reduce vehicle movements or which encourage cycling, walking and the use of public transport. UDP Policy ENV27 states that new development will be permitted where it provides a high level of accessibility, particularly for public transport, cyclists, pedestrians and people with impaired mobility. These policies are supported by the Council's approved Supplementary Planning Guidance on Sustainable Development and the advice in Planning Policy Wales, TAN 18: Transport and, Manual for Streets which emphasise the important relationship between land use planning and sustainability in terms of transport.

In this case, the site has been identified for this use, primarily for its strategic accessibility and connection to the M4 corridor. Therefore, in terms of sustainable access, the site is currently not easily accessible by walking, cycling or public transport. As such, through negotiation and discussion on the Transport Assessment, the developer has agreed to the following package of measures to ensure the site is accessible by my more sustainable travel modes:

To be secured through s106 planning obligations:

- A financial contribution of £550,000 to support diverting public transport services to the development site for 5 years; and
- Provision of a direct bus service from Barry (key transport interchanges) to the site using two buses for at least five years to be kept under review through the site specific travel plan monitoring.

To be secured through planning conditions:

- Bus stop provision within the site;
- Site specific Travel Plan; and
- Cycle parking on site.

The Council's Planning Obligations SPG provides a basis to consider the type of contribution that may be likely to mitigate the impacts of a development of this size. This is a key aim embodied in national and local planning and transport policies. In this case, the package of measures outlined above is required to ensure that the site is sufficiently accessible by a range of modes of transport other than the private car, such that it may be considered a sustainable site. The measures proposed are considered to fairly and reasonably relate to the development proposed, and are necessary to make it acceptable in planning terms.

### Off-site Highway Works

A number of off-site highway improvements have been identified in the Transport Assessment which will primarily be secured through planning conditions and a Section 278 agreement as outlined above. However, the TA addendum has identified the need for a feasibility study to identify the most beneficial traffic calming measures along the route south to the A48 (via Pendoylan) from the site. The highway authority have confirmed this is required to be secured through the section 106 agreement along with any mitigation measures identified as necessary to be implemented.

The applicants have advised that the Feasibility Study and traffic calming works should be triggered by zones B,C,D as per the Parameters Plan, limited to the scope of traffic calming items listed in section 7 of the TAA (namely 20mph speed limits, road humps, cushions or speed tables, road width restrictions/build outs, land width restrictions, gateway/entry points, rumble strips/dragons teeth, enhanced signage) and apply to the geographical area in appendix J of the TAA (namely sections of the route from the A48 to J34 of M4 via Pendoylan).

The traffic calming works will need to be agreed with the LPA along with a timetable linked to the relevant Reserved Matters Application(s) for their implementation, and secured through a S278 agreement. The Council's traffic section have advised at this stage it is envisaged that these works could include measures such as warning signs, road linings, widening or extending passing bays etc. rather than large scale highway works or speed bumps.

It should also be noted that Rhondda Cynon Taff County Borough Council have commented on the application and have requested that a transport tariff contribution of £169,725 be secured through a Section 106 Legal Agreement towards improvements to their strategic highway network. It is not considered that this would be reasonable and has not been sought as part of this planning application. As outlined above, the developer will already be required to carry out improvements to junction 34 of the M4 motorway at their own cost, and some contribution is requested towards improvements to the junction with the road south to Pendoylan within the Vale, being directly affected by the proposed works.

### Public Open Space Provision

Planning Policy Wales and TAN16: Sport, Recreation and Open Space (2009) both require local planning authorities to ensure that all new developments make adequate provision for public open space and recreational facilities to meet the needs of future occupiers. In particular, paragraph 3.15 of TAN 16 states that local planning authorities should ensure that new development, including that in commercial and industrial areas, makes adequate provision to meet the recreational needs arising, and opportunities for walking and cycling. This should mean better planned, more attractive developments, which relate to the policies and priorities of the LDP.

The applicant has advised that the site will not be able to provide 'open' access due to ecology concerns but that incidental areas of open space for staff to sit out during rest breaks will be provided and this is considered to be acceptable. This can be secured by condition rather than planning obligations.

## Public Art

The Council introduced a percent for art policy in July 2003 which is supported by the Council's adopted supplementary planning guidance (SPG) on Public Art and builds on the advice contained in TAN 12 (Design). It states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, public art should be provided on site integral to the development proposal. It is this Council's view that the provision of public art is integral to good design, and plays a key role in securing a high quality development which respects local character.

Paragraph 9.5 of the submitted Planning Statement confirms that Renishaw do not agree to the payment of 1% of build costs to deliver a scheme on site and consider that public art should be intrinsic to the design of the site, and is used to inform building design through the use of building materials, lighting, scale and form. They argue existing Renishaw facilities within the UK, and worldwide, are developed within pleasing environments. The use of building materials within the façade can integrate public art into an elevation – using colour, texture, glazing for example, can add interest, diversity and vibrancy. This is a more inclusive approach to design and public art, as opposed to singular sculpture being offset by a bland backdrop of buildings. The treatment of spaces around building – surface materials, lighting, planting can all be used to create a public realm that is designed for movement through, seating, contemplating, and appreciating, and none of these require formal artistic involvement, secured via a S06 obligation.

Officers consider that much of this approach is consistent with the Council's own approach to public art, which can include surface materials, lighting, planting etc. as mentioned above. However, unless an obligation is imposed requiring a designated budget and public art strategy to be provided, it is considered that the developer may simply pay 'lip-service' to public art and not maximise its potential to deliver a high quality design and environment. Given the large scale of development proposed and the strategic importance of the site as a key employment site in the Vale of Glamorgan, officers consider it is essential that public art is secured via a planning obligation.

## Training and Development

Part of the justification for permitting new developments such as this is the employment opportunities they present. Training local residents, to be able to apply for some of the new job opportunities helps to create sustainable communities. Therefore on major developments the Council looks for opportunities to maximise training and development for the Vale of Glamorgan's resident population. This may be provided by the developer on site, or provided in the form of a financial contribution to the Council to facilitate skills training to boost local economic development.

In this case, it is considered reasonable to expect training (on a recognised training course) to be provided as follows for each phase:

Zone A – up to 33,909.61m<sup>2</sup> of B1, B2 and B8 employment uses - for at least 68 employees or alternatively pay the Council a contribution of £81,600 as an in lieu contribution.

Zone B – 92,903.04m<sup>2</sup> of B1, B2, B8 employment uses - for at least 186 employees or alternatively pay the Council a contribution of £223,200 as an in lieu contribution.

Zone C – 25,548.34m<sup>2</sup> of B1, B2, B8 employment uses including 1300m<sup>2</sup> of ancillary A1, A2 and A3 uses - for at least 51 employees or alternatively pay the Council a contribution of £61,200 as an in lieu contribution.

Zone D – 9,290.30m<sup>2</sup> comprising hotel/residential training centre Class C1/C2 use - for at least 19 employees or alternatively pay the Council a contribution of £22,800 as an in lieu contribution.

The financial contributions would be used to remove the barriers to work by providing assistance such as training, skills development, childcare etc.

### Ecology

As indicated above in the Ecology section, the ES suggests off-site mitigation measures to compensate for loss of protected habitats on the site resulting from the development. NRW have advised that the proposed contributions to existing conservation initiatives should be secured through a S106 agreement.

The Council's Ecology Officer has advised the proposal may involve a large degree of off-site compensation, which should be targeted at areas which would most benefit species of Principle Importance For Conservation of Biological Diversity (S42 species), and/or enhance other Habitats of Principle Importance For Conservation of Biological Diversity (S42 habitats). This is a viable compensation scheme in principle, however, to deliver this it will be necessary for details to be provided to demonstrate how this can be achieved, along with the level of necessary funding.

The proposed off-site mitigation measures need to be secured through the s106 agreement.

### S106 Administration

The Council requires the developer to pay an administration fee to the Council to monitor and implement the terms of the Planning Obligations. This fee covers the Council's costs to negotiate, monitor and implement the terms of the necessary Section 106 Agreement. This cost is essential because the additional work involved in effectively implementing a Section 106 Agreement is not catered for within the standard planning application fee and the Section 106 Planning Obligations are deemed to be necessary to make the development acceptable. Therefore, the developer is reasonably expected to cover the Council's costs in this regard. In this case the fee equates to £12,616.80.

## **Other issues**

On the issue of neighbouring amenity, it is noted that the nearest residential neighbour is Duffryn Bach to the south which is over 170m away on the opposite side of the railway line. Due to the location of the site close to the M4 and its remoteness from any settlement, it is not considered that the proposal will result any significant additional impact beyond the existing uses. The Council's Environmental Health section have indicated that they are satisfied with the proposed mitigation measures outlined in the ES.

The Council's Public Rights of Way Officer has been consulted in respect of the small section of Public Footpath No. 9 Peterston Super Ely, which runs along the eastern boundary. No objections have been raised, however, it is noted that the Public Right of Way must be kept open and free for use by the public at all times, or alternatively, a legal diversion or stopping-up order must be obtained, confirmed and implemented prior to any development affecting the Public Right of Way taking place.

Finally, on the question of the phasing of the development, this is outlined in Chapter 6 of the ES, and indicates two development Options. Option 1 includes the development of Areas A (Renishaw expansion), C (Business Park), D (Residential Training Centre/hotel), E (road network) and B (potential Distribution Centre) plus associated open space and land for mitigation in 24 months. Option 2 includes two phases, with Phase 1 comprising the development of Areas A, C, D, and E, and the enabling works for Area B, plus associated open space and land for mitigation; and Phase 2 comprising the development of Area B. The timescales are 24 months for Phase 1 and 6 months for Phase 2. However, the accompanying Planning Statement acknowledges that in reality, construction and occupation of the individual plots and units is likely to occur on a phased basis, but this has not been finalised. Nevertheless, for the purposes of a robust assessment, it is assumed within TA that the entire development will be open in 2018. Clearly this may not be the case and this is recognised in the Highways section of the report in relation to the timing of the implementation of improvement works to the highway network. In addition, the actual timing of the development will be partly controlled through the planning process with the need for the approval of reserved matters, plus additional timing conditions on this outline.

## **CONCLUSION**

The application has been before your officers for some time and has received considerable attention, including extensive pre-application discussions. This is due to the sensitive nature of elements of the proposal including the ecological and flood risk constraints on the site, and its likely impact on the strategic highway network.

It is important to recognise that the site is a strategic employment allocation in both the adopted and emerging development plans. The implementation of the proposed development offers opportunities for significant economic and social benefits.



The application includes an Environmental Statement (ES) which sets out the results of an Environmental Impact Assessment ('EIA') of the proposed development. This has been carried out due to the scale and nature of the proposals and the location and characteristics of the site. The ES has considered the current conditions identified (the baseline), and the potential effects of the development. Following the implementation of mitigation measures set out in the technical studies that comprise the submitted ES (February 2014), and Addendums, including the Amended Ecological Mitigation Strategy March 2015, and the accompanying Transport Assessment Addendum May 2015, it is concluded that there will be some adverse effects, particularly in relation to ecological and landscape impacts. However, these are inevitable given the allocation of the site for development and the required works associated with the type of development proposed, including the raising of levels within the site. The ES notes that, subject to the implementation of the relevant mitigation and compensation measures proposed these impacts are acceptable and are also anticipated to reduce in the long term.

It should also be noted that officers have entered negotiations with the applicant to secure a package of planning obligations through a Section 106 Agreement. These should go some way to meeting the costs of the development in relation to the impacts identified above.

It is therefore concluded that the application should be approved subject to conditions and subject to a Section 106 Legal Agreement.

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regards to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV4-Special Landscape Areas, ENV7-Water Resources, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV12-Woodland Management, ENV14-National Sites of Nature Conservation Importance, ENV15-Local Sites of Nature Conservation Significance, ENV16-Protected Species, ENV17-Protection of Built and Historic Environment, ENV18-Archaeological Field Evaluation, ENV19-Preservation of Archaeological Remains, ENV27-Design of New Developments, ENV28-Access for Disabled People, ENV29-Protection of Environmental Quality, EMP1-Land for Employment Uses, EMP2-New Business and Industrial Development, EMP3-General Industry, EMP4-Protection of Land for Employment Uses, TOUR1-New Hotels in the Countryside, TRAN9-Cycling Development, TRAN10-Parking, SHOP2-New and Improved Shopping Facilities, SHOP10-New Takeaway Outlets, SHOP12-New Retail Development Outside District Shopping Centres, REC12-Public Rights of Way and Recreational Routes, MIN3-Protection of Further Limestone Resources and Potential Resources of Sand and Gravel, and Strategic Policies 1 & 2-The Environment, 4-Additional Employment Land, 5-Business and Industrial Uses, 8-Transportation, 9 & 10-Shopping Facilities, and 12-Minerals of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011;

Supplementary Planning Guidance on Biodiversity and Development, Design in the Landscape, Sustainable Development, Trees and Development, Planning Obligations, and Public Art; and national guidance contained in Planning Policy Wales, TAN5-Nature Conservation and Planning, TAN10-Tree Preservation Orders, TAN11-Noise, TAN12-Design, TAN15-Development and Flood Risk, TAN16-Sport, Recreation and Open Space, TAN18-Transport, and TAN23-Economic Development; it is considered that sufficient evidence has been provided to justify the proposal in terms of the economic and social benefits of the development, which outweighs the identified harm to interests such as ecology, landscape, flood risk and the surrounding highway network, subject to appropriate conditions/obligations to mitigate and/or compensate for such effects.

### RECOMMENDATION

Subject to the relevant person(s) first entering into a Section 106 Legal Agreement or undertaking to include the following necessary planning obligations:

The developer shall:

- Pay a financial contribution of £550,000 to support diverting public transport services to the development site for 5 years;
- Provide a direct bus service from Barry (key transport interchanges) to the site using two buses for at least five years to be kept under review through the site specific travel plan monitoring;
- Procure a feasibility study of the route south from the site to the A48 via Pendoylan to identify traffic calming/road safety measures to mitigate the impact of additional traffic arising from the development, and thereafter implement the traffic calming/road safety measures identified;
- Provide public art on the site to the value of 1% of the development costs;
- Provide training and development scheme as follows in each phase:
  - Zone A – up to 33,909.61m<sup>2</sup> of B1, B2 and B8 employment uses - for at least 68 employees or alternatively pay the Council a contribution of £81,600 as an in lieu contribution.
  - Zone B – 92,903.04m<sup>2</sup> of B1, B2, B8 employment uses - for at least 186 employees or alternatively pay the Council a contribution of £223,200 as an in lieu contribution.
  - Zone C – 25,548.34m<sup>2</sup> of B1, B2, B8 employment uses including 1300m<sup>2</sup> of ancillary A1, A2 and A3 uses - for at least 51 employees or alternatively pay the Council a contribution of £61,200 as an in lieu contribution.
  - Zone D – 9,290.30m<sup>2</sup> comprising hotel/residential training centre Class C1/C2 use - for at least 19 employees or alternatively pay the Council a contribution of £22,800 as an in lieu contribution.

- Provide full details of a scheme of appropriate off-site ecology mitigation measures and a plan for implementation of such measures (including financial contributions where necessary) to secure them;
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the legal agreement. (£12,616.80 in this case).

APPROVE having regard to all the submitted environmental information in accordance with Section 3(2) of the Regulations and subject to the following condition(s):

1. Approval of the layout, scale, appearance, and landscaping of the development (hereinafter called `the reserved matters`) shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than whichever is the later of the following dates:

(a) The expiration of five years from the date of this permission.

(b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason:

The application was made for outline planning permission and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

5. This consent shall relate to the following plans and documents:-

- Environmental Statement and Technical Appendices, February 2014;
- Environmental Statement Non Technical Summary, February 2014;
- Planning Statement, February 2014;
- Statement of Community Engagement, February 2014;
- Design and Access Statement, February 2014;
- Application Boundary Plan, Dwg. No. RG 13 Rev B, February 2014;
- Parameters Plan with Land Use Budget Schedule, Dwg. No. RGL11 Rev P, dated 27 January 2014;
- Illustrative Concept Layout, Dwg. No. RG22, dated 17 January 2014;
- Landscape Strategy, Dwg. No. 20184 L18 Rev A, Figures 8.11a and 8.11b, February 2014;
- Tree Survey Report, dated 22 January 2013;
- Sustainability Appraisal V2, February 2014;
- Energy Strategy Rev C, dated January 2014;
- Site Waste Management Strategy Rev A, February 2014;
- Minerals Resources Assessment, dated September 2010;
- Foul Water and Utilities Statement Rev A, dated 21 January 2014;
- Transport Assessment Rev 5, February 2014;
- Travel Plan Rev 5, February 2014;
- Transport Implementation Strategy Rev 3, February 2014;
- Flood Consequences Assessment, dated January 2014;
- Phase 1 Geo-environmental Assessment, dated May 2012;
- Baseline Ground Conditions Report, dated May 2012;
- Ground and Hydrological Conditions Report, May 2012;
- Air Quality, February 2014;
- Noise Impact Assessment Surveys, January 2014;
- Photomontages Figures 8.10 A,B,C,D and E for Year 1 and Figures 8.10 A,B,C,D and E for year 15, date taken February 2014;
- Archaeological Evaluation Report, March 2014;
- Amended Ecological Mitigation Strategy V3, Appendix 9.14 of the submitted ES dated March 2015;
- Transport Assessment Addendum Rev 1, received 2 June 2015;
- Junction Improvements BMW/2024/001 revision P3 (appended to the TA Addendum), received 2 June 2015;

and the development shall be carried out strictly in accordance with these details.

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

6. The use of the hotel and training centre shall be restricted to those purposes only and shall not include any other purpose in Class C1 or C2 of the schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order.

Reason:

To control the precise nature of the use of the site in the interests of the protection of employment uses and sustainable development in accordance with Policies ENV1-Development in the Countryside and EMP4-Protection of Land for Employment Uses of the Unitary Development Plan.

7. Notwithstanding the submitted plans and documents further details of the precise nature, scale and location of the proposed ancillary uses within Class A1, A2, and A3, shall be submitted to and agreed in writing with the Local Planning Authority upon submission of the required detailed plans. The further information shall include a supporting statement clearly identifying how the use will be ancillary to, and serve the sustainability of the wider employment development site.

Reason:

To control the precise nature of the use of the site, which is not considered appropriate for general retail uses, and in the interests of the protection of employment uses, sustainable development, and established retail centres, in accordance with Policies ENV1-Development in the Countryside, EMP4-Protection of Land for Employment Uses and Strategic Policies 9 & 10-Retailing of the Unitary Development Plan.

8. No development shall commence on any part of development Area D (the hotel/training centre), until the approval and implementation of the development works within development Area A (expansion to Renishaw), as identified on the submitted Parameters Plan.

Reason:

To control the precise nature of the use of the site in the interests of the protection of employment uses and sustainable development in accordance with Policies ENV1-Development in the Countryside and EMP4-Protection of Land for Employment Uses of the Unitary Development Plan.

9. Works for the provision of the proposed Class A1, A2 and A3 uses, identified within development Area C of the Parameters Plan, shall only commence until at least 30,000 sqm of the industrial floor space, B1, B2, and or B8, has been completed.

Reason:

To control the precise nature of the use of the site, which is not considered appropriate for general retail uses, and in the interests of the protection of employment uses, sustainable development, and established retail centres, in accordance with Policies ENV1-Development in the Countryside, EMP4-Protection of Land for Employment Uses and Strategic Policies 9 & 10-Retailing of the Unitary Development Plan.

10. The development hereby permitted shall only be implemented in accordance with the amended Ecological Mitigation Strategy, dated March 2015, Appendix 9.14 to the Environmental Statement, which proposes an Ecological Mitigation and Management Plan (EMMP), which shall be submitted to and agreed in writing with the Local Planning Authority before the commencement of development.

Reason:

In the interests of European Protected Species and the enhancement of biodiversity in accordance with Policies ENV14-National Sites of Nature Conservation Importance, ENV15-Local Sites of Nature Conservation Significance and ENV16-Protected Species of the Unitary Development Plan, and TAN5-Nature Conservation and Planning.

11. No development shall take place until a scheme detailing how to conserve bat tree roost 1 as a functional maternity roost site for brown long-eared bat during construction works, and once the development is complete, is submitted to and agreed in writing with the Local Planning Authority. The submitted scheme shall include an assessment of the impacts upon the roost and mitigation measures and monitoring commitments where any impacts, direct or indirect, are identified. The development shall be implemented in accordance with the agreed scheme, with any change to operational, including management responsibilities, to be submitted to and approved in writing with the Local Planning Authority.

Reason:

In the interests of European Protected Species in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, and TAN5-Nature Conservation and Planning.

12. No development shall take place until a method statement has been submitted to and agreed in writing with the Local Planning Authority detailing how the potential impacts upon otters during the construction phase of the development will be avoided. The development shall be implemented in accordance with the agreed method statement.

Reason:

In the interests of European Protected Species in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, and TAN5-Nature Conservation and Planning.

13. No development shall take place until a lighting scheme, to ensure lighting measures do not conflict with bat use of the site, is submitted to and agreed in writing with the Local Planning Authority. The lighting scheme should be prepared in accordance with the principles set out in Section 4.7 of the amended Ecological Mitigation Strategy, March 2015, Appendix 9.14 to the Environmental Statement, and shall include appropriate siting and design of lights to ensure that the bat roosts and wildlife corridors as specified in Section 4.1 of this document are not illuminated; and measures to monitor lux levels. In addition the scheme should address construction activities and the operational phase of development, and include remedial action to be undertaken where problems are identified by monitoring. The development shall be implemented in accordance with the agreed scheme.

Reason:

In the interests of European Protected Species in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, and TAN5-Nature Conservation and Planning.

14. No development shall take place until a scheme for the provision and management of a 7m wide buffer zone alongside the Nant Coslech watercourse (diverted or otherwise) has been submitted to and agreed in writing with the Local Planning Authority. The buffer zone shall be free from built development including lighting and formal landscaping, and should form part of the proposed green infrastructure provision. The scheme shall include:-
- plans showing the extent and layout of the buffer zone;
  - details of any proposed planting scheme (for example, native species, local provenance);
  - a detailed management plan which should demonstrate how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management;
  - details of any footpaths and fencing; and
  - bioengineering techniques and watercourse design.
- The development shall be implemented in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason:

In the interests of ecology and the enhancement of biodiversity as land alongside watercourses is particularly valuable for wildlife and should be protected in accordance with Policies ENV14-National Sites of Nature Conservation Importance, ENV15-Local Sites of Nature Conservation Significance and ENV16-Protected Species of the Unitary Development Plan, and TAN5-Nature Conservation and Planning.

15. No development shall take place until a detailed method statement for removing or the long-term management/control of Japanese Knotweed and Himalayan Balsam on the site shall be submitted to and approved in writing with the Local Planning Authority. The method statement shall include measures that will be used to prevent the spread of Japanese Knotweed and Himalayan Balsam during any operations e.g. mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/root/stem of any invasive plant listed under the Wildlife and Countryside Act 1981, as amended. The development shall be implemented in accordance with the approved method statement.

#### Reasons

In the interests of the environment and to prevent the spread of Japanese Knotweed and Himalayan Balsam which are invasive species in accordance with Policies ENV29-Protection of Environmental Quality, Planning Policy Wales and to address Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

16. No development shall take place on any part of the built development areas identified on the Parameters Plan, apart from Area A proposed for the expansion of the existing Renishaw facility, until the implementation of the proposed off-site highway works identified in the Transport Assessment Addendum, including the amended Dwg. No. BMW/2024/001/P3, received 2 June 2015, and which shall include the following:-
- a detailed assessment of any road restraint system in accordance with TD19/06 of the Design Manual for Roads and Bridges (DMRB);
  - detailed design drawings and calculations prepared by a competent Geotechnical consultant in accordance with DMRB HD 22/08 Managing Geotechnical Risk; and
  - the submission, and implementation of any measures identified by a Safety Audit of the scheme (Stages 1-4) in accordance with the DMRB HD 19/15.

#### Reason:

In the interests of highway safety in accordance with ENV27-Design of New Developments of the Unitary Development Plan and TAN18-Transport.

17. A Construction Management Plan, which shall include details of the proposed haul route, site delivery times, and wheel washing facilities (within the site), shall be submitted to and approved in writing by the Local Planning Authority. The construction works, deliveries and wheel washing shall be carried out in accordance with the approved details.

#### Reason:

In the interest of highway safety and to maintain the effective operation of the strategic and local highway network, in accordance with Policy ENV27-Design of New Developments of the Unitary Development Plan and TAN18-Transport.



18. Any reserved matters application relating to the layout of the development shall provide full details of delivery/loading areas, turning facilities, footway links, and bus stops, and shall include a statement explaining how these link to wider development area and accord with the principles for Movement and Access as outlined in the approved Design and Access Statement.

Reason:

In the interests of highway safety and sustainable development in accordance with Strategic Policies 2-The Environment and 8-Transportation and ENV27-Design of New Developments of the Unitary Development Plan, and TAN18-Transport.

19. The development hereby permitted shall operate in accordance with the principles set out in the Travel Plan BMW2024 TP revision 5 dated 13 February 2014 (or subsequent revisions to that Travel Plan approved by the Local Planning Authority), which shall include the following provisions:-

- no development (excluding earthworks and highways works) shall commence until a Site Travel Plan Co-ordinator (TPC) for that phase has been appointed and the post shall remain for a period of five years after the completion of construction of the development. The TPC shall perform the role outlined within Section 9 of the Travel Plan (or subsequent revisions to that Travel Plan approved by the Local Planning Authority); and
- no occupation of an individual Reserved Matters unit can commence until a Travel Plan Manager has been appointed in accordance with Section 9 of the Travel Plan BMW2024 TP revision 5 dated 13 February 2014 (or subsequent revisions to that Travel Plan approved by the Local Planning Authority).

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Strategic Policies 2-The Environment and 8-Transportation and ENV27-Design of New Developments of the Unitary Development Plan, and TAN18-Transport.

20. The proposed on-site car parking provision, details of which shall be provided with the reserved matters submission, shall be in accordance with the CSS Wales Parking Standards - Zone 6, and shall include provision for cycle parking facilities/areas.

Reason:

To ensure satisfactory on site car/cycle parking in the interests of highway safety and sustainable development in accordance with Policy ENV27-Design of New Development of the Unitary Development Plan and TAN18-Transport.

21. The development hereby permitted shall only be implemented in accordance with the approved Flood Consequences Assessment (FCA) submitted by BWB ref: BMW/2024/FCA/REVA, dated January 2014 and the following mitigation measures detailed within the FCA:-
1. Ground levels for Development Area 1 must be set at: 29.08m AOD; and
  2. Ground levels for Development Area 2 must be set at: 28.39m AOD.

Reason:

To reduce the impact of flooding on the proposed development and future occupants in accordance with Policy ENV7-Water Resources of the Unitary Development Plan and TAN15-Development and Flood Risk.

22. Before commencement of the development a surface water management plan, which shall demonstrate how surface water will be managed appropriately at the site, shall be submitted to and agreed in writing with the Local Planning Authority. The development shall be implemented thereafter in accordance with the approved plan.

Reason

To ensure flood risk is not increased elsewhere in accordance with Policy ENV7-Water Resources of the Unitary Development Plan and TAN15-Development and Flood Risk.

23. Full details of a scheme for the comprehensive and integrated drainage of the site shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include details of how full water, surface water and land drainage will be dealt with, along with the details of any culverting of a watercourse that crosses the site, and how the existing flows along this watercourse will be maintained. No part of the development hereby permitted shall be occupied until the agreed drainage scheme has been implemented.

Reason:

To ensure the effective drainage of the site in the interests of public health and the environment in accordance with Policy ENV29-Protection of Environmental Quality of the Unitary Development Plan.

24. The development hereby permitted shall be implemented in accordance with the mitigation measures for noise, vibration, air quality, light and contaminated land, as outlined in the Environmental Statement.

Reason:

To control any potential pollution of the site in the interests of the protection of the environment and public health and safety in accordance with Policies ENV27-Design of New Developments and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

25. The reserved matters application(s) shall provide full details of the finished levels of the site and proposed floor levels of buildings, including cross-sections, in relation to existing ground levels, including adjacent levels for any separate part of the wider development site. The development shall be implemented thereafter in accordance with the agreed details.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside, including the Ely Valley and Ridge Slopes Special Landscape Area, in accordance with Policies ENV4-Special Landscape Areas, ENV11-Protection of Landscape Features and ENV27-Design of New Developments of the Unitary Development Plan.

26. The reserved matters application(s) shall provide full details of all means of enclosure associated with the development hereby approved, and the means of enclosure shall be implemented in accordance with the approved details prior to the first beneficial occupation of that particular element of the development.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside, including the Ely Valley and Ridge Slopes Special Landscape Area, in accordance with Policies ENV4-Special Landscape Areas, ENV11-Protection of Landscape Features and ENV27-Design of New Developments of the Unitary Development Plan.

27. Any reserved matters application relating to the appearance, scale and layout of the development shall include a statement providing an explanation as to how the design of the that proposed phase of development has had regard to the Design and Access Statement submitted with this planning application including the consideration of how the design of buildings and spaces around them, has integrated the principles of public art within their design and materials proposed.

Reason:

To ensure the provision of public art in the interests of quality design and enhancement of public places in accordance with Policy ENV27-Design of New Developments of the unitary Development Plan and Supplementary Planning Guidance on Public Art.

28. The reserved matters application(s) shall have full regard to Chapter 8 of the Environmental Statement on Landscape and Visual Effects, including the Landscape Strategy plans, Figures 8.11a and 8.11b.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside, including the Ely Valley and Ridge Slopes Special Landscape Area, in accordance with Policies ENV4-Special Landscape Areas, ENV11-Protection of Landscape Features and ENV27-Design of New Developments of the Unitary Development Plan.

29. The reserved matters application(s) shall include details of the provision of incidental public open space to serve each of the separate development areas. The areas of open space shall be of a sufficient size, and be appropriately located in order to provide for use by employees of the development site for sitting out, lunch breaks, etc.

Reason:

To ensure adequate level of public open space to serve the development in accordance with TAN16-Sport, Recreation and Open Space.

30. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall be submitted by the applicant and approved in writing by the Local Planning Authority and the programme and scheme shall be fully implemented as defined in the approved details.

Reason:

In order that archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied and to ensure compliance with Policies ENV18-Archaeological Field Evaluation and ENV19-Preservation of Archaeological remains of the Unitary Development Plan.

31. Six months prior to commencement of each reserved matters phase, full details of a Labour Recruitment Strategy for that phase, to include measures aimed at facilitating best available access for local people to the opportunities for employment arising from the construction and operation of the development, shall have been submitted to the Local Planning Authority for approval. The Strategy, which shall include a timetable for its implementation, shall thereafter be implemented as approved.

Reason:

To ensure that the developer undertakes best endeavours to facilitate best available access for local people to the opportunities for employment arising from the construction and operation of the development in accordance with Strategic policies 4 & 5-Economic Development and EMP1-Land for Employment Uses of the Unitary Development Plan and TAN23-Economic Development.

**NOTE:**

1. In accordance with Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the Local Planning Authority took into account all environmental information submitted with this application.
2. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.
3. The applicants are reminded of the requirement for compliance in full with the conditions imposed upon the outline planning permission.
4. The developer should be aware that the off-site highway works conditioned in this outline permission will require an Agreement with Welsh Ministers under Section 278 of the Highways Act 1980 to enable the developer to undertake DMRB compliant improvement works on the trunk road. The agreement will contain details of the improvement works, construction conditions and financial arrangements under which agreed measures can be put in place, including indemnifying the Welsh Ministers against third party claims. The developer should refer to the Welsh Government Transport Division letter of 26 June 2015 for information on their full requirements and the developers responsibilities/liabilities.
5. Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.
6. You will note that a condition has been attached to this consent and refers to the requirement for a programme of archaeological work to be agreed and undertaken prior to the commencement of any work on site. You may wish to contact the Glamorgan-Gwent Archaeological Trust, at Heathfield House, Heathfield, Swansea, SA1 6EL. Tel: (01792 655208) for advise on complying with the above condition.
7. The attention of the applicant is brought to the fact that a public right of way may be affected by the proposal. The grant of planning permission does not entitle one to obstruct, stop or divert a public right of way. Development, in so far as it affects a right of way, must not be commenced until the necessary legal procedures have been completed and confirmed for the diversion or extinguishment of the right of way.

8. **The attention of the applicant is drawn to the fact that a 750mm combined public sewer, and 500mm trunk/distribution watermain, run through the site and may be affected by the development. You should contact Dwr Cymru/Welsh Water' Developer Services for further details on 0800 917 2652.**
9. **Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their 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. You should therefore contact the DCWW Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Please note that under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.**
10. **The applicants are advised that all necessary consents / licences must be obtained from Natural Resources Wales (formerly Environment Agency Wales) prior to commencing any site works. The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
11. **Please note that the site is subject to a Tree Preservation Order and therefore if at any time you wish to undertake development which constitutes Permitted Development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) you should contact the Directorate of Environmental and Economic Regeneration. Works constituting Permitted Development affecting trees covered by a Tree Preservation Order, whether branches, roots or its trunk require consent under Tree Preservation Order legislation. Similarly consent is required for works to Tree Preservation Order trees in general including lopping, topping and felling.**
12. **The developer is reminded of the responsibilities associated with working adjacent to the neighbouring railway line and Network Rail's land. In order to mitigate the risks involved the developer is advised to contact Network Rail's Asset Protection Wales Team on [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk).**
13. **The developer is recommended to consider the advice of South Wales Police and their Secured by Design (SBD) initiative in the preparation of detailed plans for the site.**

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**





**2014/00916/FUL** Received on 29 July 2014

Mr. Huw Llewellyn, 17, Maywood, Brynna, Pontyclun, Rhondda Cynon Taff,  
CF71 9PZ  
Fidmac Limited, Rosevine Cottage, Vistla Road, Penllyn, Vale of Glamorgan,  
CF71 1RQ

### **Land adjacent to Great House Farm Bungalow, Penllyn**

Demolition of a portal frame farm building and two outbuildings, construction of a new dwelling, construction of covered car parking areas to serve the existing bungalow and new dwelling, formation of new curtilages for the two dwellings, repair and construction of associated boundary walls and accompanying hard and soft landscaping schemes

### **SITE AND CONTEXT**

The application site comprises part of an existing farm yard at Great House Farm which lies on the western side of the village of Penllyn. The land forms part of a larger agricultural tenancy comprising 53 ha of farm land. The site is currently occupied by an existing dwellinghouse, 'Great House Farm Bungalow', and a number of agricultural outbuildings.

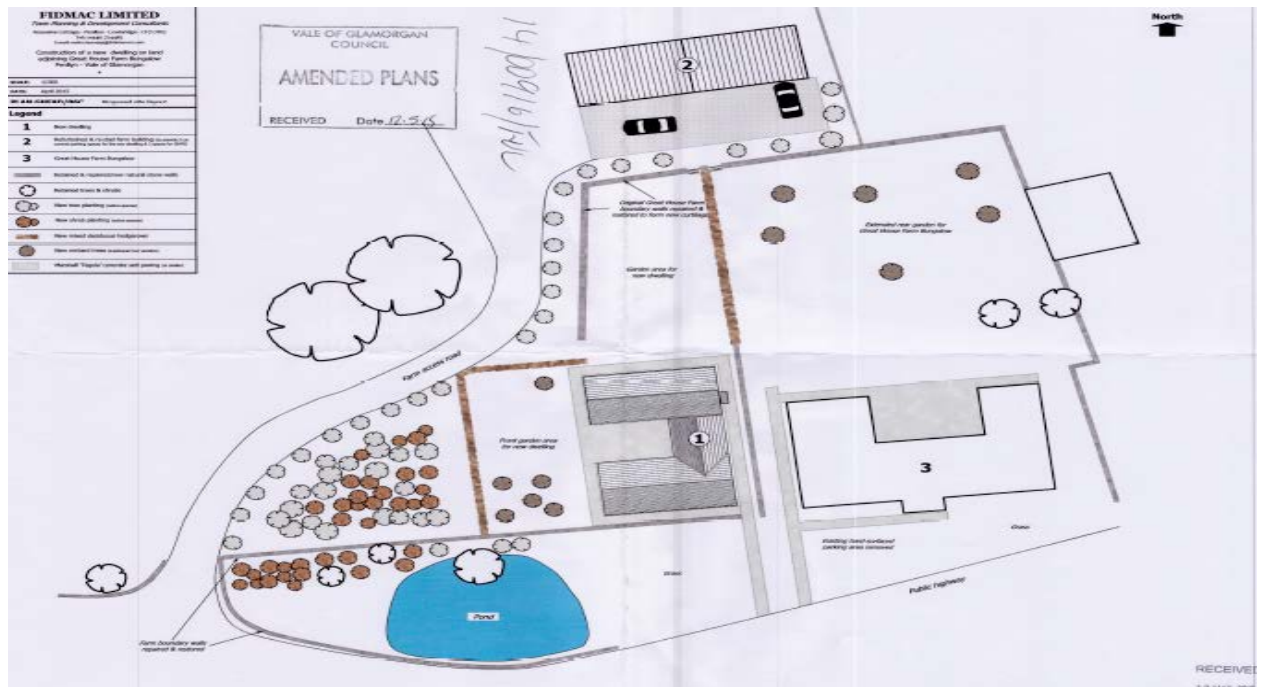
Part of the site, which includes the existing dwelling, lies within the residential settlement boundary for Penllyn as defined in the Unitary Development Plan. The remainder lies outside of the settlement boundary and within the countryside. The site lies outside of the Upper Thaw Valley Special Landscape Area which lies approximately 44m to the east. In addition Great House Farm, which lies immediately to the east of the site, is a Grade II listed building. There is a public footpath that runs to the north of the wider farm yard, Public Right of Way No. 24, Penllyn.

### **DESCRIPTION OF DEVELOPMENT**

This is an application for full planning permission for the construction of a new dwelling. The proposal entails the following works:-

- Demolition of existing outbuildings, including, a fibre-cement sheeting, portal frame livestock and farm equipment shed; a block and stone domestic outbuilding; and a lean-to wooden structure.
- Construction of a part single, part two storey pitched roof four bed dwelling. The proposed new dwelling will be sited roughly in line with and approximately 5m to the west of the existing bungalow. The building will have a 'U' shaped footprint, comprising a full height two storey to the north of approximately 5.2m x 10.1m, to a ridge height of 6.2m; a lower two storey to the south approximately 5.8m x 10.1m, to a ridge height of 5.9m; and a central single storey link of approximately 4.1m x 4.15m, to a ridge height of approximately 3.9m. The external finishes will be a mix of render and stone with Redland Cambrian reconstituted slate.

- The refurbishment and re-cladding of an existing agricultural outbuilding to the north to provide a total of six covered parking bays, three each for the existing and proposed dwelling. This will be accessed via the existing farm access road which has its entrance off the adopted highway to the west of the application site.
- Other works include, the repair/restoration of original boundary walls and the planting of new hedgerow to enclose a residential curtilage for the proposed new house and an extended curtilage for the existing.



The application is accompanied by a Design and Access Statement, which includes a Bat and Owl Survey, a Tree Survey, and supporting justification for the new dwelling.

## PLANNING HISTORY

There is a considerable history of applications relating to Great House Farm, and associated land which includes:-

1986/00176/FUL - Form a new vehicular access into Great House Farm house - Approved 4 April 1986.

1986/00300/FUL - Convert old bakehouse into a private dwelling - Refused 14 October 1986 on the grounds of the insufficient regard to the character of the existing building; unnecessary demolition of part of the building; and detrimental to the setting of Great House Farm.

1986/00408/FUL - Erect detached house and garage - Approved 22 July 1986 subject to conditions including amended plans and retention of stile.

1986/01047/FUL - Convert old bakehouse to dwelling - Refused 27 January 1987 on similar grounds to above. A subsequent appeal was dismissed on 26 January 1988 on the grounds that the development is tantamount to a new dwelling.

1988/00320/FUL - Conversion of existing building to a single storey dwelling - Approved subject to conditions 12 May 1988.

1989/01431/FUL - Renovation and alterations to existing house, including new vehicular access and garage - Approved 19 January 1990 subject to conditions including amended plans; omission of glazing from porch; on-site turning space; samples of materials with lime based render to match; and incidental use of garage/store.

1989/01432/LBC - Refurbish existing building & demolish part of rear utility room, plus vehicular access and detached garage - Approved 28 February 1990 subject to conditions in line with planning permission.

1991/01280/FUL - Change of use of three redundant agricultural buildings to three dwellings - Approved 14 April 1992 subject to conditions including, details of landscaping; details of enclosure; details of access; details of door/window treatment; no additional windows on rear; and removal of pd for extensions and outbuildings.

1992/00134/FUL – New farm buildings - Approved 14 April 1992 subject to conditions, including details of slurry store, ramp and cesspool; details of enclosure and replacement of removed trees.

1992/00603/FUL - Amended plan for new farm building (92/00134/FUL refers) - Approved 17 July 1992 subject to conditions including details of slurry store; and archaeological watching brief.

1993/00393/OUT - Erection of two dwellings within yard area - Approved 28 September 1993 subject to standard outline conditions; details of levels; access and stone walls to be constructed before use; window distances; and timing of planting.

1993/00708/FUL - Proposed barn conversion to two dwellings - Approved 2 September 1993 subject to conditions including stone walls and access in accordance with approved details; details of window/doors; details of landscaping; no additional windows in rear elevation; and removal of pd for extensions and outbuildings.

1993/01115/OUT - Erection of 3 dwellings - Approved 1 February 1994 subject to similar conditions as 1993/00393/OUT above.

1994/00537/RES - Detached dwelling including integral garage, Plot 1 - Approved subject to conditions 18 October 1994.

1994/00842/FUL - Construction of new dwellinghouse, Plot 3 - Approved subject to conditions 25 November 1994.

1994/00973/RES - Construction of traditional 2 storey house with integral garage, Plot 2 - Approved subject to conditions 10 January 1995.

1994/01056/FUL - Change of use to garden to be associated with and part of Plot 2 - Approved 10 January 1995 subject to conditions including details of stone wall/hedgerow enclosure and landscaping.

1996/00677/FUL - Mono pitched 4 bay cattle rearing shed - Approved subject to conditions 21 October 1996.

## CONSULTATIONS

**Penllyn Community Council** – No objections.

**Natural Resources Wales** – Welcome the bat survey undertaken by Rob Colley dated June 2014 and the mitigation and compensation measures for bats identified in Appendix 8 of the Design and Access Statement, and suggest that the Council's ecologist is consulted.

**Dwr Cymru/Welsh Water** – Have requested that their standard Conditions and Advisory Notes be attached to any consent. These relate to foul, surface and land drainage, and connection and location of public sewers.

**Glamorgan Gwent Archaeological Trust** – The Historic Environment Record notes Great House Farm as dating from the 18<sup>th</sup> century. The ranges of outbuildings have developed since then and it is our opinion that there are no recorded archaeological features present within the application area, and we consider it unlikely that significant archaeological remains will be uncovered during the groundwork. Therefore it is their opinion that the works are unlikely to cause an adverse impact to the historic environment and therefore no archaeological mitigation is required. However it should be noted that the record is not definitive and that if archaeological features are encountered during the course of work the Trust should be contacted for further guidance.

**The Council's Ecology Officer** – The Design and Access statement contains a bat and barn owl survey (Appendix 6) which did not find bats in the application buildings, but there is a bat roost in the adjacent Great House Farm Bungalow. However, it is my opinion that this roost will **not** be affected by the application and therefore, I do not see any reason for NRW to be consulted, nor bats considered further in this application.

**The Council's Highway Development Team** – “Further to reviewing the above, visibility splays of 2.0 x 43m from the proposed means of access along the adjacent highway are required to be shown on the proposed site layout plan and submitted for consideration.”

## REPRESENTATIONS

The occupiers of neighbouring properties were initially notified on 4 August 2014 and re-notified of amended plans on 18 May 2015. In addition the application was advertised on site and in the press on 6 and 21 August 2014. No representations have been received to date.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

- POLICIES 1 & 2 - THE ENVIRONMENT.
- POLICY 3 - HOUSING.
- POLICY 8 - TRANSPORTATION.

#### *Policy:*

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE.  
ENV2 - AGRICULTURAL LAND.  
ENV4 - SPECIAL LANDSCAPE AREAS.  
ENV8 - SMALL SCALE RURAL CONVERSIONS.  
ENV10 - CONSERVATION OF THE COUNTRYSIDE.  
ENV11 - PROTECTION OF LANDSCAPE FEATURES.  
ENV16 - PROTECTED SPECIES.  
ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT.  
ENV18 - ARCHAEOLOGICAL FIELD EVALUATION.  
ENV27 - DESIGN OF NEW DEVELOPMENTS.  
ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY.

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT.  
HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA - POLICY HOUS 2 SETTLEMENTS.  
TRAN10 - PARKING.

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, Chapter 2 of Planning Policy Wales Edition 7, 2014 (PPW) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).’*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales Edition 7, July 2014 (PPW) is of relevance to the determination of this application, in particular, Chapter 4-Planning for Sustainability, including paragraphs 4.1.1, 4.4.3, and 4.11-Promoting sustainability through good design; Chapter 5-Conserving and Improving Natural heritage and the Coast, including paragraph 5.5.1; Chapter 6-Conserving the Historic Environment, including paragraph 6.5.9; and Chapter 9-Housing, including paragraphs 9.2.22, 9.3.1, 9.3.2 and 9.3.6.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- TAN 6-Planning for Sustainable Rural Communities, including paragraph 2.1.1.
- TAN5-Nature Conservation and Planning.
- TAN 12-Design, including paragraph 2.6, 4.3, 4.5 and 5.11.3, which states:-

*“The design of housing layouts and built form should reflect local context, including topography and building fabric. Response to context should not be confined to architectural finishes. The important contribution that can be made to local character by contemporary design, appropriate to context, should be acknowledged. To help integrate old and new development and reinforce hierarchy between spaces consideration should be given to retaining existing landmarks, established routes, mature trees and hedgerows within housing areas as well as introducing new planting appropriate to the area.”*

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Design in the Landscape, including DG13 which refers to Rural Settlements.
- Amenity Standards
- Trees and Development
- Conversion of Rural Buildings
- Biodiversity and Development
- Sustainable Development

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the ‘Alternative Sites’ public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April/May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales Edition 7 July, 2014 (PPW) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Housing Supply Background Paper (2013) in particular paragraph 3.1.
- Sustainable Settlements Appraisal Review (2013).

**Other relevant evidence or policy guidance:**

Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended by Circular 1/98-Planning and the Historic Environment: Directions).

Issues

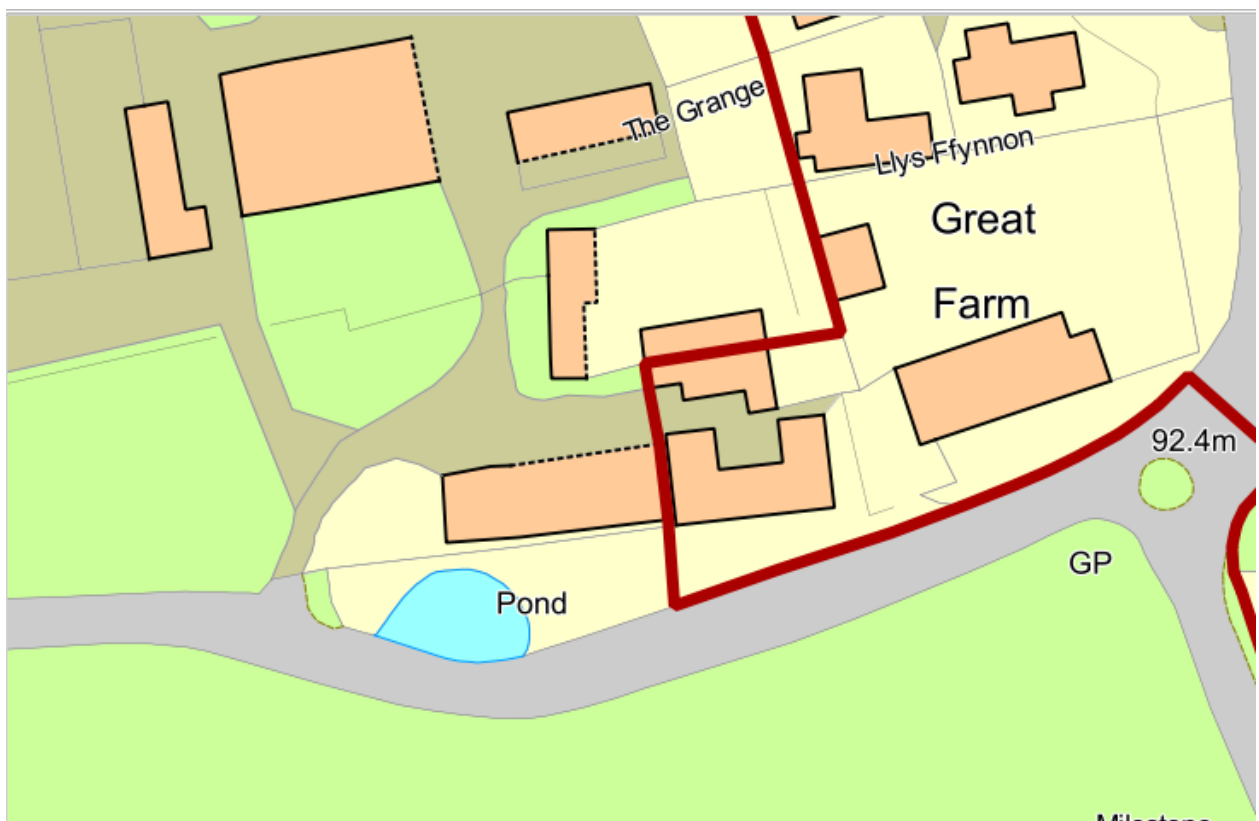
In assessing the proposal against the above policies and guidance it is considered that the principal issues relate to the impact the proposal will have on the character and appearance of the area, including the nearby listed building; the effect on neighbouring and general residential amenities; and highway safety, all bearing in mind the justification for a new dwelling in this location.

Justification and Background

It will be noted from the planning history that there have been previous applications for the residential development of parts of the original farmyard and associated land, including new housing to the north and the residential conversion of Great House Farm Bungalow which forms part of the current application site.



The current application is supported by a Design and Access Statement which makes the case that the site is a suitable “rounding off” of the village of Penllyn under Policy HOUS2 of the UDP. Policy HOUS2 does identify Penllyn as a rural settlement that may be capable of infill and small scale “rounding off” development. “Rounding off” is defined in the supporting text at paragraph 4.4.63 as development which constitutes no more than five dwellings and a site that lies within or immediately adjacent to the settlement boundary and conforms to a logical site boundary. All site boundaries should be existing man made or natural physical features and not arbitrary lines drawn to define the proposed plot size. As the DAS points out the application site is both within and immediately adjacent to the settlement boundary for Penllyn. In addition the site has clearly defined boundaries including man-made features such as walls and the agricultural access road to the north and west. A proposed new hedgerow would define the western boundary replacing the existing agricultural shed.



The DAS also provides background information as to the need for the dwelling relating to the existing and future enterprise of the applicant. Section B of the DAS explains that the scheme is to provide a self-build home for the applicant and his family. The applicant's father has farmed 53ha of land in the area for the past twenty years under a tenancy with the Penllyn Estate. This included the farm yard and associated buildings and the Great House Farm Bungalow which was occupied as part of the agreement by the applicant's grandmother until her recent death.

That will now change with the Penllyn Estate reclaiming the occupancy of 24ha of land, including the yard, and the bungalow, which is not subject to an agricultural occupancy condition, and, as such, will be sold on the open market at a price that would be beyond the means of the applicant. The applicant's father has obtained freehold ownership of 14ha of land and has a separate parcel of 12ha at Newton Moor. In addition the applicant has a twenty five year tenancy with Penllyn Estate of 15ha of farmland which it is intended the applicant would manage in conjunction with his father's holding, in total 41ha. Information on the intended stocking and future management of the 41ha of agricultural land is provided in Appendix 2 of the DAS.

In addition to managing the agricultural holding the DAS identifies that the principal occupation of the applicant will continue to be as a rural craftsman working in the locality and specialising in stone masonry, hard landscaping and traditional joinery/wood-working. The enterprise is well established and has a long term tenancy of a workshop and store within the farmyard approximately 50m from the application site. Again further details of this enterprise are provided at Appendix 2 of the DAS.

Notwithstanding the above information, the DAS makes clear that the application is not seeking the development of a rural enterprise dwelling as it is not considered there is sufficient agricultural justification as specified in national guidance contained in TAN6-Planning for Sustainable Rural Communities. However, it does make the case that living close to the agricultural land and workshop would overcome the current difficulties of management with a residence over 10km away, and would be entirely consistent with the principles of sustainability as outlined in section 3.1 of TAN6. The DAS notes that the Penllyn Estate recognises this and has agreed to sell the freehold ownership of the land for the construction of the new dwelling.

It is considered that the issue of sustainability is relevant to the determination of the application. Strategic Policies 2 and 8 of the UDP are in line with national guidance which states at paragraph 9.2.22 of PPW:-

*"In planning for **housing in rural areas** it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. There should be a choice of housing, recognising the housing needs of all, including those in need of affordable or special needs provision. In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled."*

Notwithstanding the above, the villages identified in policy HOUS2 were chosen because they were considered to have sufficient physical form and capacity to assimilate further development without having a detrimental impact on existing character and environment. Not all would now be considered sustainable under recent national guidance and the emerging Local Development Plan (LDP). Although Section 38 of The Planning and Compulsory Purchase Act 2004, requires that the Council determine an application in accordance with the development plan, nevertheless, as identified above, paragraph 2.6.2 of PPW notes that weight can be given to certain policies of the emerging LDP, with national policy being a material consideration in these circumstances. As such it is considered that in terms of the sustainability of the site the emerging LDP carries considerable weight being more closely aligned to recent national guidance contained in PPW. Chapter 4 of PPW relates to sustainable development and notes at paragraph 4.1.1 that the goal of sustainable development is to *“enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations.”* Some of the principles underpinning the approach to sustainable development in planning are identified at paragraph 4.4.3, and include:-

- promotion of resource-efficient and climate change resilient settlement patterns that minimise land-take and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings, and wherever possible avoiding development on greenfield sites; and
- the location of developments so as to minimise the demand for travel, especially by private car.

It will be noted from the LDP background paper Sustainable Settlements Appraisal Review (2013), that Penllyn is ranked 41 out of 87 settlements, and is categorised as one of twenty four ‘Sustainable Rural Settlements’. These are settlements that contain important services and facilities, and although they contain a more limited range of services and facilities compared to the major settlements, they help to meet local needs within rural areas and reduce the need to travel.

*“In this respect they have an important functional role to play in sustainable rural communities.”*

A further consideration in the assessment of this application relates to the possible loss of agricultural land, with policy ENV2 of the UDP seeking to protect the most versatile agricultural land (Grades 1, 2 and 3A) from irreversible development. This is in line with national guidance with paragraph 4.10.1 of PPW noting that the best and most versatile agricultural land should be conserved as a finite resource for the future, stating:-

*“...considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable...”*

The Council's Agricultural Land Classification records show the land is classified as Grade 2. Despite this, as the DAS identifies, the area involved comprises a relatively small paddock and redundant agricultural buildings. It is recognised that the area forms part of the original farmyard that lies closest to the surrounding residential properties. Indeed the DAS notes that part of the paddock has been used as a domestic garden since 1989. As for the loss of the buildings themselves, the DAS notes that there are other agricultural buildings available on the holding, including a new building to the west of the site agreed under an agricultural prior notification, reference 2014/00244/PNA. As such it is considered that the loss of the land and buildings should not adversely affect the viability of the wider agricultural operations, and therefore would not justify a refusal on this issue alone.

Thus in view of the above it is considered that the principle of a new dwelling in this location could represent an appropriate "rounding off" under policy HOUS2, particularly bearing in mind its sustainable location and paragraph 9.3.2 of PPW which suggests that minor extensions to groups of housing may be acceptable. However as both local and national guidance indicate, much depends on the character of the surroundings, with the requirement in HOUS2 for development proposals to show that they are consistent with the provisions of policy HOUS8 and particularly criterion (i). This critical element in the acceptability of the scheme is explored in detail below.

### Design and Visual Impact

Criterion (i) of Policy HOUS8 of the UDP requires that the scale form and character of the proposed development should be sympathetic to the environs of the site, whilst criterion (iii) refers to it not having an unacceptable impact on certain issues, including attractive landscape and areas of historical importance. In addition policy DG13 of the Design in the Landscape SPG refers to Rural Settlements and outlines a number of aims for development in such areas, which include the reduction, and wherever feasible, the reversal of the erosion of locally distinct rural character which results in suburbanisation. These policies still reflect current national guidance which recognises at paragraph 5.1.1 of PPW the importance of the natural heritage of Wales both for its own sake and for the health and the social and economic wellbeing of individuals and communities. As already noted PPW acknowledges that extensions to existing groups of houses in the countryside may be acceptable, but this is dependent on the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages, which has already been addressed above. Paragraph 9.3.1 requires that new housing should be well integrated with and connected to the existing pattern of settlements, with the expansion of towns and villages avoiding the creation of ribbon development, the coalescence of settlements or a fragmented development pattern.

The submitted DAS seeks to address the issue of the visual impact and the potential urbanisation of this edge of village location. The DAS refers to the site having no “special” designation and offers three examples of other development that has been allowed, and where the visual impact is considered to be greater than the current application site. Notwithstanding the planning principle that each application must be determined on its own particular circumstances, it is considered that the examples quoted have no relevance to the current application site. Not only are they in widely differing locations, but they also relate to different types of development, including extensions to, and replacement of, existing dwellings in open countryside locations. It is considered that although the current application site does not lie within the nearby Upper Thaw Valley Special Landscape Area, nor is it included within the listing for the Grade II listed Great House Farm, nevertheless, it is a sensitive location within this context and on the edge of the village. Policy ENV17 of the UDP relates to the Protection of Built and Historic Environment and does not permit development that has a detrimental effect on the special character, appearance or setting of, amongst a list of items, a listed building. In addition recent case law indicates that the likely impact of the development on the setting of a listed building requires special consideration, and carries substantial weight in the determination of the application. Paragraph 6.5.9 of PPW notes that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

The initial scheme for the development of the site envisaged the creation of a new access to serve both the existing and proposed new dwelling. The dwelling itself envisaged a single storey element on the southern frontage of the site and a larger, full height two storey section towards the rear, with a ridge height of 7.5m. The Council’s Conservation Officer raised a number of concerns over the proposal’s impact on the setting of the listed building and the wider village context. It was suggested that the proposed development would not respect the building hierarchy and character of development in the area. In particular it was considered that the introduction of the large new access would be a significant alteration to the current layout that reflects its traditional agrarian use, to the extent that it would adversely affect the character of the area, and by extension the setting of the listed building. Similar concerns were raised in relation to the two storey element of the scheme. The principal building in the area is Great House Farm which shares a clear hierarchy with the neighbouring buildings reducing in scale away from the listed building. On that basis concerns were expressed that the proposed height of the two storey building would adversely affect this hierarchy and appear as an intrusive feature.

Following extensive negotiations an amended scheme has been submitted which has omitted the proposed new access onto the adopted highway to the southern frontage of the site and revised the profile and height of the different roof sections to the proposed dwelling. The Council's Conservation Officer has confirmed that these changes have overcome the original concerns. The omission of the new driveway and the use of the existing agricultural access road to provide parking to the north within a converted agricultural barn should serve to better reflect the traditional characteristics of the original farm and minimise the suburbanising effect on this edge of village location. The changes to the proposed dwelling itself are considered sufficient to reduce the overall scale of the building and thereby minimise the effect on the hierarchy of buildings in the area and the setting of the listed building.

The revised layout should also serve to minimise the impact on the landscape. The proposal shows the removal of some trees, including a mature Sycamore on the frontage of the site to the road. This is an attractive tree that has an amenity value in the wider landscape. However, the submitted tree survey indicates that it has significant defects and would require felling even without the proposed development. The omission of the new access on the frontage to the south will allow for replacement planting in a similar area as there will be no requirement to maintain visibility splays for the purposes of highway safety.

It is acknowledged that the proposal entails the extension of the residential curtilage for the existing bungalow to the north into an existing grass paddock. This is to a logical stone boundary wall which, along with other existing walls, will be retained and repaired. The remaining boundary treatment will entail the planting of new hedgerows, which on the external boundaries should be a mix of native species. Such an approach should serve to maintain the character of the area.

Thus it is considered that the amended proposal should not detract from the setting of the nearby listed Great House Farm, nor cause any significant harm to the character and appearance of wider village and the surrounding rural landscape, including the Upper Thaw Valley Special Landscape Area.

#### Neighbouring and residential amenity

On the issue of neighbouring impact it is noted that the nearest residential property is the Great House Farm Bungalow which forms part of the application site. In relation to privacy the proposal shows three window openings and a roof light on the east elevation facing the existing dwelling. One of these is to a ground floor living room and can be appropriately screened. The one at first floor is to a store room within the roof of the front section of the proposed dwelling. This could allow for views over the rear garden of the existing bungalow, however, due to its position these would be oblique and should not have a significant adverse impact on levels of privacy.

On the issue of any overshadowing or overbearing impact, the proposal will introduce a two storey structure to the west of the existing bungalow. As such there will be some element of overshadowing of the rear garden area. However, this will be limited with the gable elevation facing the neighbour. In addition the existing bungalow will be compensated by the creation of a larger and more useable rear garden.

As regards the provision of private amenity space for both the proposed new dwelling and the existing, it has already been noted that the proposal will increase the available private amenity space to serve the existing bungalow. The proposed new dwelling will be provided with a garden area to the west and a further section to the north. In total this will provide for more than the Council's minimum requirement as outlined in the Amenity Standards SPG.

### Highways

On the highway issues, as already noted, the amended scheme no longer proposes the creation of a new vehicular access onto the adopted road to the south. This has been omitted to improve the acceptability of the scheme in relation to the visual impact and not on any highway safety grounds. Indeed the Council's Highway Development team were consulted on the original proposal but no comments were provided at that time. However, highway comments have been submitted in respect of the amended scheme and these have requested that visibility splays of 2m x 43m from the proposed means of access along the adjacent highway are shown on the proposed site layout plan and submitted for consideration. In planning terms it is not considered reasonable or necessary to require this, primarily because the access is an existing and long established one that already safely serves a range of agricultural buildings.

As regards the proposed car parking provision, three spaces for each of the two dwellings will be provided within a converted agricultural building to the north of the site. This is sufficient to serve both the existing and proposed dwelling. The proposed layout shows the removal of the existing hard surfaced parking area to the front of Great House Farm Bungalow. This represents some improvement in highway safety terms as cars would no longer need to reverse out into the highway. It also represents a visual improvement within the wider landscape setting.

### Other issues

On the ecological issues both the Council's Ecologist and Natural Resources Wales have indicated that they have no objections to the proposal. NRW welcome the bat survey undertaken by Rob Colley dated June 2014 and the mitigation and compensation measures for bats identified in Appendix 8 of the DAS. The Council's Ecology Officer has noted the findings of the bat and barn owl survey. It is acknowledged that there is a bat roost in the Great House Farm Bungalow but the Ecologist does not believe this will be affected by the proposal.

The Council's archaeological advisors Glamorgan Gwent Archaeological Trust have examined whether there are any archaeological constraints on the land. Although the Historic Environment Record notes that Great House Farm dates from the 18<sup>th</sup> century, they recognise that a range of outbuildings have developed since then and it is their opinion that there are no recorded archaeological features present within the application area. It is also considered unlikely that significant archaeological remains will be uncovered during the groundwork. As such the works are unlikely to cause an adverse impact to the historic environment and therefore no archaeological mitigation is required.

Finally on the issue of drainage it is noted that Welsh Water have requested that their standard Conditions and Advisory Notes be attached to any consent. These relate to foul, surface and land drainage, and connection and location of public sewers.

In view of the above the following recommendation is made.

### CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regards to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV4-Special Landscape Areas, ENV8-Small Scale Rural Conversions, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV16-Protected Species, ENV17-Protection of Built and Historic Environment, ENV18-Archaeological Field Evaluation, ENV27-Design of New Developments, ENV29-Protection of Environmental Quality, HOUS2-Additional Residential Development, HOUS8-Residential Development Criteria, TRAN10-Parking, and Strategic Policies 1 & 2-The Environment, 3-Housing and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Design in the Landscape, Amenity Standards, Trees and Development, Conversion of Rural Buildings and Sustainable Development; and national guidance contained in Planning Policy Wales, TAN6-Planning for Sustainable Rural Communities and TAN12-Design; it is considered that the proposed development represents an acceptable and sustainable form of "rounding off" of the village of Penllyn, that should not detract from the setting of the nearby listed Great House Farm house nor the character and appearance of the wider village and its surrounding landscape. In addition the proposal should have no adverse impact on neighbouring amenity or highway safety.



## RECOMMENDATION

### APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the following schedule of plans and documents:

- Plan GHFAD/01B - Site location, amended plan received 10 July 2015;
- Plan GHFAD/02 - Boundary of agricultural land in blue, received 29 July 2014;
- Plan GHFAD/03B - Photographic analysis of the site, received 10 July 2015;
- Plan GHFAD/05B - Existing site layout, amended plan received 10 July 2015;
- Plan GHFAD/06C - Proposed site layout, amended plan received 12 May 2015;
- Plan GHFAD/07C - Proposed ground floor layout, amended plan received 12 May 2015;
- Plan GHFAD/08C - Proposed first floor layout, amended plan received 12 May 2015;
- Plan GHFAD/09C - Proposed west and east elevations, amended plan received 12 May 2015;
- Plan GHFAD/10C - Proposed south & north elevations, amended plan received 12 May 2015;
- Plan GHFAD/11C - Proposed south elevation (rear section), north elevation (front section) and cross section, amended plan received 12 May 2015;
- Plan GHFAD/12C - Typical X-section, amended plan received 12 May 2015;
- Plan GHFAD/16 - Tree survey, received 29 July 2014;
- Plan GHFAD/17 - Spot heights and location of X-section, received 29 July 2014; and
- Design and Access Statement, including Appendices 1-8, received 29 July 2014;

and the development shall be carried out strictly in accordance with these details.

Reason:

For the avoidance of doubt as to the approved details and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used, including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order with or without modification) the dwelling hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development in the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development in the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

6. The vehicular access to the development hereby approved shall be via the existing agricultural access track only as shown on Dwg. No. PLAN GHFAD/06C, Proposed site layout, amended plan received 12 May 2015.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

7. Before the commencement of works for the conversion and alteration of the existing farm building to provide car parking, as shown on Dwg. No. PLAN GHFAD/06C, Proposed site layout, amended plan received 12 May 2015, full details of the proposed works, including any areas of repair/refurbishment, shall be submitted to and approved in writing with the Local Planning Authority. The development shall be implemented thereafter in accordance with the approved details.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

8. The proposed access and parking provision shown on Dwg. No. PLAN GHFAD/06C, Proposed site layout, amended plan received 12 May 2015, shall be fully implemented before the first beneficial occupation of the dwelling hereby permitted, and the access and parking shall be retained and maintained at all times for the access and parking associated with the proposed new dwelling and the existing dwelling 'Old Bakehouse Farm'.

Reason:

To ensure adequate access and car parking in the interests of highway safety in accordance with Policies HOUS8-Residential Development Criteria, ENV27-Design of New Development and TRAN10-Parking of the Unitary Development Plan.

9. Full details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development, which shall include details of replacement tree planting and the proposed new hedgerows, as shown on Dwg. No. PLAN GHFAD/06C, Proposed site layout, amended plan received 12 May 2015, together with measures for the protection of any existing trees/hedgerows to be retained in the course of development.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

10. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure maintenance of the landscaping in the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

11. Before the commencement of development full details of the means of enclosure of the site, including height and materials of boundary walls, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed details shall be implemented before the first beneficial occupation of the new dwelling hereby permitted.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 and the Town and Country Planning (General Permitted Development) Order 1995, (or any Orders revoking or re-enacting those Orders with or without modification), no gates, fences, walls or other means of enclosure shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

In the interests of visual amenity and the character and appearance of the surrounding countryside and the setting of the nearby listed building in accordance with Policies ENV10-Conservation of the Countryside, ENV17-Protection of Built and Historic Environment, ENV27-Design of New Developments, and HOUS8-Residential Development Criteria of the Unitary Development Plan.

13. The implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that surface water and land drainage run-off shall not discharge, either directly or indirectly, into the public sewerage system.

Reason:

To prevent hydraulic overloading of the public sewerage system, pollution of the environment and to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with the terms of Policy ENV27-Design of New Developments of the Unitary Development Plan.

14. The development hereby permitted shall be implemented in accordance with the mitigation/compensation measures outlined in Appendix 8 to the Design and Access Statement.

Reason:

In the interests of protected species and biodiversity in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, and the Biodiversity and Development Supplementary Planning Guidance.

**NOTE:**

1. **The submitted Bat & Owl survey at Appendix 6 of the Design and Access Statement concludes that there should be no impact on species protected under the Wildlife and Countryside Act, 1981, as a result of the development. However, should this change during the course of development you are advised to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP  
General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**

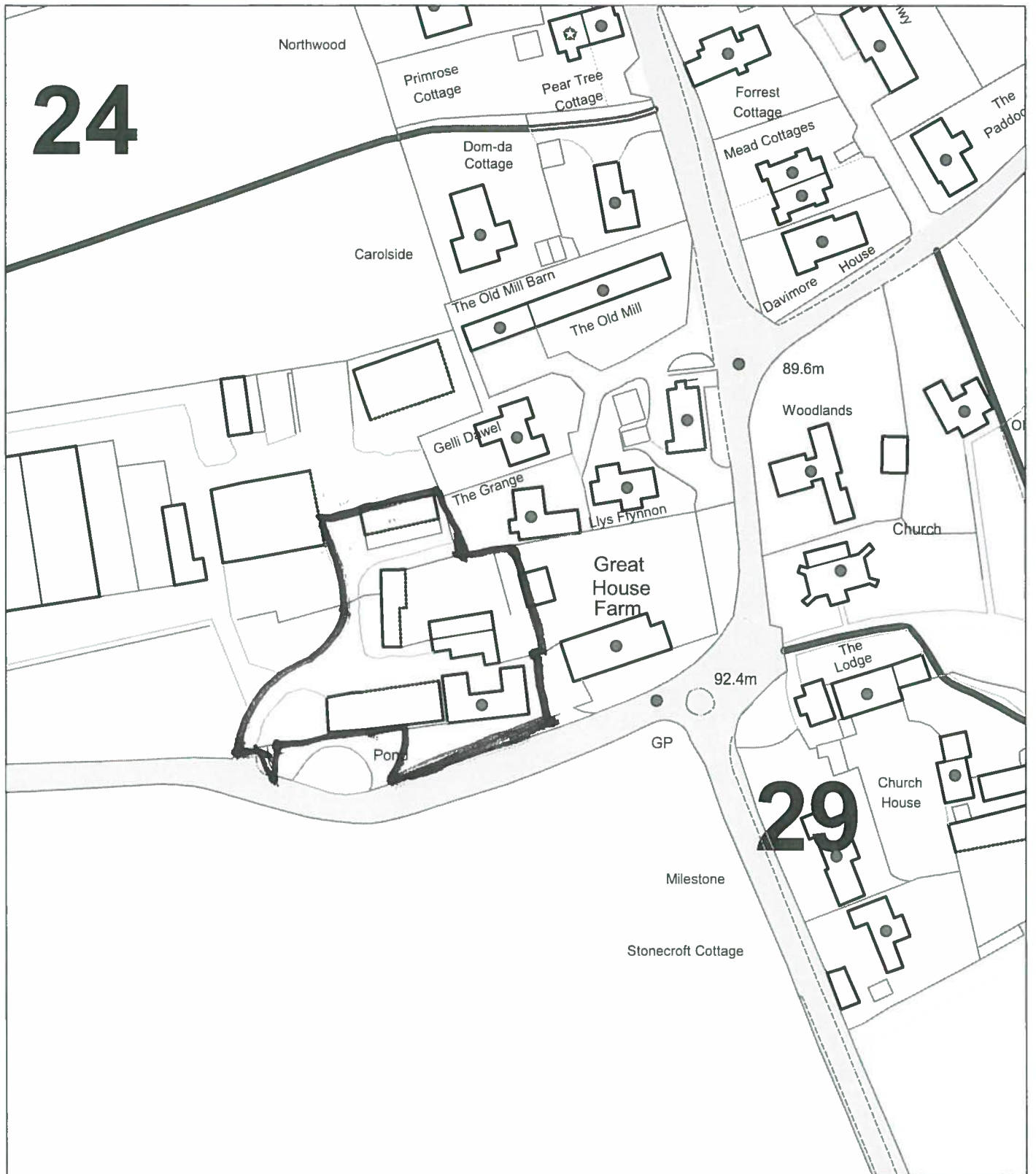
- 2. Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. You should therefore contact the DCWW Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Please note that under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.**



**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



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	<i>The Vale of Glamorgan Council</i>	
Department:		
Title: <i>2014/00916/Ful</i>		
Drawn By:		
	Scale	1:1323
	Time	01:09:58 PM
	Date	14 Jul 2015

**2014/01129/OUT** Received on 29 September 2014

The UK Holiday Group, C/o Agent.  
Geraint John Planning, Sophia House,, 28 Cathedral Road,, Cardiff., CF11 9LJ

### **Mount Sorrel Hotel, Porthkerry Road, Barry**

Outline application for residential development and associated works (including the demolition of existing structures on site)

#### **SITE AND CONTEXT**

The application site is the Mount Sorrell Hotel, Porthkerry Road, Barry, which is located within a predominantly residential street scene within the settlement of Barry as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. The building itself is physically attached to a nursing home to the west and lies adjacent to (but separated from) a more modern brick dwelling to the east.

The building holds a very prominent position in the street, at the top of the hill with views up Windsor Road. Parking is all to the front of the building, with an access just to the side of the junction of Porthkerry Road and Windsor Road.

#### **DESCRIPTION OF DEVELOPMENT**

The application is in Outline with all Matters Reserved for the demolition of the building and structures on site and a replacement residential development. A revised indicative scheme has been submitted for the redevelopment of the site which proposes the erection of two three storey buildings incorporating sixteen one bed apartments and eighteen two bed apartments (34 in total) with associated car parking providing up to thirty two spaces and soft landscaping. Existing and proposed indicative elevations are shown below:



*Existing elevation of the Mount Sorrel Hotel*





*Indicative elevation of the proposed residential redevelopment of the site*

Indicative site layout plans have also been provided which show an area of amenity to the north of the site and the provision of thirty two car parking spaces within the confines of the site. An indicative site layout plan is shown below:



*Indicative site layout plan showing amenity area to the rear and car parking largely to the front of the site.*

The application originally proposed 41 units, but this has been amended as described above.

## PLANNING HISTORY

There is extensive planning history relating to the hotel as detailed below:

2007/00298/ADV : Mount Sorrel Hotel, Porthkerry Road, Barry - Two banner signs - Approved

2006/01437/ADV : The Mount Sorrel Hotel, Porthkerry Road, Barry - 4 no. banner hoarding, replacing existing flag - Refused

2006/00040/FUL : Mount Sorrel Hotel, Porthkerry Road, Barry - Retrospective planning permission for omitted first floor window, plant room on ground floor and lift overrun (roof level) - Approved

2005/00734/FUL : Mount Sorrel Hotel, Porthkerry Road, Barry - New disabled ramped entrance and steps with new entrance canopy and wall cladding - Approved

2005/00729/ADV : Mount Sorrel Hotel, Porthkerry Road, Barry - Hotel sign - Approved

1992/00552/FUL : Cottage at rear of Mount Sorrel Hotel, Porthkerry Road, Barry - Construct a pitch roof to existing detached cottage/to re- rse aggregate panels (aggregate to lane) on boundary wall/to reduce height of security wire and to refurbish garage. - Approved

1991/01070/FUL : Land at rear of Mount Sorrel Hotel, Porthkerry Road, Barry - Private dwelling and extension with pitched roof extending over existing - Withdrawn

1991/00666/FUL : Mount Sorrel Hotel, Porthkerry Road, Barry - Two storey extension rear of hotel, manager/staff living accommodation - Withdrawn

1990/00525/FUL : Mount Sorrel Hotel, Porthkerry Road, Barry - Security walling along rear to replace collapsing stone boundary wall & rebuild in Marley concrete plank panelling - Approved

1988/01402/FUL : Mount Sorrel Hotel, Porthkerry Road, Barry. - Proposed relocation of health spa/leisure area to accommodate 'plunge pool'. - Approved

1988/00105/FUL : Mount Sorrel Hotel and No. 13 Porthkerry Road, Barry - Alterations and extensions - Approved

1987/00468/FUL : The Mount Sorrel Hotel, Porthkerry Road, Barry - Second conservatory incorporating lounge bar extension and new cellar under - Approved

1986/01013/FUL : The Mount Sorrel Hotel, Porthkerry Road, Barry - Second conservatory incorporating lounge bar extension and new cellar under - Approved

1986/00900/FUL : The Mount Sorrel Hotel, Porthkerry Road, Barry - New conservatory to extend conference room and residents lounge - Approved

1984/00572/FUL : The Mount Sorrel Hotel, Porthkerry Road, Barry - Renewal of permission for the erection of twelve additional bedrooms with bathroom accommodation and access corridor, together with twelve car parking spaces - Approved

1980/01215/RES : The Mount Sorrel Hotel, Porthkerry Road, Barry - The erection of twelve additional bedrooms with bathroom accommodation and access corridor, together with twelve car parking spaces - Approved

1979/00524/FUL

## CONSULTATIONS

**Barry Town Council** were consulted and request 'that an on-site affordable housing provision should be explored with the applicant following a full evaluation of local affordable housing need and due to increased pressures on local community facilities from such a development an appropriate contribution should be sought, in addition to any other development plan requirements such as open space, education and highway contributions. Subject to these evaluations Barry Town Council does not object to the proposed redevelopment of the site.'

**The Council's Highway Development section** was consulted and with regard to the revised scheme accompanied by a parking survey they indicate that subject to conditions 'an objection in relation to the proposals is not raised in this instance.' As such they request conditions relating to details of a scheme for highway improvements adjacent to the site; full details of vehicular access and parking to accompany a reserved matters application; and details of the gradient of the access

**The Council's Tourism & Marketing section** was consulted and note that 'it is disappointing that development would lead to a loss of 42 hotel bedrooms as well as the hotels associated uses for events.'

**The Director of Legal and Regulatory Services (Environmental Health) section** was consulted and in principle has 'no objections' subject to conditions requiring the provision of a Control and Environmental Management Plan and details that the Control of Road Traffic Noise document has been adhered to.

**Dwr Cymru Welsh Water** was consulted and raised no objections subject to conditions being attached to any consent given relating to foul and surface water discharges draining separately from the site; land and surface water not being allowed to connect directly or indirectly to the public sewerage network; no development to commence until comprehensive scheme of integrated drainage for foul, surface and land drainage has been agreed by LPA. They also indicate that 'no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site' and that there is no objection to the provision of a water supply.

Comments were also received from the **Crime Prevention Design Advisor for South Wales Police**. They make a number of observations with regard to the development in relation to the requirement for crime and disorder to be considered during the planning process.

**The Council's Ecology Officer** was consulted and confirm that they 'are satisfied that the survey was carried out to an adequate standard and that the Ecological Consultants have concluded that no licence is required. We recommend the inclusion of a planning condition to protect biodiversity interests on site' relating to the provision of a method statement for demolition relating to bats.

**The Council's Housing Strategy section** was consulted with regard to the originally submitted scheme for 41 units. In this regard they indicate that there is an identified requirement for the affordable housing units within the Vale and particularly Barry and are supportive of an application that would provide 13 affordable units (30%) indicating that 2 x 1 bed Low Cost Home Ownership units, 7 x 1 bed social rented flats and 4 x 2 bed social rented flats.

**Iltyd Ward members** were consulted although no comments had been received at the time of writing this report.

**Natural Resources Wales** was consulted with regard to the application and do no raise objection subject to works being carried out in accordance with the recommendation of the ecology report.

Comments were also received from **Wales & West Utilities** noting that they 'have no objections to these proposals, however our apparatus may be at risk during construction works' and advise that the developer contact them directly to discuss their requirements.

## REPRESENTATIONS

The neighbouring properties were consulted on 3 October 2014, and re-consulted on 3 July 2015 site notices were also displayed on 6 October 2014 and the application was also advertised in the press on 14 October 2014. At the time of writing this report 7 letters of representation had been received, raising the following points:

- Design fails to respect local context
- Loss of privacy and overlooking
- Overbearing impact
- Inadequate parking provision in isolation and when considered cumulatively with other developments allowed
- Lack of evidence that alternative use has been considered
- Loss of view
- Number of dwellings is excessive

Comments were also received from Alun Cairns MP with regard to the application raising concern with regard to the pre-existing parking problems in the vicinity and the loss of a community/tourist facility. Comments can be viewed at Appendix A.

Copies of two sample neighbour letters and emails are included at Appendix B.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 11 - SPORT & RECREATION

POLICY 14 COMMUNITY AND UTILITY FACILITIES

#### *Policy:*

ENV16	- PROTECTED SPECIES
ENV27	- DESIGN OF NEW DEVELOPMENTS
HOUS2	- ADDITIONAL RESIDENTIAL DEVELOPMENT
HOUS8	- RESIDENTIAL DEVELOPMENT CRITERIA
HOUS12	- AFFORDABLE HOUSING
EMP4	- PROTECTION OF LAND FOR EMPLOYMENT USES
REC 3	- PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS
REC6	- CHILDRENS PLAYING FACILITIES
TRAN 10	- PARKING

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is important as most other chapters of PPW refer back to it, part 4.2 in particular

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 1 – Joint Housing Land Availability Study (2006)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 12 – Design (2014)
- Technical Advice Note 16 – Sport, Recreation and Open Space (2009)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Affordable Housing
- Vale of Glamorgan Housing Delivery Statement 2009 (which partly supersedes the Affordable Housing SPG above)
- Sustainable Development
- Amenity Standards
- Biodiversity and Development
- Planning Obligations
- Public Art

## **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Affordable Housing Background Paper (2013)
- Affordable Housing Viability Study (2013 Update)
- Affordable Housing Delivery Statement 2009
- Open Space Background Paper (2013)
- Community Facilities Assessment (2013)
- Education Facilities Assessment (2013)
- Sustainable Transport Assessment (2013)
- Vale of Glamorgan Housing Strategy

## Issues

It is considered that the main issues involved in the assessment of the application are:

- The principle of the residential development in this location, including loss of an employment site and associated sustainability issues.

- The scale, form, design and layout of the (indicative) proposals and the impact on the character of the area.
- Parking, access and highway safety.
- The level of amenity space to serve the units and public open space provision (including Section 106 issues).
- Impact on the amenities of neighbouring properties / uses

#### Principle of development

The application site lies within the settlement boundary of Barry as defined by the Unitary Development Plan (UDP). As the site falls within the defined settlement boundary, UDP Policy HOUS2 applies which allows for housing infill, small-scale development and redevelopment which meets the criteria of HOUS8. Policy HOUS8 states that development within settlement boundaries will be permitted provided certain criteria are met including a development with sympathetic scale, form and character, no unacceptable effect on amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion and that amenity standards are in accordance with Council's approved guidance.

In terms of national guidance, section 4.9 of Planning Policy Wales states that:

*Previously developed (or brownfield) land) should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value.... Many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites:*

- *in and around existing settlements where there is vacant or under-used land, commercial property or housing;*
- *in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;*
- *which secure land for urban extensions, and;*
- *which facilitate the regeneration of existing communities.*

Although noting that the UDP has a policy (EMP4) that seeks to protect land for employment uses within B1, B2 and B8, the current use of the site as C1 is classed under the 1987 Use Classes Order. Therefore the use of the application site as a tourism function does not gain protection under this policy or from any other policy within the development plan, and as such it is not considered that an objection could be sustained on this basis.



Overall, therefore it is considered that the residential development of this site would, in principle, be acceptable given it represents residential development and the re-use of a previously developed site and in this respect would comply with the guidance in PPW. Therefore, and having regard to all of the above points, it is considered that the principle of residential development of the site is acceptable, subject to the specific provisions of the relevant policies of the UDP.

#### The Scale, Form, Design and Layout of the (Indicative) Proposals and the Impact on the Character of the Area

While all matters including scale, appearance and landscaping are reserved, the application is accompanied by indicative plans. Concern was raised with regard to the initially submitted plans which indicated three storey and part four storey buildings accommodating 41 no. residential units, with much of the built form being significantly higher than the existing development on the site. Following negotiations, a revised scheme was submitted reducing the visual mass and bulk of the building and the number of units to 34, comprising 18 no. two bedroom flats and 16 no. one bedroom flats.

The application proposes 34 units on a 0.33ha site representing a density of 103 dwellings per hectare whereas the existing hotel provides tourist accommodation contained within 42 bedrooms as well as two function rooms. It is important to ensure that sites in sustainable locations are developed efficiently, and it is also necessary to consider the character of the area and whether an increase in density would be appropriate and sympathetic to the surrounding context. The site does not form part of a rural settlement, where densities may typically be lower, and it is considered that the proposed density is not incompatible with the nature of surrounding residential development and represents an efficient use of previously developed land in an urban location

Although submitted in outline, these indicative plans form the basis for the assessment along with the layout plans, which are for formal consideration under the current application. Members should note that if the development is considered acceptable in other regards the layout and the detailed design of the buildings would be fully considered as part of a subsequent reserved matters application. Nevertheless, given that the indicative plans have been submitted to illustrate that the level of proposed residential accommodation could be readily provided within the confines of this site it is reasonable and necessary to fully assess the submitted details especially given the prominent position in which the current building sits and the positive contribution which it makes to the existing street scene.

The indicative elevations show that the proposals would consist of two blocks of a three storey height. The applicant within their Design and Access Statement that *'the redevelopment of the site has been influenced by the specific context and character of the surrounding area, and the sites prominent status. The density of the redeveloped site will respond sensitively to the scale and massing of existing buildings and the relationship with neighbouring properties.'*

The revised proposals have sought to ensure that the overall height of the building does not largely exceed that of the existing building as illustrated within the indicative elevations as shown below:



*Proposed elevations with the height of the existing building shown as the dashed line*

Within their planning statement the applicant states that *'the design and materials used on the Indicative Context Elevation plan to seek to reflect that of the former Mount Sorrel Hotel but have contemporary features which do not necessarily mimic the features currently associated with the Mount Sorrel Hotel. This would ensure that the proposed redevelopment reinforces the existing site status as an important local landmark.'*

Whilst indicative, the amended design indicates that a scheme of the general mass and bulk of that proposed could be accommodated within the site, largely sitting within the footprint and visual mass of the existing building to be demolished. The pattern of fenestration on the front elevation, coupled with recesses, build outs and bays provides a building of interest that generally respects the character of the building currently on the site and other buildings within the street scene. Notwithstanding the issues relating to the viability issues with regard to the existing hotel venture, it is considered that the existing building when viewed from the front makes a positive contribution to the character of the street scene and any replacement building on the site should make at least equivalent contribution to the street in terms of design. Whilst it is acknowledged that appearance is reserved, the general mass and bulk of the proposals and design approach on the most recent indicative drawings, results in a building that appears of a scale and form that generally respects the context of adjacent buildings and the prominent position in which the building currently sits within the street scene.

It should be noted Policy HOUS8 indicates that proposed residential development will be permitted within the defined settlement boundaries providing that it meets criteria including that *'i) The scale, form and character of the proposed development is sympathetic to the environs of the site'*. Having considered the indicative scheme, it is considered that the proposals illustrate that a scheme for the provision of 34 flats can be accommodated on this site and would not represent an inappropriate overdevelopment of the site. Noting that all matters are reserved it is considered that the proposals accord with the provisions of policy HOUS8 in this respect.

### Amenity space provision

Within the supporting documentation the applicant indicates that the proposals shown on the indicative plans submitted '*has been carefully designed to ensure that a high level of on-site amenity can be provided for future occupiers... safe and communal amenity space has been provided to the rear of buildings which is both functional and sufficient to meet the needs of future occupiers*'. Further to this the statement indicates that any subsequent reserved matters would provide further details of the specific amount and form of amenity space which would be provided.

Notwithstanding this, it is considered reasonable and necessary to make an assessment of the likely level of provision that would be provided within the confines of the site, particularly given the proposed density of development. The submitted plans indicate a shared area of amenity space towards the north of the site. It should however be noted that there are substantial levels differences on the site with land sloping significantly upwards from south to north, as reflected on the submitted survey with gradients across the site measuring between 1:3 and 1:4. Indeed the submitted indicative site layout plan indicates substantial retaining works proposed as shown in the plan below:



*Indicative site layout plan showing amenity area to the rear*

Policy 2 of the adopted Amenity Standards SPG requires useable, adequate and appropriate amenity space to be provided with any residential development (20m<sup>2</sup> per person in the case of flats). As noted the proposals would provide a mix of one and two bed units and based on occupancy of two people per one bed unit (16 units) and 2.5 people per two bed unit (18 units proposed), there would be a requirement for approximately 1540 m<sup>2</sup> for a development of the size proposed. Calculations indicate that the proposed communal area to the rear would provide approximately 1100 m<sup>2</sup> (including the area currently shown for undercroft parking). It should be noted that the adopted Amenity Standards SPG allows for a reduction in provision as the number of potential occupiers increases, it is considered that in terms of size that an adequate and usable area of amenity could readily be provided within the confines of the site. The exact form, size and nature of this area would be determined with the submission of an application for reserved matters consent where the full details of such a space would be considered. While it is noted that the proposals are designed to be indicative, it nevertheless appears that despite the levels of the site, an adequate amount of amenity space can be provided to serve a development of this many units. There would be a shortfall relative to the SPG requirements, however, it is considered that the shortfall would not be significant and the occupiers would benefit from an adequate outdoor space.

### Highways

The revised proposals indicate that the 34 residential units would be served by 32 no, car parking spaces accessed from Porthkerry Road to the south, whereas the submitted details indicate that the existing 42 bedroom hotel is served by 12. The applicant indicates that it is *'likely that vehicle generation anticipated by residential use would be less than that expected or could be derived by the hotel use'* and therefore argue that this would be a betterment on the baseline position at the site which *'falls significantly short in terms of the required or preferred position for on-site car parking'*.

Whilst it is indicated that the number of parking spaces would be increased from 12 to 32, it is noted that there is some concern with regard to the usability of the 4 spaces adjacent to the access raised by highways officers whilst there is also concern with regard to the loss of amenity provision in relation to the spaces shown to the rear of the unit accessed by an undercroft. As such the revised proposals are considered to show 22 practicably usable spaces. Notwithstanding this it is of relevance that the scheme as submitted is indicative with all matters including layout and access reserved, and there is scope for a greater number of spaces to be provided with a reserved matters submission if deemed necessary.

Following discussion with the applicant, a Parking Survey assessing parking capacity within the local highway network was submitted to the Local Planning Authority for consideration. The submitted survey demonstrates that there is available kerbside parking capacity during the day and evening times. Following consultation with the Council's Highway section and noting the issues and usability of the spaces noted above, it is considered that when compared with the existing hotel use that the proposals will significantly reduce the current parking deficiency.

The property also lies in close proximity to Barry High Street which is recognised as an Established District Centre with associated shopping and other facilities and within close proximity to Barry Station (approximately 300 metres distant) and other public transport facilities. The application site is therefore in a sustainable location with good access to local services and public transport links and seeks to find a new use for a now vacant building that occupies a prominent position within the street scene. National planning guidance encourages a pragmatic and flexible stance to be adopted in such instances to reduce the dependence on private motor vehicles and encourage more sustainable forms of transport use. It also states that it would be inappropriate to rigidly enforce higher standards where the locality justifies pursuing a more sustainable approach. As such it is considered that this further demonstrates that the level of parking provision shown on the indicative plans and what could be achieved on the site through any reserved matters submission, is appropriate for this location.

It is noted that both the existing and proposed accesses are located at the mouth of an existing junction, on a bend with steep gradient along the adjacent highway. Noting that full details of access are reserved it is considered that an appropriate form of access could be provided and a condition will be attached to any permission requiring full details including any off-site works to be submitted with any reserved matters application submitted. The highways engineer has not raised an objections subject to such conditions.

#### Impact on the Amenities of Neighbouring Properties / Uses

As noted previously the application proposes the introduction of two three storey, buildings on the site. The proposed building would be set a significant distance from neighbouring residential dwellings to the north (approximately 40 metres) and the south (approximately 35 metres) and as such it is considered that it would not cause undue overbearing or overlooking impacts to these properties by virtue of the degree of separation.

The indicative plans indicate that a three storey block would be introduced approximately 4.5 metres from 19A Porthkerry Road to the east and shown to project approximately 10 metres beyond the rear. The indicative plans also illustrate that a three storey block would be situated within 3.5 metres of the nursing home to the west and project approximately 6.5 metres to the rear, whilst there is an existing two storey block in a similar position adjacent to the western boundary. Notwithstanding this the three storey height is indicated as being broadly similar to the existing buildings on the site.

Noting that the detailed design of the buildings is reserved, no details have been provided of fenestration within the side elevation of the respective wings and it is not therefore possible to fully assess specific overlooking impact from this element of the proposals. It is however considered that a building of this general size and siting can be accommodated in principle without unacceptably impacting upon privacy. Notwithstanding this given that the detailed design of the building would be assessed fully at reserved matters stage (if the application is considered acceptable in all other regards) and that there is a substantial building already on the site, it is considered that the introduction of a residential building would not in principle cause an unacceptable degree of detriment to neighbouring residential properties.

Given the relative proximity of residential properties, it is considered that a condition requiring a method statement for demolition, site clearance and construction to be submitted to and agreed in writing.

Having regard to the above, it is considered that a building of the scale and siting indicated can be accommodated without causing detriment to the residential amenities of the existing dwellings in the area, in accordance with Policies ENV27 and HOUS8 of the UDP and the aims of the Council's SPG.

### Drainage

Members will note that both Welsh Water and Natural Resources Wales have raised no objections to the scheme subject to surface water not being discharged to sewers. In addition no concerns have been raised by the Council's Drainage Engineers. It should be noted that as this application is in outline, full details of drainage have been requested by Condition 8.

### Ecology

The application is supported by a Survey for Bats and Nesting Birds prepared by David Clements Ecology LTD dated September 2014, which identifies the building has having moderate potential for bats although found no evidence of breeding birds or bats utilising the building. Following consultation with the Council's Ecologist and Natural Resources Wales, there is not considered to be an ecological constraint that prevents the grant of planning permission, subject to appropriate conditions attached to any consent given.

### Planning Obligations

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances.

In this case, the application as revised relates to the residential development of the Mount Sorrel Hotel with the drawings indicating a scheme of 34 flats on the site. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

In light of the particular circumstances of this development, the following planning obligations have been considered, negotiated and agreed by the developer.

## Affordable Housing

TAN 2 defines Affordable Housing as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households, or where staircasing to full ownership takes place, receipts are recycled to provide replacement affordable housing. This includes two sub-categories: social rented housing where rent levels have regard to benchmark rents; and, intermediate housing where prices or rents are above social rented housing but below market housing prices or rents.

UDP Policy HOUS12 requires a reasonable element of affordable housing provision in substantial development schemes. The supporting text to that policy also states: "The starting point for the provision of affordable housing will be an assessment of the level and geographical distribution of housing need in the Vale". In 2010, the Council undertook an update to the Local Housing Market Assessment (LHMA) in order to determine the level of housing need in the Vale of Glamorgan. The LHMA concluded that an additional 915 affordable housing units (for rent or low cost home ownership) are required each year over the next five years. The most needed properties are social rented properties where tenants pay benchmark rents set by the Welsh Government. In light of evidence contained in the latest Housing Market Assessment showing a high level of need for affordable housing throughout the Vale, the Council's Adopted Supplementary Planning Guidance on Affordable Housing (contained in the Affordable Housing Delivery Statement) now seeks a minimum of 30% affordable housing on sites of 10 or more dwellings. Although it can be afforded little weight on its own at this time, it is also of relevance that Policy MG4 of the draft LDP also seeks to provide 30% affordable units within schemes of 5 or more dwellings within Barry based on the background evidence of need and viability which can be afforded weight.

Following negotiation, the applicant has confirmed with regard to the indicative scheme of 34 units, that 11 would be affordable units, representing 32% of the dwellings proposed. This provision within the building is considered to accord with the provisions of the existing and emerging development plan. Therefore, the Section 106 Agreement will include clauses requiring an appropriate percentage of affordable housing to be provided prior to beneficial occupation of a certain percentage of the market housing units. This has been agreed by the applicant.

## Public Open Space Provision

Planning Policy Wales and TAN16: Sport, Recreation and Open Space (2009) both require local planning authorities to ensure that all new developments make adequate provision for public open space and recreational facilities to meet the needs of future occupiers. In particular, paragraph 4.15 of TAN 16 states that planning obligations can be used to provide or enhance existing open space and that these will be justified where the quantity or quality of provision for recreation is inadequate or under threat, or where new development increases local needs.

UDP Policy REC3 requires new residential developments to make provision for public open space at a minimum standard of 2.43 hectares per 1000 population (0.6-0.8 hectares for children's playing space and 1.6-1.8 hectares for outdoor sport). This equates to 24.3m<sup>2</sup> per person or 55.4sqm per dwelling (based on the average household size in the Vale of Glamorgan being 2.28 persons per dwelling). The Council applies this policy to all residential developments of 5 or more dwellings, in addition to the basic amenity space requirements necessary to meet the immediate amenity needs of occupiers (e.g. private garden space) as outlined in the approved Amenity Standards SPG.

However, given that the site cannot practically accommodate this, it is considered that it would be reasonable to require a financial contribution for off-site provision in this case. The Council has developed a formula to calculate reasonable levels of contributions to provide or enhance public open space off site, which has been derived from an analysis of the costs associated with providing such facilities, and consideration of the impact of new developments in terms of needs arising and what is considered to be reasonable to seek in relation to the scale of development proposals. The formula set out in the Planning Obligations SPG ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan.

The Council's approved formula contained in the Planning Obligations Supplementary Planning Guidance requires £2,280 per dwelling in lieu of on site public open space, that would represent a provision of £77,520 should the scheme be commensurate to the indicative scheme of 34 units as submitted. Following discussion with the Council's Parks Section, they have identified potential schemes within the Illtyd ward where such a contribution would be utilised to improve existing open spaces including the play areas at Salisbury Road, Porthkerry Road play area, Peterswell Road and/or St Lythans Road. Given the lack of on-site Public Open Space proposed through the proposals given the physically constrained nature of the site, a requirement will be inserted into any legal agreement requiring the payment of £2,280 to be paid per dwelling on any scheme as developed. This has been agreed by the applicant.

### Education

UDP Policy HOUS8 permits new residential development within settlements, provided that, amongst other things, adequate community and utility services exist, are reasonably accessible or can be readily and economically provided. Education facilities are clearly essential community facilities required to meet the needs of future occupiers, under the terms of this policy. Planning Policy Wales emphasises that adequate and efficient services like education are crucial for the economic, social and environmental sustainability of all parts of Wales. It makes it clear that development control decisions should take account of social considerations relevant to land use issues, of which education provision is one.



The Council's formula for calculating pupil demand contained in the Planning Obligations SPG indicates that the overall development for 34 units (less the 1 bedroom units that would be unlikely to yield children of school age) would generate the need for education facilities for 2 no. pre-school children, 5 no. primary school aged children, 4 no. 11-16 year old school children and 1 no. post 16 school aged children. Taking account of existing capacity in the relevant schools, based on a development of 34 units and discounting the 16 one bedroom flats, using the standard calculations within the SPG there would be a requirement for a contribution to provide spaces for:

- Primary/nursery - £101,242.82 inclusive of fees

The contributions would be used to increase capacity and facilities at identified schools serving the development, including the English medium Romilly Junior School, Welsh medium Ysgol St Baruc and denominational provision at All Saints Church in Wales Primary School, where there is lack of capacity identified within Education Facilities Background Paper. Following discussion with the applicant they have confirmed that they agree to payment a contribution in line with the requirements of the Planning Obligations SPG for education facilities.

### Sustainable Transport

UDP Policy 2 favours proposals which are located to minimise the need to travel, especially by car and which help to reduce vehicle movements or which encourage cycling, walking and the use of public transport. UDP Policy ENV27 states that new development will be permitted where it provides a high level of accessibility, particularly for public transport, cyclists, pedestrians and people with impaired mobility. These policies are supported by the Council's approved Supplementary Planning Guidance on Sustainable Development and the advice in Planning Policy Wales, TAN 18: Transport and, Manual for Streets which emphasise the important relationship between land use planning and sustainability in terms of transport.

Having regard to the cost of providing and upgrading sustainable transport facilities, the Council's Planning Obligations SPG provides a basis to consider the type of contribution that may be likely to mitigate the impacts of a development of this size. This is a key aim embodied in national and local planning and transport policies. In this case, a sustainable transport contribution is required to ensure that the site is sufficiently accessible by a range of modes of transport other than the private car, such that it may be considered a sustainable site.

Whilst in this case the site is located within an existing settlement, in line with the rationale set out in the Council's SPG, a contribution of £68,000 would be sought for a development of 34 units as shown on the indicative plans. It is considered reasonable to request a basic contribution required to off-set the impacts of the development of £2,000 per dwelling. The contribution will be used for specific projects related to the scheme which could include localised improvements to the junction adjacent to the site to assist in pedestrian movement (including upgrading pedestrian footways, dropped kerbs, improved crossing facilities at the junction of Porthkerry Road and Windsor Road), improvements to bus services that serve the site (including the B3 service) and/or the provisions of bus shelters to serve the B3 bus service stops to the south of the site on Windsor Road, and cycling provision serving the site and its occupiers. This has been agreed by the applicant.

### Community Facilities

UDP Policy HOUS8 permits new residential development where (inter alia) adequate community and utility services exist or can be readily provided. The Planning Obligations SPG acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities.

The Community Facilities Background Paper identifies a deficit of Community Building provision in the Illtyd Ward.

The Council has developed formula to calculate reasonable levels of contributions for community facilities, which has been derived from an analysis of the costs associated with providing such facilities, and consideration of the impact of new developments in terms of needs arising and what is considered to be reasonable to seek in relation to the scale of development proposals. The formula set out in the Planning Obligations SPG ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan. It requires community facilities to be provided at a ratio of 0.75m<sup>2</sup> per dwelling (1500m<sup>2</sup> in this case) or alternatively a contribution of £988.50 per dwelling towards the provision of community facilities. Due to the scale and nature of the proposed development, it is not considered appropriate to require a facility on site.

An indicative scheme of 34 units would require a contribution of £33,609 which reflects the need that results from the development and accords with the guidance in the Council's SPG, although the actual contribution would depend on the scale of development proposed at reserved matters stage. The contribution will be used to provide or improve community facilities in the area to meet the needs arising from the development which could include the provision of new facilities or enhancements to existing facilities such as Cwm Talwg Community Centre, community facilities at Barry Waterfront, Barry Leisure Centre, or St. Nicholas Hall. As such a contribution of £988.50 per dwelling has been proposed and this has been agreed by the applicant.

## Public Art

The Council introduced a percent for art policy in July 2003 which is supported by the Council's adopted supplementary planning guidance (SPG) on Public Art. It states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, public art should be provided on site integral to the development proposal.

It is this Council's view that the provision of public art is integral to good design, and plays a key role in securing a high quality development which respects local character. This has been agreed by the applicant.

## S106 Administration

The Council requires the developer to pay an administration fee to the Council to monitor and implement the terms of the Planning Obligations. This fee covers the Council's costs to negotiate, monitor and implement the terms of the necessary Section 106 Agreement. This cost is essential because the additional work involved in effectively implementing a Section 106 Agreement is not catered for within the standard planning application fee and the Section 106 Planning Obligations are deemed to be necessary to make the development acceptable. Therefore, the developer is reasonably expected to cover the Council's costs in this regard.

The fee is calculated on the basis of 2% of the total financial contributions being sought under the agreement, or 20% of the planning application fee, whichever is the greater, subject to a minimum fee of £150.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies 1, 2, 3, 8 and 11, ENV27 (Design of New Developments), ENV29 (Protection of Environmental Quality), HOUS2 (Additional Residential Development), HOUS 8 (Residential Development Criteria), HOUS12 (Affordable Housing), TRAN10- (Parking) and REC3 (Provision of Public Open Space for New Developments) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the Supplementary Planning Guidance 'Amenity Standards' and 'Planning Obligations', Planning Policy Wales (Edition 7) and Technical Advice Notes 1- Joint Housing Land Availability Studies, 2-Planning and Affordable Housing, 5-Nature Conservation and Planning, 12-Design, 16-Sport, Recreation and Open Space and 18-Transport; it is considered that the proposals are acceptable, based on the material considerations set out within the report, by reason of its sustainable location and the requirement to address the need for new residential development and affordable housing within the Vale of Glamorgan.

## RECOMMENDATION

Subject to the relevant person(s) first entering into a Section 106 Legal Agreement or undertaking to include the following necessary planning obligations:

- Procure that at least 30% of the dwellings built pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity, of which at least 70% would be social rented properties, and the remaining 30% would be intermediate properties.
- Pay a contribution of £5,624.60 per dwelling (with two or more bedrooms) for the provision or enhancement of primary/nursery education facilities to meet the needs of future occupiers one or more of Romilly Junior School, Ysgol St Baruc or All Saints Church in Wales Primary School.
- Pay a contribution of £2,280 per dwelling for the provision of enhancement of public open space to be spent on one or more of the play areas at Porthkerry Road, Salisbury Road, Peterswell Road and/or St Lythans Road.
- Pay a contribution of £988.50 per dwelling to provide or enhance community facilities, within the vicinity of the site at one or more of Cwm Talwg Community Centre, St. Nicholas Hall, Barry Leisure Centre or Community Facilities at Barry Waterfront.
- Pay a contribution of £2,000 per dwelling to provide or enhance sustainable transport facilities in the vicinity of the site on one or more of the following; upgrading pedestrian footways, dropped kerbs, improved crossing at the junction of Porthkerry Road and Windsor Road, improvements to bus services that serve the site (including the B3 service), the provision of bus shelters to serve bus services, and cycling facilities serving the site. This has been agreed by the applicant.
- Provide a contribution to the value of 1% of the development costs, for the provision of public art on the site.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the legal agreement. (£5,607.43 in this case).

APPROVE subject to the following conditions(s):

1. Approval of the details of the layout, scale, appearance, access and landscaping of the development (hereinafter called `the reserved matters`) shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than whichever is the later of the following dates:

- (a) The expiration of five years from the date of this permission.

- (b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason:

The application was made for outline planning permission and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

5. This consent shall only relate to a maximum of up to 34 dwellings and to the amended plans reference:

- Design and Access Statement, Planning Statement, 001 'Site location plan' and 002B 'Existing Site Layout/Survey' received 25 September 2014
- 010A 'Proposed Elevation (3 storey option)' and 012A 'Indicative Floor Plans (3 storey Option)' received 16 February 2015.
- Survey for Bats & Nesting Birds received on 25 September 2014.
- Parking Survey prepared by Acstro received on 26 May 2015

and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

6. Notwithstanding the submitted plans and prior to the commencement of any works on site, full engineering drawings and design calculations of the proposed vehicular, pedestrian and cycle access to the site to include vision splays, sections, drainage and gradients details, shall be submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure the provision of safe access for the site to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. The access reserved matters application shall be accompanied by a proposed scheme for off-site highway improvements at the junction of Windsor Road and Porthkerry Road with full engineering drawings and design calculations, to improve accessibility to the site. The works shall thereafter be carried out in accordance with the approved details prior to the beneficial occupation of any of the units.

Reason:

To ensure the provision of safe access for the site to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

8. Full details of a comprehensive scheme for the integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details prior to the beneficial occupation of any part of the development hereby permitted.

Reason:

To ensure effective drainage facilities for the site and no adverse impact upon the environment, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. The implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that no surface water or land drainage run-off shall discharge, either directly or indirectly, into the public sewerage system.

Reason:

To prevent hydraulic overloading of the public sewerage system and to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with the terms of Policies ENV27 and ENV29 of the Unitary Development Plan.

10. No Development shall take place until there has been submitted to, and approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, wheel washing, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved CEMP unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity, highway safety, and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. The development shall be carried out in accordance with the recommendations of the Survey for Bats and Nesting Birds prepared by David Clements Ecology dated September 2014 unless the Local Planning Authority agree in writing to any variation.

Reason:

To safeguard protected species, in accordance with Policy ENV16 of the Unitary Development Plan.

12. Prior to the commencement of any works on site (including clearance), a method statement for the site clearance and mitigation measures for bats shall be submitted to and approved in writing by the Local Planning Authority and the works shall thereafter be carried out in accordance with the approved details.

Reason: To maintain biodiversity and in the interests of protected species in accordance with Policy ENV16 of the Unitary Development Plan.

13. Prior to the commencement of development, details of the finished levels of the site and the building(s) in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that visual amenities and amenities of neighbouring residential occupiers are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

**NOTE:**

1. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
2. **Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
3. **Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their 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. You should therefore contact the DCWW Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Please note that under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.**

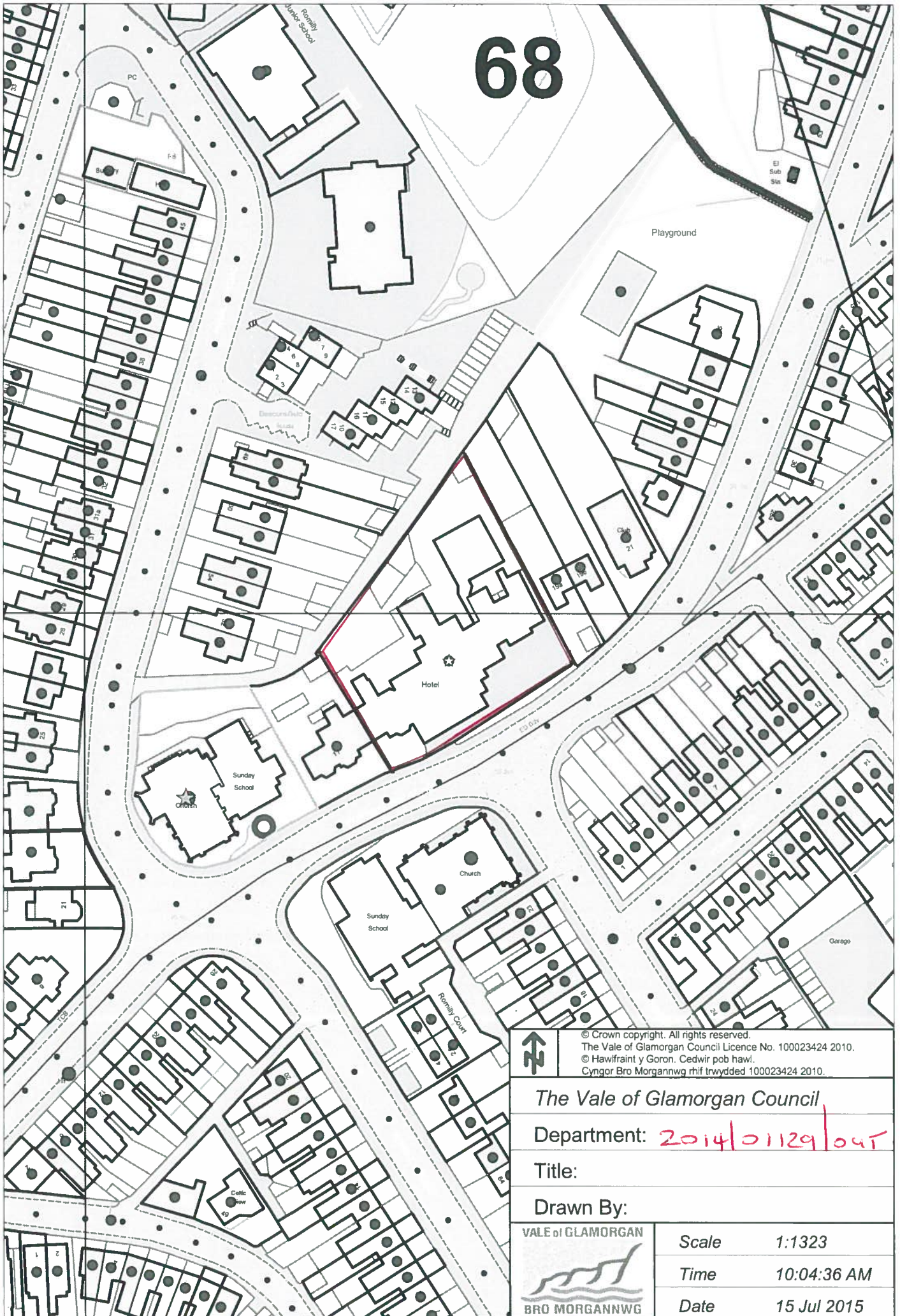
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**



**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**



**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



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	<b>The Vale of Glamorgan Council</b>	
Department: <i>2014/01129/045</i>		
Title:		
Drawn By:		
	Scale <span style="float: right;">1:1323</span>	
	Time <span style="float: right;">10:04:36 AM</span>	
	Date <span style="float: right;">15 Jul 2015</span>	



Members will recall that this application has been reported to the Planning Committee on two separate occasions, the 12 March and 14 May, 2015. Copies of the two previous reports are attached to this report as Appendix A and Appendix B. Whilst the resolution on both occasions was to grant planning permission, this was on the basis that the applicant would enter into a section 106 agreement (as set out in more detail below). As the Applicant would subsequently not agree to this, a decision was not issued.

An appeal has now been made to the Welsh Government in respect of the non-determination of this application. The Planning Inspectorate has confirmed that this appeal is valid and, as such, started the appeal on 3 July, 2015.

## BACKGROUND AND THE PURPOSE OF THIS REPORT

The purpose of this report is to seek the resolution of the Planning Committee as to the decision it would have made, had the application been determined in light of the Applicant's current stance (i.e. not agreeing to sign a Section 106 Legal Agreement). As such, the Committee's decision will establish the Council's stance in this appeal.

Members will recall that when the Planning Committee first considered this application on 12 March, 2015, it was resolved that the development was acceptable subject to the imposition of certain conditions and the Applicant entering into a Section 106 Legal Agreement to secure planning obligations for affordable housing, sustainable transport, public open space, community facilities, and public art.

Accordingly, the following aspects of the development were considered acceptable, subject to appropriate conditions, and will not be considered in this report:

- The principle of the development, particularly in terms of the mix of retail and residential units;
- The scale, form, design and impact of the development on the surrounding area, in particular the Barry Marine Conservation Area;
- The impact of the development on residential amenity;
- Parking and the impact of the development on the surrounding highway network;
- The amenity space provision;
- Drainage;
- Ecology; and
- Archaeology

(Please refer to the Appendix A report - 12 March, 2015, Committee report - for the detailed consideration of these matters.)

Notwithstanding the above, Members will recall being advised that, during the course of the determination the application, the Applicant submitted a Viability Appraisal. The Appraisal indicated that the costs associated with the development are so high that the 25 flats would be necessary to support the commercial ground floor element, but with no scope for any financial contributions or any affordable housing provision through a Section 106 Legal Agreement. It should be noted that your officers have, through negotiation with the applicant, maintained the stance that commercial uses at ground floor are essential to maintain vitality on Barry Island and a 100% residential scheme would not be considered favourably.

This appraisal was considered by the District Valuer (DV), who reported his findings on 24 March, 2015, (i.e. after the Committee's first consideration of the application). In short, the DV's report concludes that there are viability constraints to the development as proposed. In light of his conclusions, it was recommended that planning permission be granted subject to conditions and subject to the Applicant first entering into a Section 106 Legal Agreement. Unlike the Legal Agreement recommendation in the 12 March Committee report, it was recommended that the Legal Agreement would only require the provision of community infrastructure or affordable housing on the site (or through financial contributions in lieu of on-site provision), if the development viability improved above and beyond a specified point. The report and recommendation specified that, should the viability of the scheme improve at the point at which the development is first beneficially occupied, and the Developer profit exceeds the 15% identified in the Developer's Viability Appraisal Report (and accepted by the DV), the Legal Agreement would require that the Council receive a 50% share of any profit above 15% to provide for community infrastructure and affordable housing, up to a specified maximum value. This is a type of 'Deferred Payment' Legal Agreement, which is advocated as an acceptable mechanism in the Welsh Government guidance document *"Delivering affordable housing using section 106 agreements: A Guidance Update, September 2009"*. This recommendation can be seen in full in the report attached in Appendix B.

Following the Committee's resolution to agree with the recommendation on 14 May 2015, your officers were unable to secure the Applicant's agreement to the revised section 106 agreement and, as mentioned above, a decision was not issued. The current appeal was subsequently submitted.

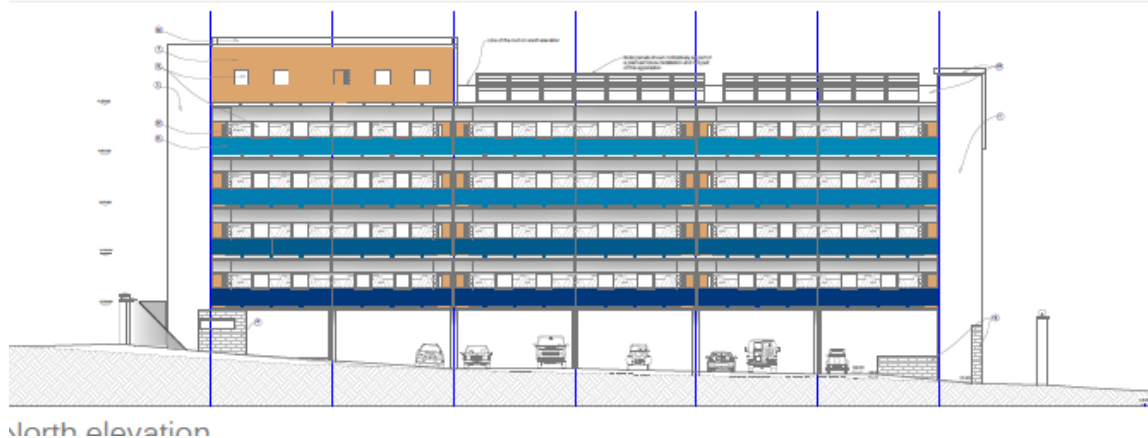
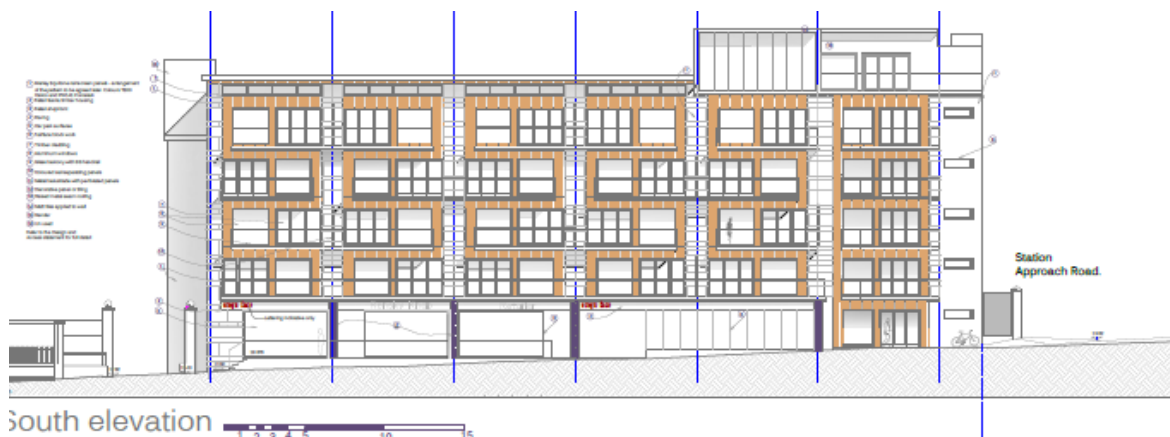
In light of the above, this report will concentrate on the issue of the wider mitigation of the development via a Section 106 Legal Agreement, the viability of the scheme and the planning obligations relevant to this development. It will only set out the policy and guidance relevant to such matters and will only consider the main issues that result from the Applicant's stance (i.e. that they are not willing to enter into any Section 106 Legal Agreement with the Council). The report will make a recommendation in respect of the Council's stance in the forthcoming appeal.

## DESCRIPTION OF DEVELOPMENT

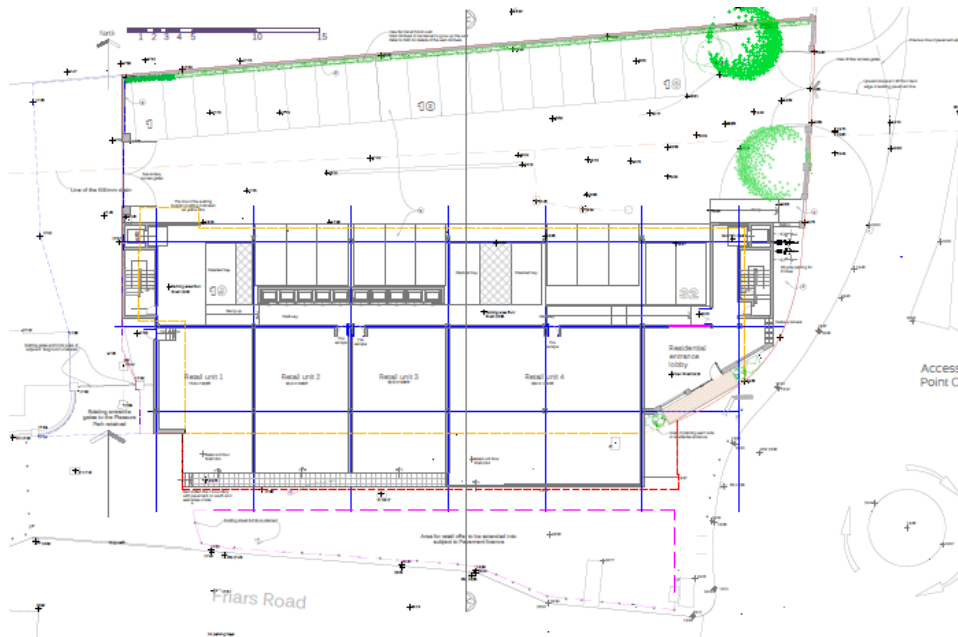
As mentioned in the previous Committee reports, the application proposes the demolition of the Dolphin public house and the construction of a new building comprising commercial units at ground floor and 25 residential flats above (24 x 2 bed flats and 1 x 3 bed flat). It should be noted that all of the proposed units are 'market' flats, and no provision of affordable housing is made. The commercial ground floor comprises of retail units, with a total floor space of 442m<sup>2</sup>.

The proposed building is relatively contemporary in design, with a flat roof and a subservient 'penthouse' section on the roof. The main frontage is punctuated by a staggered pattern of balconies, with large areas of glazing comprising full height windows and doors. The rear elevation contains the pedestrian access points to the flats, comprising a series of walkways with balustrades.

The elevations of the proposed building are shown below:



In terms of the layout, the proposed building would be sited to the front of the site facing onto Friars Road, with vehicular access to the rear from Station Approach Road. The access leads to a parking area at the rear of the building containing 32 spaces, 14 of which would be sited undercroft, within the footprint of the upper floors of the building. The development layout is shown below:



## PLANNING HISTORY

The relevant planning history is as set out in the appendix A report (12 March, 2015, Committee report).

## CONSULTATIONS AND REPRESENTATIONS

As above, the consultation responses received and representations made in respect of this application are set out in the appendix A report (12 March, 2015, Committee report). No further consultation responses or representations have been made to date.

## REPORT

### Planning Policies and Guidance

As this report will concentrate on the issue of the wider mitigation of the development via a Section 106 Legal Agreement, the viability of the scheme and the planning obligations relevant to this development, the following policy and guidance is relevant. For the policy and guidance relevant to the scheme as a whole, please refer to the Appendix A report (12 March, 2015, Committee report).

#### *Strategic Policies:*

POLICY 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICIES 7 & 8 – TRANSPORTATION

POLICY 11 - SPORT & RECREATION

### *Policy:*

ENV27	- DESIGN OF NEW DEVELOPMENTS
HOUS8	- RESIDENTIAL DEVELOPMENT CRITERIA
HOUS12	- AFFORDABLE HOUSING
REC3	- PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENT
REC6	- CHILDREN'S PLAYING FACILITIES
REC7	- SPORT AND LEISURE FACILITIES

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, Chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

Chapter 3 considers the use of planning obligations, it states:

3.7.1 Planning obligations are useful arrangements to overcome obstacles which may otherwise prevent planning permission from being granted. Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. It is essential that arrangements are fair to both the developer and the community, that the process is as transparent as possible, and that development plans provide guidance on the types of obligations which authorities may seek from developers.



When granting planning permission local planning authorities may seek to enter into a planning obligation with a developer to:

- restrict development or use of the land;
- require operations or activities to be carried out in, on, under or over the land;
- require the land to be used in a specified way; or
- to require payments to be made to the authority either in a single sum or periodically.

3.7.6 From 6 April 2010 it has been unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development that is capable of being charged the levy, whether there is a local levy in operation or not, if the obligation does not meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the development.

3.7.10 Planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Planning permission may not be bought or sold and negotiations should be conducted in a way that is seen to be fair, open and reasonable. Unacceptable development should never be allowed because of unrelated benefits. Acceptable development should never be refused simply because an applicant is unwilling to offer such benefits.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is important as most other chapters of PPW refer back to it, part 4.2 in particular

Chapter 8 of PPW deals with transport, at 8.7.5 it states: “Planning obligations may also be used in appropriate circumstances to secure off-site improvements in public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved.

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

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

- 10.4 When setting site-capacity thresholds and site specific targets local planning authorities should balance the need for affordable housing against site viability.

- 10.10 The affordability of housing can change over a relatively short period of time. For this reason local planning authorities should treat the affordable housing targets (both thresholds and site specific) as being indicative. In negotiation with developers there should be a strong expectation that the indicative target will be provided. However, where a developer can provide evidence in support of a reduced affordable housing component, for example a local over-supply of affordable housing, it may be appropriate to reduce the amount of affordable housing to be provided on the site. In contrast, where a review of the LHMA has indicated a reduction in the affordability of housing it may be appropriate to increase the proportion of affordable housing on the site.
- 10.11 Local planning authorities and applicants for planning permission should work collaboratively in order to establish an appropriate and well-integrated mix of housing types and tenures which will contribute to the identified need for affordable housing, and to the objective of achieving mixed and sustainable communities. Applicants should demonstrate and justify how they have arrived at a particular mix of housing having regard to development plan policies. If, having had regard to all material considerations, the local planning authority considers that the proposal for a site does not contribute sufficiently towards the objective of creating mixed communities, then the local planning authority will need to negotiate a revision of the mix of housing or may refuse the application.
- 12.5 The strong presumption is that affordable housing secured through planning obligations will be provided on the application site so that it contributes to the development of socially mixed communities. Development plans (or SPG) should set out the exceptional circumstances where provision may not need to be on an application site (for example where the management of the affordable housing cannot be effectively secured). In such instances, any off-site provision of affordable housing or a financial contribution in lieu of on-site provision must contribute towards the objective of providing affordable housing. This could be achieved by bringing existing housing back into use for affordable housing or supporting the delivery of affordable housing on another site (either for 100% affordable housing or another site where affordable housing is to be provided).

#### **Technical Advice Note 16 - Sport, Recreation and Open Space (2009)**

- 3.15 Local planning authorities should ensure that new development, including that in commercial and industrial areas, makes adequate provision to meet the recreational needs arising, and opportunities for walking and cycling. This should mean better planned, more attractive developments, which relate to the policies and priorities of the LDP. Rather than applying blanket standards of open space and recreational provision to all new developments, consideration should be given to how the new development relates to the priorities established in the LDP. This may require a contribution to enhancing off-site facilities, paths and towpaths or spaces, for example where the development concerned gives rise to an additional need, rather than direct on-site provision.

- 4.15 Planning conditions and obligations (Section 106 Agreements) can be used to provide open space, sport and recreational facilities, to safeguard and enhance existing provisions, and to provide for their management. PPW indicates that planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Local planning authorities will usually be justified in seeking planning obligations where the quantity or quality of provision for recreation is inadequate or under threat, or where new development increases local needs. An assessment of need and an audit of existing facilities, will enable local planning authorities to use planning obligations to provide a benefit for the land and/or the locality by providing open space and suitable facilities, particularly in relation to housing, retail and employment developments.

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

- 9.20 Planning authorities may use planning obligations to secure improvements in roads, walking, cycling and public transport, whether as a result of a proposal on its own or cumulatively with other proposals and where such improvements would be likely to influence travel patterns, either on their own or as part of a package of measures.
- 9.21 Circular 13/97 sets out the way in which planning obligations can be applied, but practical examples relating to influencing movement to a site include the funding of additional or improved bus services, commuted sums towards new or improved bus and rail interchanges, and improvements to pedestrian or cycle routes which go near the site or make it easier to access the site.
- 9.23 The objective of using planning obligations in relation to transport should be to secure satisfactory accessibility to sites by all modes with the greatest degree of access being achieved by public transport, walking and cycling.

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Affordable Housing
- Vale of Glamorgan Housing Delivery Statement 2009 (which partly supersedes the Affordable Housing SPG above)
- Sustainable Development
- Barry Development Guidelines
- Planning Obligations

This sets out the Council's policies for seeking and negotiating planning obligations secured through Section 106 agreements. Of particular relevance to the grounds for appeal in this case is the following extract:

“Where a developer contends that the s106 requirements are too onerous and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs and anticipated profits based on properly sourced evidence. Developers must take account of the necessary planning obligation requirements at an early stage to ensure these are reflected in the land value assumptions. The Council may seek independent verification of these details before considering whether to reduce the number and / or value of planning obligations sought. In most cases the developer will be expected to cover the costs of this verification process. Any subsequent reduction on this basis is only likely to be justified where there is planning merit and / or public interest in the site being developed e.g. the reuse of a listed building or the regeneration of an urban area.

Where the reductions are justified on the basis of unusual market circumstances, such as an unpredicted drop in house prices, the Council will usually require developers to agree to timely review points in their section 106 agreement to take account of any subsequent up-turn in the market which make additional planning obligations feasible.”

- Public Art

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the ‘Alternative Sites’ public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*‘2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).’*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Draft Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Affordable Housing Background Paper (2013)
- Affordable Housing Viability Study (2013 Update)
- Affordable Housing Delivery Statement 2009
- Local and Neighbourhood Retail Centres Review Background Paper (2013 Update)
- Local Housing Market Assessment (2013 Update)
- Open Space Background Paper (2013)
- Community Facilities Assessment Background Paper (2013)
- Sustainable Transport Assessment Background Paper (2013)
- Population and Housing Projections Background Paper (2013)
- Retail Planning Study (2013 Update)
- Sustainable Settlements Appraisal Review (2013)
- Town and District Retail Centre Appraisal (2013 Update)
- Joint Housing Land Availability Study (2014)
- The Affordable Housing Delivery Statement (2009)
- Vale of Glamorgan Council Local Development Plan Delivery Agreement
- Vale of Glamorgan Housing Strategy

**Other relevant evidence or policy guidance:**

- Delivering affordable housing using Section 106 Agreements: Practice Guide – Welsh Assembly Government Document (June 2008)
- Delivering affordable housing using Section 106 Agreements: A Guidance Update – Welsh Assembly Government Document (September 2009)
- Circular 13/97 – Planning Obligations
- The Community Infrastructure Levy Regulations 2010 (As Amended)

Issues

As detailed in the Background section of this report, the Council has resolved to grant permission for the development proposed, subject to a Section 106 Legal Agreement, accepting that the impact of the development in terms of community infrastructure and affordable housing will not be mitigated unless the viability of the scheme improves beyond a specified point. The Applicant is unwilling to enter into **any** such Legal Agreement, even if payment in lieu of onsite provision is deferred, as suggested. The Applicant's stance has resulted in an appeal against non-determination. Accordingly the main issues to consider in this report are as follows:

- Confirmation of the planning obligations ordinarily required as a result of this scheme and the justification for them in this case;
- The principle of the development without any wider mitigation of its impact via the required planning obligations; and
- The justification for a deferred payment in the event of the improved viability of the site.

## ***Planning Obligations***

Members will recall the advice they were given in the 12<sup>th</sup> March Committee report (Appendix A) with regard to the Council's approved Planning Obligations Supplementary Planning Guidance (SPG) and the Community Infrastructure Levy Regulations 2010 (as amended). Consequently, members will recall that a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

With regard to the scheme of development subject of this report, notwithstanding the issue of the viability of the scheme, it would be reasonable to require planning obligations for the following:

- Affordable Housing
- Sustainable Transport
- Public Open Space
- Community Facilities
- Public Art

It should be noted that the Applicant does not suggest that the required planning obligations do not comply with the tests set out above. It is the Applicant's view that the scheme becomes unviable if those planning obligations are to be met, and this has been demonstrated through the submission of evidence verified by the District Valuer.

- Affordable Housing

Members will recall the advice they were given in the 12<sup>th</sup> March Committee report which sets out the policy and guidance that supports the requirement for a minimum of 30% affordable housing on sites of 10 or more dwellings in Barry.

In light of the evidence on housing need contained in the Local Housing Market Assessment and the Council's approved planning policies in respect of affordable housing, 30% affordable housing is required in this case, which equates to 8 units with a tenure split of 80% social rented (6 units) and 20% intermediate (2 units) (low cost home ownership). In light of the most recent Committee resolution in respect of a deferred payment Legal Agreement, it should be noted that it is not possible to require the provision of on-site affordable housing in such an Agreement. Accordingly, it would be necessary to accept a contribution in lieu of on-site affordable housing and this would be calculated as follows:

6 x 0.58 of the Acceptable Cost Guidelines for the relevant Social Rented Housing Unit

2 x 0.30 of Market Value of the relevant Intermediate Housing Unit

Given the house-type mix proposed (namely 24x2-bed flats and 1x3 bed flat) these units would all be assumed to be 2 bed flats. At current ACG rates (April 2015) and the Market Values proffered in the Viability Appraisal this would equate to:

$6 \times (0.58 \times \text{£}126600) = \text{£}440,568$

$2 \times (0.3 \times \text{£}235,000) = \text{£}141,000$

Total =  $\text{£}581,568$

This contribution would be used to deliver affordable housing elsewhere in Barry to meet housing need which is evidenced in the Local Housing Market Assessment. The Council's Housing Division work continuously with affordable housing partners to deliver affordable housing schemes throughout the Vale of Glamorgan and it is considered that there are available opportunities to utilise this contribution in the area if it were to become available. One example would be to increase the amount of Affordable Housing being delivered on the nearby development of the Quays on Barry Waterfront. This development is located extremely close to the application site and is considered to be particularly relevant to this proposal in terms of meeting affordable housing need.

- Sustainable Transport

Members will recall the advice they were given in the 12<sup>th</sup> March Committee report setting out the policy and guidance that emphasises the importance of sustainable development in terms of accessibility by alternative travel modes. Members were advised that it is considered reasonable and necessary to require financial contributions to be made to improve sustainable transport facilities in the area of the site. They were also advised that a contribution of  $\text{£}58,884$  for the development as a whole is considered fair and reasonably related in scale and kind to the development, due to the need to make the development sufficiently sustainable and the need to ensure that the sustainable transport facilities in the vicinity of the site are adequate to cater for the increased local population.

Such a contribution would be used to improve access to the site by sustainable modes of transport i.e. walking, cycling and public transport. In particular, the following measures which are directly related to the development site and would be likely to influence the travel patterns of future residents in accordance with paragraph 9.20 of Technical Advice Note 18 - Transport (2007):

- Improved bus services serving the site. At present the site is served by Cardiff Bus service 95 which collects from Station Approach Road, operating roughly half-hourly between 9am and 7.45pm (Mon-Sat) connecting Barry Island to Cardiff via Dinas Powys, Penarth, and Llandough. Sunday (pm) services operate on the subsidised bus service 100 which is a local Barry service costing  $\text{£}215$  a day. Subsidised services are threatened by budget constraints and rely on additional funding such as s106 contributions to survive. Without support this service could be lost and additional funding could be used to provide better evening services past 7.45pm.
- Replace the existing poor quality bus shelter on Station Approach Road with a new shelter meeting up-to-date quality standards, to encourage bus patronage (estimated cost  $\text{£}18,000$ )

- Improved footway/cycleway connections on the Barry Island causeway (total scheme cost approximately £750,000)
- Improved pedestrian connections to key destinations such as dropped curbs, lighting, re-surfacing, footpath widening and signage e.g. railway station, beach, coastal path, local shops and amenities, play areas.
- Pedestrian / Cycle crossing point with refuge on Station Approach Road leading to bridge over railway and Maslin Park beyond (key desire line from the application site to nearest open space area)

Clearly, a development of this scale could not provide all of the above, but the level of contribution reflects the scale of development proposed and would be used as a contribution, alongside other available funding streams, to make improvements to sustainable transport facilities which would be likely to influence the travel patterns of the future residents of the development.

- Public Open Space

Members were previously advised of the justification for the requirement of a provision for 48.6m<sup>2</sup> of public open space per unit under UDP Policies REC 3 and REC 6. The LDP Open Space Background Paper (2013) identified that Baruc ward (which the site lies within) has an existing shortage of 5.77 hectares of outdoor sport space, a shortage of 1.91 hectares of amenity greenspace and a shortage of 1.16 hectares of children's play space. Given the number of units and the size and constraints of the site, it is not practical or feasible to provide public open space on site. Therefore, the proposed development would exacerbate an existing deficiency in terms of open space provision in the area which should be mitigated through new or improved open space facilities.

Paragraph 3.15 of Technical Advice Note 16 - Sport, Recreation and Open Space (2009) recognises the role for enhancing off-site facilities, where the development concerned gives rise to an additional need, rather than direct on-site provision. In any event, on site public open space provision cannot be secured via a deferred payment type Section 106 Legal Agreement. Accordingly, it is considered that it would be reasonable to require a financial contribution for off-site provision in this case.

The Council's Planning Obligations Supplementary Planning Guidance provides a basis for considering how to mitigate the impacts on major residential developments. While average household size in the Vale of Glamorgan is 2.28 persons per dwelling, it is considered that there is only likely to be a maximum of 2 occupiers in each unit in this case. Therefore, having regard to the scale of the development, the advice within the Council's SPG and the impacts of the development on local infrastructure, a sum of £50,000 is considered fair and reasonably related in scale and kind to the development.



Such a contribution would be used to provide improved open space facilities in the vicinity of the site to maximise the usability of open space in the area to meet the recreational needs of the future occupiers. Opportunities exist to improve the facilities at the following nearby locations:

- Friars Road / Redbrick Crescent open space (approx. 600m walk)
- Maslin Park (approx. 400m walk)
- Amenity green space between Friars Road and Barry Island Promenade (approx. 20m walk)

- Community Facilities

The policy and guidance support for the requirement for this development to contribute towards the provision of new, or enhancement of existing, community facilities is set out in the 12<sup>th</sup> March report. Having considered the Council's basis for assessing the reasonable levels of contributions for community facilities contained in the Planning Obligations SPG, a contribution of £24,962.50 is considered to be reasonable, necessary and commensurate with the development to mitigate the impacts. The Community Facilities Background Paper identifies there are sufficient Community Buildings in the Baruc Ward and adequate library services in Barry to meet the projected growth forecast in the LDP including windfall developments such as this. However, it recognises a demand for increased provision of indoor sport facilities which cannot be catered for by current facilities. Therefore, this contribution could be used to provide or enhance indoor leisure facilities at Barry Leisure Centre, which is in much need of upgrading to modern standards. Alternatively, the local group Ocean Watersports Trust are seeking funding to deliver a multi-purpose community facility at Barry Waterfront, to facilitate watersports at Barry Docks, and this contribution could help towards delivering this £2 million scheme.

- Public Art

Members were previously advised of the policy and guidance support for the requirement of a minimum of 1% of a project budget to be set aside specifically for the commissioning of art. As a rule, public art should be provided on site integral to the development proposal. However, a requirement for on-site provision is not possible in the case of development subject of a deferred payment Legal Agreement. In this case a financial contribution in lieu of on-site provision would be reasonable and necessary, which would be used to provide public art in the vicinity of the site. In view of the location of the development site at a key tourist destination, with ample public realm areas on the doorstep, there are plenty of opportunities to deliver public art in the immediate vicinity that would satisfy the Council's policy objective of delivering high quality design through new developments. It is considered that public art is particularly relevant and necessary for a site such as this, with such a key public frontage and interface.

Appeal Inspectors have accepted the need for public art as an integral part of achieving good design within major residential developments, such as at Ogmores By Sea Residential Centre and Cedar Road Eglwys Brewis.

## ***Principle of the Development***

From the outset the Applicant had suggested that if the development were to comply with the planning obligations policy and guidance it would not be viable as it would not achieve a 15% developer profit, or an adequate return to the landowner compared to current use value. This percentage of developer profit was suggested by the Applicant in his own appraisal and it is, therefore, considered to clearly represent what the Applicant viewed as reasonable profit to render the scheme viable. As noted from the 14<sup>th</sup> May Committee report, the DV's report (which accepts 15% as reasonable) concludes that there are viability constraints to the development as proposed. On the basis of the scheme proposed, the DV's findings concurred with the Applicant's stance, that the scheme would not achieve the necessary 15% developer profit with the planning obligations required, as set out above.

It is noted that the DV also concluded that a different form of development could potentially deliver affordable housing and financial contributions to mitigate its impacts. However, such a scheme is not proposed as part of this application.

In light of the DV's conclusions, it was necessary to consider how the Council would ultimately determine the application, bearing in mind the development had already been considered acceptable in principle, subject to meeting the Council's planning obligation requirements.

The development as proposed would not provide any of the affordable housing that has been identified at a local and national level as being essential and, in some areas including Barry, in critical need. It is also the case that the development would result in additional demand on existing community infrastructure and that there would be no mitigation for this additional demand, to the detriment of the existing facilities and infrastructure and to the extent that the new population would not benefit from commensurate improvements to capacity to accommodate them. Accordingly the development would not be compliant with the Council's UDP policies, the Council guidance documents (in particular the Planning Obligations SPG) or national policy and guidance set out in the 'Viability/section 106 issues' section of the 12<sup>th</sup> March report (Appendix A).

It is noted that section 38 of The Planning and Compulsory Purchase Act 2004 requires that a planning application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Whilst the above findings suggest non-compliance with the Council's UDP, the viability of the scheme was considered material to the determination of this application. Government Guidance (set out earlier in this report), indicates that viability is a material consideration carrying weight in planning decisions. Accordingly, a balance needs to be struck between the factors in favour of the development, such as regeneration of the site, re-use of brownfield land, and additional housing supply, and the factors against, including the impacts of the development on local infrastructure, the absence of necessary improvements to local infrastructure (mitigating the impacts) and the failure to provide affordable housing.

The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements – Practice Guidance (2008) together with the Guidance Update (2009) recognises the importance to the economy of facilitating and bringing forward development. However, the latter suggests alternative mechanisms for achieving the maximum possible amount of affordable housing and other planning obligations in a challenging economic climate, which need to be considered in such cases.

In concluding on the acceptability of the application in the May 2015 Committee Report, the resolution had regard to the benefit this development will have on the regeneration of Barry Island. The Council continue to have aspirations for the regeneration of Barry Island and its promotion as a tourist destination, which is recognised in the principle objectives of the Council's Deposit LDP. The LDP Strategy sets out how these objectives will be achieved and has, as one of its four key elements, the promotion of development opportunities in Barry and the South East Zone, which includes Barry Island. In 2010, the Welsh Government designated Barry as a Regeneration Area; key to this regeneration is to maximise opportunities for new visitor and tourist facilities at Whitmore Bay and Barry Island. Whilst this has resulted in a number of regeneration schemes on Barry Island, Barry Island's regeneration as a whole still continues, with the Council's encouragement and support.

The application site is within a particularly prominent location, at the heart of the tourism destination on Barry Island and therefore its use and appearance are important to the vitality of the area. The current building on the site is not in a particularly poor condition and is not considered to detract unacceptably from the general amenity of the area. Furthermore, it is noted from the DV's report that the 'Fair Maintainable Trade' of the Dolphin Public House that has been suggested by the Applicant has, in the DV's view, been *'impaired by the uncertainty surrounding the adjoining pleasure park'* and that the Applicant has not *'maximised the potential of the Dolphin pub'*. Accordingly, the existing development on site could not be considered as impairing or detrimental to the regeneration of Barry Island.

Notwithstanding the above, the proposed scheme is particularly modern in its design and, in the light of the Council's aspirations for the improvement of Barry Island as a visitor destination, the development is considered to make a positive contribution towards the built vernacular of the Barry Island Promenade and the character of the area. The modern design is considered to be an agreeable contrast to the Esplanade Buildings, which are identified as positive buildings within the Barry Marine Conservation Area Appraisal and Management Plan. As such, and having regard to the duty imposed on the Council by Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, the proposed development is considered to enhance the character and appearance of the Conservation Area.

In addition to this, the scheme will result in the replacement of a single A3 unit with four retail units, having a mixture of both A1 and A3 uses. In view of the design, these units will present a more engaging frontage to the street scene than the existing building, thus having a greater benefit to the vitality of the area.

Whilst the objection to the proposed development in terms of the lack of affordable housing and its unmitigated impact on community infrastructure were a significant concern, on balance it was considered that the development would be of benefit to Barry Island, and in view of the evidence suggesting that the development could not viably meet the Council's planning obligations requirements, it was considered that a departure from planning policy could be accepted, but only provided appropriate mechanisms were in place to deal with changes in viability, in accordance with the Welsh Government guidance.

### ***Deferred Payment Section 106 Legal Agreement***

As set out in the Background section of this report above, Members will recall the resolution at the 14<sup>th</sup> May Planning Committee to grant permission for the development with a Section 106 Agreement that would require planning obligations in the event that development viability remains the same or improves. Should the viability of the scheme improve and the Developer profit exceed 15%, the Legal Agreement would require that the Council receive a share of any profit above 15% to provide for community infrastructure and affordable housing, up to a specified maximum value. This is a 'Deferred Payment' type of Section 106 Legal Agreement.

In his grounds of appeal the Applicant has suggest that the Council were wrong to grant permission for the development on the basis of such a Section 106 Agreement and that the correct approach would have been to grant permission without any Agreement whatsoever.

The Welsh Government Update on Delivering Affordable Housing Using Section 106 agreements provides very detailed guidance on the approach the Council should take when determining an application where viability is an issue. It encourages a flexible approach to assessing planning applications where viability is an issue, but seeks to safeguard against a developer taking advantage of such an approach. The document sets out certain mechanisms that, it says *'aim to enhance scheme viability and therefore maintain the momentum of development while guarding against the developer/landowner 'pocketing' an advantageous planning permission, which they implement when the market picks up'* (paragraph 5.1 refers).

There are several mechanisms suggested, for example the re-phasing of planning obligations (i.e. payment of planning obligations at a later phase of the development); the bringing forward the development of affordable housing; or the review of obligations during the life of the permission. Some of these mechanisms are more appropriate for larger developments and some are simply not appropriate for the scenario here where there are no planning obligations deemed to be deliverable in the current climate.

Another alternative mechanism suggested in the Guidance is for the grant of a time limited permission to ensure that the development comes forward swiftly in the same market conditions that its viability was assessed under and to bring forward the perceived benefits quickly. In this case, such a permission would not be subject to any planning obligations, but the development would have to be commenced and completed within a specified period such as 2 years from the grant of consent. This would prevent the circumstances set out earlier in this report (i.e. an unfettered permission being granted, but not implemented or completed until the viability of the scheme improves). However, in this scenario the Council would forego any opportunity of securing affordable housing and community infrastructure from development. Whilst the benefits and simplicity of a time limited permission are noted, it is not considered to be the most appropriate approach to the determination of this application. This is in recognition of the fact that viability is highly likely to change in a relatively short period of time in the current housing market, particularly relevant on Barry Island which is seeing rapid change on the doorstep of the site (on the adjacent funfair and around the area of the promenade), and having regard to the rather extreme situation in this case where no affordable housing or community infrastructure is deemed to be viable. In any event, it should be noted that the applicant has not indicated that they would be prepared to accept this mechanism.

The applicant has contested the suggestion that the viability of the development could realistically improve in the short term, however, the DV advised in the conclusion of his report that once the adjacent pleasure park is developed, the development may become more viable meaning that affordable housing and infrastructure improvements could be viably provided. Therefore, in even a very short space of time, the development could potentially deliver the much needed planning obligations identified as necessary by the Council. This is a particularly unique site and context within the Vale of Glamorgan and since the time of the applicant's viability appraisal, there has been significant progress in the development of a substantial tourist attraction on the adjoining site. It is considered that the development of this tourist attraction is highly likely to have a significant positive impact on the local economy and the vitality/vibrancy of the area. Furthermore the significant regeneration works undertaken by the Council to the promenade and surrounding area have already resulted in (and continue to result in) appreciable positive impacts on the regeneration of Barry Island. It should be noted that the planning permission that Planning Committee previously resolved to grant would have required the applicant to commence works within a period of five years, but the development need not necessarily be completed within that time period. Consequently, there is significant scope for the development and market conditions to improve before occupation of the units.

The mechanism that Members agreed at the 14 May Planning Committee would not seek to review the obligations through the life of the permission, it is a deferred payment arrangement. The Legal Agreement would require a single point at which only the viability of the scheme is reviewed (i.e. first beneficial occupation); it would set out with certainty the planning obligations that would be required should viability improve and the simple mechanism for calculating the amount of contribution, with the maximum contribution specified. This type of Legal Agreement is one suggested in the Welsh Government Guidance, referred to as a 'deferred payment arrangement'.

Accordingly, the Council's approach to the determination of the application in this case is considered to be wholly in accordance with Government Guidance. Furthermore, it is considered to be a more flexible approach for the developer (than a time limited permission) as it allows them the opportunity to either swiftly implement and complete the scheme, resulting in less likelihood of triggering the planning obligations, or allowing a longer implementation period, without the need to resubmit a new planning application with a new viability appraisal.

In recommending this approach, the Applicant has suggested that the Council are attempting to 'profit share', which is suggested as inappropriate in the Government Guidance. Your officers refute that this is the case and would draw particular attention to the relevant section of the guidance which states: "*5.27 The use of deferred charges as described above is an acceptable planning mechanism. It avoids the situation of an authority retrospectively increasing the planning obligations sought when market conditions improve, without agreement at the start about the maximum level of obligations which are applicable – 'overage'. 5.28 It is not good practice for an authority simply to seek to 'share' in an increase in market value*". It is clear from the preceding paragraph, that when the guidance refers to inappropriate use of profit sharing arrangements, it is referring to a scenario with an open-ended requirement for obligations, with no upper limit. This is clearly not what the Council is seeking to achieve, as the total level of planning obligations required has been clearly set out in the Committee reports. The reason the committee resolution makes reference to Council receiving a 50% share of any profit to provide for community infrastructure and affordable housing is to ensure that the developer still has an incentive to minimise development costs and maximise profits. This is an approach that has been successfully used on other developments in the Vale of Glamorgan (e.g. Barry Waterfront) where the Council has worked with developers to achieve an appropriate solution to tackle viability issues.

The applicant has suggested that the Council's stance is inappropriate and that the relevant Government Guidance advises that such an approach is only relevant to larger sites (typically those involving multiple phases). However, the guidance provides such advice in respect of 'reviewing obligations through the life of a permission'. However, the Council is not proposing such a mechanism, rather it is clearly a deferred payment arrangement that the Council is proposing. It should also be noted that the advice on deferred payments does not specify relevance to 'larger sites' only. In a case such as this, where there is a reasonable likelihood that the viability will change during the life of the implementation of the permission, a deferred payment mechanism is considered to be the most appropriate solution to the viability constraints.

In the Deferred Payment Section 106 Agreement, the Applicant would have absolute certainty from the outset of the maximum level of contributions that would be required and the point at which contributions would be triggered. The Committee approved Legal Agreement would not allow for the Council to reconsider the contributions that would be required at any point in the life of the permission. It would not only allow for a 15% developer profit (a percentage suggested by the Applicant and accepted by the DV) before any contributions are made, but would allow the developer to retain 50% of any profit above that 15% (i.e. the Legal Agreement would not require all or the majority of profit above 15% to be paid to the Council for planning obligations).

In fact, it is noted from the DV's conclusions that, even without any planning obligations, it may not be possible to achieve even a 15% developer profit at present. Accordingly, the Council approved Legal Agreement would allow the viability of the scheme to improve, and developer profit to increase from that set out in the DV's report even before any contributions are required.

The developer has argued that the Council is causing uncertainty for the developer in terms of risk. However, your officers find this extremely difficult to accept in view of the fact that the developer would benefit from a consent that allows him to implement the permission and protect a 15% profit before having to provide any planning obligations, and to be fully aware of what the upper limit of those obligations would be in advance. This is a far greater degree of certainty and safeguarded profitability than almost all other speculative housing developments that are progressed and implemented on a daily basis throughout Wales, where contributions are agreed, often at outline stage, before a development is even commenced.

The applicant's stance on this matter seems very difficult to accept in light of the Welsh Government guidance which sets out how to deal with the very scenario that we are facing in this case. It states (emphasis added): *"5.7 Reducing or otherwise altering planning obligations (including affordable housing requirements) **should not be agreed without mechanisms in place**, (such as a time limited permission) to encourage early development of the scheme and to guard against an advantageous permission being 'pocketed' and not developed until market conditions improve."* However, this is precisely what the applicants are seeking and therefore is considered to be unacceptable. This stance casts serious doubt over the intentions of the applicant to secure a development which meets relevant planning policies, and calls into question the integrity of the viability appraisal. There is no justification in planning terms to allow a development which fails to meet the Council's affordable housing or planning obligation policies on the basis of viability without a mechanism to meet these requirements if viability is no longer a concern. It is concluded that the applicant's only motive for such a stance can be the hope that the development does in fact produce a greater than anticipated profit level for the developer, which he would seek to retain in full without providing the necessary infrastructure to mitigate his development.

## SUMMARY AND CONCLUSION

The development is considered acceptable in terms of the principle of the uses, visual/landscape impact, density, sustainability, highways issues including traffic generation and parking, noise, drainage and flood risk, impact on residential amenity, ecology and archaeology.

The following Planning Obligations, previously agreed by Committee, are required:

- Affordable Housing
- Sustainable Transport
- Public Open Space
- Community Facilities
- Public Art

These are considered to be necessary, directly related to the development and reasonable. Accordingly, they are required in compliance with The Community Infrastructure Levy Regulations 2010 (as Amended).

To allow the development without the necessary planning obligations would be contrary to UDP policies HOUS12 – Affordable Housing, ENV27 – Design of New Developments, REC3 – Provision of Open Space within New Residential Development, HOUS8 – Residential Developments Criteria – Policy HOUS 2 Settlements and Strategic Policy 2, as well as Council approved Supplementary Planning Guidance on ‘Planning Obligations’, ‘Public Art’ and ‘Sustainable Development’; the 2010 Local Housing Market Assessment; Planning Policy Wales (Edition 7); TAN 2 Planning and Affordable Housing; TAN 18: Transport; TAN16: Sport, Recreation and Open Space and Manual for Streets 1&2.

The viability appraisal, DV’s report and national planning guidance on Section 106 Legal Agreements are noted. Viability is considered to be material to the determination of this application.

Whilst the objection to the proposed development in terms of the lack of affordable housing and its unmitigated impact on community infrastructure are noted, having regard to the current viability and the benefit of the development to the regeneration of Barry Island, the Council’s resolution to grant planning permission for the proposal, free of any planning obligations, is considered to be appropriate, on balance provided that there is an appropriate mechanism in place to recognise a change in viability that would enable community infrastructure and affordable housing to be delivered.

Having regard to the Welsh Government Guidance on delivering affordable housing using Section 106 Agreements, it is considered reasonable for the Council to have resolved to grant permission for the development, subject to a Legal Agreement requiring the following:

- The appraisal of the viability of the scheme at 1<sup>st</sup> beneficial occupation of the residential part of the development.
- In the event the development viability remains the same or becomes less viable, the developer shall not be required to provide any community infrastructure or affordable housing.
- In the event the development viability improves and the Developer profit exceeds the 15%, the Council will receive a 50% share of any profit to provide the planning obligations listed above, to a specified maximum.

The Applicant’s appeal is made on the basis that he objects to any Legal Agreement, but is still seeking planning permission for the development. On this basis it is considered that, without the mechanism in place to safeguard the provision of affordable housing and community infrastructure should the viability of the scheme improve, the development would be out of accord with the national and local objectives for affordable housing and detrimental to the existing community infrastructure, in conflict with the policy and guidance, set out above.



## RECOMMENDATION

That Members of the Planning Committee note the above conclusions and agree that these form the basis of the Council's case in the current non-determination appeal and that the application as proposed by the Applicant in his current grounds of appeal would have been refused for the reasons set out below:

The development as proposed does not accord with the national and local objectives for affordable housing and would create additional and unmitigated demand for the existing community infrastructure to the detriment of that infrastructure, which cannot be justified on the grounds of viability constraints unless appropriate mechanisms are in place to address likely changes in viability as the development is implemented. Accordingly the development would not be in compliance with policies HOUS12 – Affordable Housing, ENV27 – Design of New Developments, REC3 – Provision of Open Space within New Residential Development, HOUS8 – Residential Developments Criteria – Policy HOUS 2 Settlements and Strategic Policies 2, 7 & 11 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, as well as Council approved Supplementary Planning Guidance on 'Planning Obligations', 'Public Art' and 'Sustainable Development'; the Vale of Glamorgan 2010 Local Housing Market Assessment; Planning Policy Wales (Edition 7); Technical Advice Note 2: Planning and Affordable Housing; Technical Advice Note 18: Transport; Technical Advice Note 16: Sport, Recreation and Open Space and Manual for Streets 1&2.

APPROVE subject to the following conditions.

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Prior to the commencement of the construction of the building, details of the finished levels of the site and building, in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the visual amenity of the area is safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

3. This consent shall only relate to the registered on 24 November 2014, other than where amended by plans refs 217a-6030(1), 217a-6031(1); 217a-6032(1); 217a-6033(1); 217a-6034(1); 217a-6035(1); 217a-6036(1); 217a-6037(1) on the 27 January 2015.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

4. Notwithstanding the submitted plans and prior to the commencement of any works on site, full engineering drawings and design calculations of the proposed vehicular / pedestrian access to the site, to include vision splays, sections, drainage and gradients details, and details of the amended layby along Station Approach Road shall be submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be constructed and maintained in accordance with the approved details.

Reason:

To ensure the provision on safe access for the site to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. Prior to the commencement of development details of measures for wheel washing and dust suppression shall be submitted to and approved in writing by the Local Planning Authority and the approved measures shall be fully implemented on site prior to the commencement of any works and shall thereafter be so retained for the duration of the development unless the Local Planning Authority gives prior written consent to any variation.

Reason:

To ensure highway safety and that the amenities of the area are not adversely affected and in order to ensure compliance with Policy ENV27 of the Unitary Development Plan.

6. Prior to the first beneficial occupation of the development hereby approved, a full Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Policies 2, 8 and ENV27 (Design of New Developments) of the Unitary Development Plan.

7. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority, to include details of parking for construction traffic, the proposed routes for heavy construction vehicles, timings of construction traffic and means of defining and controlling such traffic routes and timings, shall be submitted to and approved in writing by the Local Planning Authority, and the development shall at all times thereafter be carried out in accordance with the approved details unless the Local Planning Authority gives prior written consent to any variation.

Reason:

To ensure that the parking provision and highway safety in the area are not adversely affected and to meet the requirements of Policies TRAN10 and ENV27 of the Unitary Development Plan.

8. Prior to the commencement of development a Site Waste Management Plan in relation to the ongoing construction, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the measures contained within the submitted SWP unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of flood risk, prevention of pollution and impact on neighbouring amenity in accordance with Policies ENV7 - Water Resources; ENV26 - Contaminated Land and Unstable Land; and ENV29 - Protection of Environmental Quality of the Unitary Development Plan.

9. Prior to the commencement of the construction of any of the residential units, a scheme of noise attenuation shall be submitted to and approved in writing by the Local Planning Authority. The approved schemes shall be fully implemented prior to the development hereby approved being brought into beneficial use and shall thereafter be so maintained at all times.

Reason:

To ensure that residential amenity is safeguarded and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

10. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated, and details of construction hours. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Prior to the commencement of development on site to construct the new building, a comprehensive phasing plan for the retail and residential elements of the development site shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times thereafter be constructed and occupied in full accordance with the agreed phasing plan.

Reason:

To ensure that the development is phased appropriately and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

12. 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.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents, ensure no detriment to the environment, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

13. Full details of a scheme for the disposal of foul water, land drainage and surface water shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details. The details shall include a written declaration detailing responsibility for the adoption and maintenance of the drainage system in perpetuity.

Reason:

To ensure the adequate drainage of the site, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

14. The ground floor units of the development hereby approved shall be used only for the purpose(s) specified in the application, i.e. within Classes A1 or A3 of the Town and Country Planning (Use Classes) Order 1987 and for no other purpose whatsoever in any other use class of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order.

Reason:

To control the precise nature of the use of the site, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

15. Notwithstanding the submitted plans, no part of the development hereby approved shall be brought into beneficial use until such time as further plans have been submitted to and approved in writing by the Local Planning Authority, to indicate parking areas, the associated access and turning areas and space for servicing within the site. The details submitted under the terms of this condition shall include full details of how parking spaces will be allocated and a servicing management plan. No part of the development shall be brought into beneficial use until such time as the site has been laid out in full accordance with the details approved under the terms of this condition and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

16. Prior to the first beneficial occupation of any part of the development, 14 no. cycle spaces (ten to serve the flats and 4 to serve the retail units) shall be provided on site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The spaces shall thereafter be provided prior to the first beneficial occupation of the building and so retained at all times thereafter.

Reason:

In order to ensure adequate cycle provision to serve the development and to ensure compliance with Policy ENV 27 of the UDP.

17. The vehicular access point shown on plan reference 217a-6010 as 'secondary access gates' shall only be used as an emergency vehicle access and not as the primary vehicular access to the site.

Reason:

In the interests of highway safety and to ensure compliance with Policy ENV 27 of the Unitary Development Plan.

18. Notwithstanding the submitted forms and plans, prior to their use in the construction of the development hereby approved, a full schedule (including samples) of the proposed materials to be used (including doors, windows, balcony guards, hard surfacing/hard landscaping materials) shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out and at all times maintained in accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV27 of the Unitary Development Plan

19. Notwithstanding the submitted plans, prior to their use in the construction of the development hereby approved, further details of the proposed balcony screens shall be submitted to and approved in writing by the Local Planning Authority (including details of the location of all the screens). The screens shall be erected prior to the first beneficial occupation of any of the residential units and shall be so maintained at all times thereafter.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV27 of the Unitary Development Plan

20. Prior to the commencement of development on the construction of the front elevation of the retail units, further details and elevational plans of the proposed shopfronts shall be submitted to and approved in writing by the Local Planning Authority. The shopfronts shall thereafter be constructed and maintained in accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV 27 of the UDP.

21. All of the A1 units hereby approved shall be built, fitted out to a shell and core specification, to be first agreed in writing with the Local Planning Authority, and made available for rent / sale prior to the first occupation of any of the apartments hereby approved. The A1 units shall thereafter be marketed until such time that all of the A1 units are sold or leased, in accordance with a marketing plan (which will detail tenure, rental levels and types of operator) with said plan to first be submitted to and agreed in writing by the Local Planning Authority.

Reason:

To ensure a comprehensive and mixed use development of the site in accordance with Policies 9 and ENV27 of the Unitary Development Plan.

22. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the first beneficial use of any part of the development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 and the Town and Country Planning (General Permitted Development) Order 1995, (or any Orders revoking or re-enacting those Orders with or without modification), no gates, fences, walls or other means of enclosure (other than those approved under the terms of conditions of this planning permission) shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

**NOTE:**

1. **You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
2. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
3. **Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
4. **The applicants are advised that all necessary consents/ licences must be obtained from Natural Resources Wales prior to commencing any site works.**

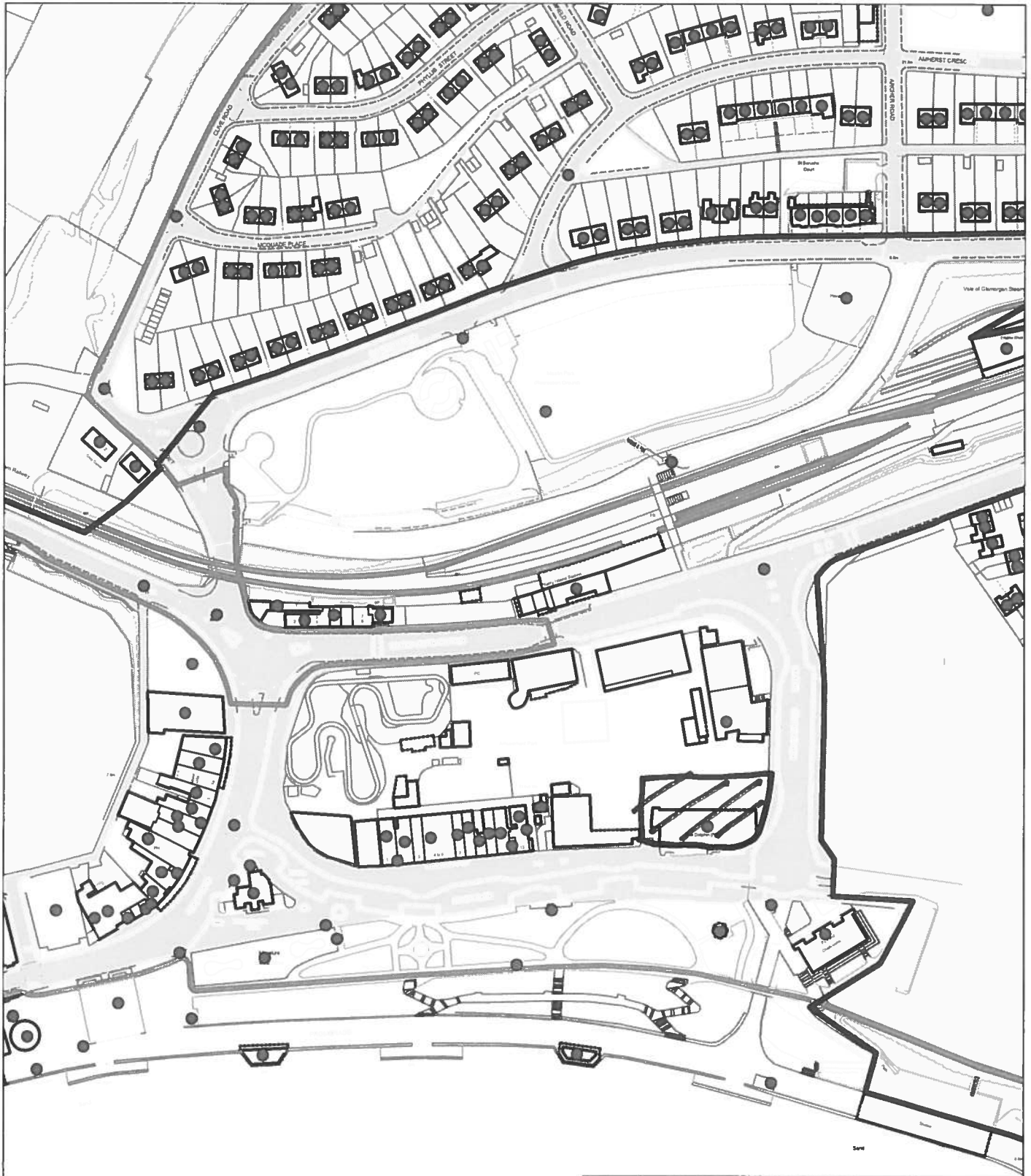
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**





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<p><i>he Vale of Glamorgan Council</i></p>	
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<p>Title: <i>2014/01358/FUL</i></p>	
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	<p>Time 02:09:44 PM</p>
	<p>Date 3 Mar 2015</p>

**2014/01424/FUL** Received on 16 December 2014

David Wilson Homes  
Barton Willmore, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AJ

**Land off St. Brides Road, Wick**

Change of use of agricultural land to residential development (C3) including the development of 124 residential dwellings, public open space, landscaping, highway improvements and associated engineering works.

**SITE AND CONTEXT**

The application site is land at St. Brides Road, Wick, and comprises 4.4 hectares of agricultural land that adjoins the western part of the village, between Heol Fain and the B4265. The Site is bounded by dwellings to the south/south east, the B4265 to the east, fields to the north and Heol Fain to the west.

The Application site is relatively flat and falls from south-east to north-west, with the site levels varying between 98 AOD to 90 AOD. The application site is shown in the context of the village on the aerial photograph below:

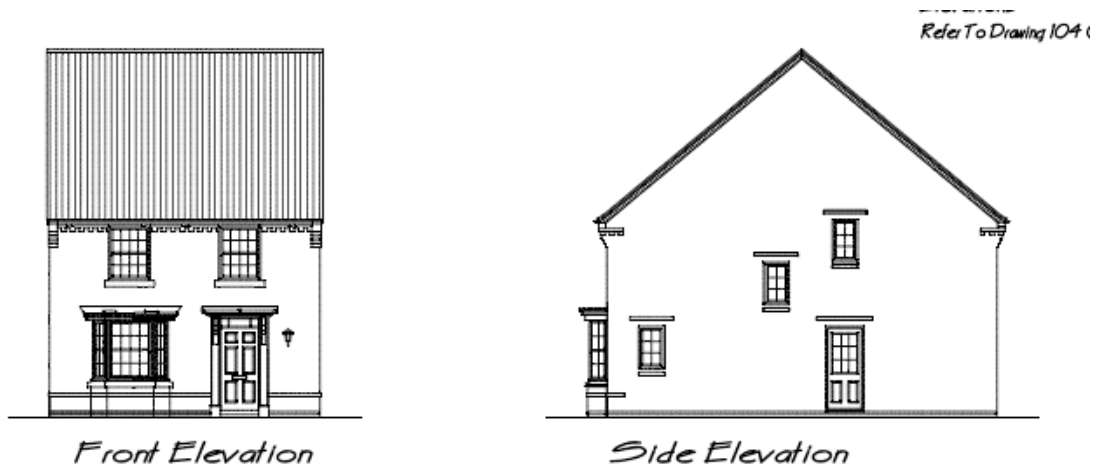
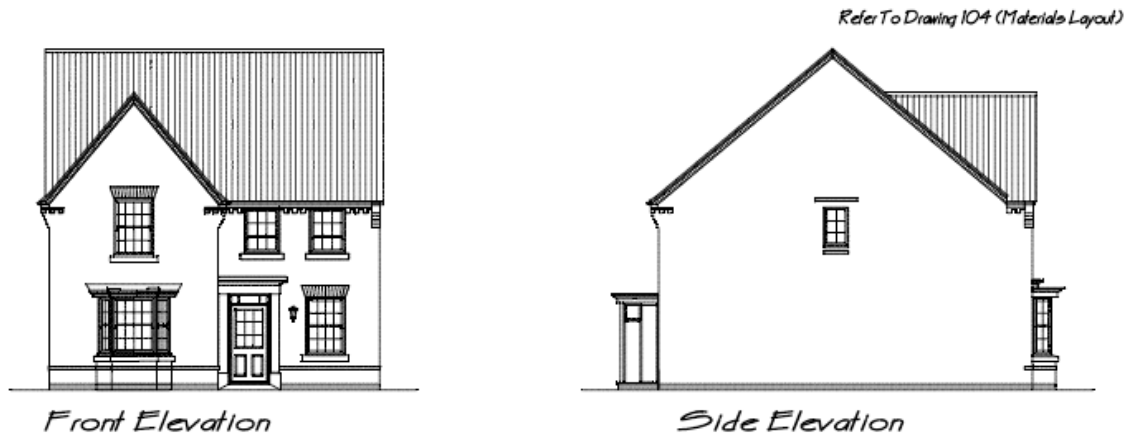


## DESCRIPTION OF DEVELOPMENT

This is a full application for 124 dwellings. The development comprises a mix of detached and semi-detached dwellings, and flats. The proposed layout is shown below:



Principally, the layout involves a single vehicular access point from the B4265, with a main spine road leading to series of private drives, with a vehicular loop (shared surface) in the eastern portion of the site. Open spaces would be sited adjacent to the main spine road, through the site, with the largest area of open space in the southern portion of the site. The development comprises a mix of house types, but with a generally traditional form and character. Example house types are shown below:



As noted above, the primary pedestrian and vehicular access would be at the eastern side of the site from the B4265, however, the layout also makes provision for a pedestrian link from the site onto Heol Fain.

PLANNING HISTORY

None relevant to this application.

CONSULTATIONS

**Highway Development-** An annotated plan has been received, identifying various issues within the proposed layout, including vision splays, width of carriageways, geometry of drives relative to the road and footway links to the bus stop.

**Public Rights of Way Officer** has provided advice in respect of the procedure involved in diverting or stopping up a public right of way.

**Highways and Engineering (Drainage)-** No objection is raised, subject to conditions requiring the approval of the detailed design of the drainage system and a CEMP.

**The Director of Legal and Regulatory Services (Environmental Health)** has raised no objection in respect of contaminated land. Concerns are raised in respect of traffic noise from the B4265.

**Glamorgan Gwent Archaeological Trust-** No objection subject to a watching brief condition.

**Wick Community Council** have objected and raised concerns on the following grounds:

- The development is too large and disproportionate for the village of Wick.
- The development will put strain on local amenities.
- Premature to the LDP process.
- The development would result in the loss of a large greenfield site.

Further concerns have been received from the Community Council following the consultation in respect of the developer allegedly commencing development on the site before permission being granted.

**Local Ward Members-** No representations received.

**Dwr Cymru Welsh Water** have raised no objections subject to standard conditions relating to the drainage of the site.

**The Council's Ecology Officer** initially submitted a holding objection, pending the submission of further surveys. Following the submission of those surveys, there is now no objection subject to conditions.

**Planning- Tree Officer-** No representations received to date.

**Crime Prevention Design Advisor-** No representations received.

**Rural Affordable Housing Enabler-** No objection is raised to the amount and dispersion of the affordable housing. A 'small concern' is raised in respect of the ten 1 bed units being grouped together.

**Natural Resources Wales** Objected to the original plans pending the submission of a Great Crested Newt survey, however, that objection has been removed upon submission of acceptable surveys. No objection is raised in respect of flood risk.

## REPRESENTATIONS

The neighbouring properties were consulted and the development has been advertised on site and in the press. In excess of 130 letters of objection have been received in respect of the original plans, eighteen letters of objection have been received in respect of the amended plans and the grounds of objection are summarised as follows:

- Loss of agricultural land.
- Excessive scale of the development.
- Threat to wildlife.

- Increased traffic
- Added pressure on schools
- Lack of amenities
- Anti-social behaviour
- Adverse impact on property value
- Brownfield sites should be prioritised.
- Adverse impact on the landscape and character of the area.
- Inadequate infrastructure
- The development is too dense.
- Adverse impact on the character of the village.
- The dwellings are out of keeping with the village.
- The layout is out of keeping with the village.
- Insufficient jobs in Wick.
- Noise and disturbance.
- Inadequate bus services
- Contrary to policy.
- It would detract from tourism in the area.
- Flooding and drainage problems.
- Increase in pollution.
- Overlooking of existing houses.
- Overbearing impacts on existing houses.
- Flood risk and drainage problems.
- Adverse impact on highway safety.
- The application seeks to circumvent the LDP process.
- The development is contrary to UDP and LDP policies.
- The development is unsustainable.
- Adverse impact on public right of way.
- The development would be premature, in terms of the LDP process.
- Inadequate sewerage facilities.
- Inappropriate materials.
- Light pollution.
- Construction impacts

Five sample objection letters are attached as Appendix A.

In addition, a copy of LDP submissions has been made from Wick Action Group, which are accompanied by a petition with 473 signatures.

**Alun Cairns MP** has submitted a letter of representation, voicing concerns and objections to the application, which are summarised as follows:

- The timing of the application is premature, given the stage of the LDP.
- Consultations were carried out at an inappropriate time of the year.
- The land is not allocated for housing in the UDP.
- Loss of countryside.
- The development would overwhelm the current settlement.
- Pressure on stretched services.
- The development is unsustainable.

This letter can be found at Appendix B.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 8 – TRANSPORTATION

POLICY 11 - SPORT & RECREATION

#### *Policy:*

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE

ENV2 - AGRICULTURAL LAND

ENV7 - WATER RESOURCES

ENV10 – CONSERVATION OF THE COUNTRYSIDE

ENV11 - PROTECTION OF LANDSCAPE FEATURES

ENV16 - PROTECTED SPECIES

ENV 17- PROTECTION OF THE BUILT ENVIRONMENT

ENV 18- ARCHAEOLOGICAL FIELD EVALUATION

ENV 19- PRESERVATION OF ARCHAEOLOGICAL REMAINS

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV28 - ACCESS FOR DISABLED PEOPLE

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS3 - DWELLINGS IN THE COUNTRYSIDE

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

HOUS12 - AFFORDABLE HOUSING

TRAN9 – CYCLING DEVELOPMENT

TRAN10 - PARKING

REC3 - PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENT

REC6 - CHILDREN'S PLAYING FACILITIES

REC7 - SPORT AND LEISURE FACILITIES

REC12 - PUBLIC RIGHTS OF WAY AND RECREATIONAL ROUTES

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

**Planning Policy Wales:**

Planning Policy Wales (Edition 7)) advises that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. It is for the decision-maker to determine whether policies in the adopted Development Plan are out of date or have been superseded by other material considerations and this should be done in light of the presumption in favour of sustainable development.



In this case, the relevant material considerations are considered to be as follows:

DEVELOPMENT PLANS – CHAPTER 2 – Following extracts relevant:

2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances

2.6.3 Questions of prematurity may arise where an LDP is in preparation but the plan has not yet been adopted. In these circumstances refusing planning permission on grounds of prematurity may be justifiable in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the LDP context. Refusal will therefore not usually be justified except in cases where a development proposal goes to the heart of a plan. This requires careful judgement. A refusal might be justifiable where a proposal would have a significant impact on an important settlement, or on a substantial area, with an identifiable character, but is rarely justifiable if a development proposal is likely to impact upon only a small area.

2.6.4 The stage which a plan has reached will also be an important factor in judging whether a refusal on prematurity grounds is justifiable. A refusal on prematurity grounds will seldom be justified where a plan is at the pre-deposit plan preparation stage, with no early prospect of reaching deposit, because of the lengthy delay which this would impose in determining the future use of the land in question.

2.6.5 Where there is a phasing policy in the plan that is critical to the plan structure there may be circumstances in which it is necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.

2.6.6 Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the LDP process.

HOUSING –CHAPTER 9 – Following extracts relevant

9.1.1 The Welsh Government will seek to ensure that:

- previously developed land (see definition at Figure 4.3) is used in preference to greenfield sites;

- new housing and residential environments are well designed<sup>2 3</sup>, meeting national standards for the sustainability of new homes<sup>4</sup> and making a significant contribution to promoting community regeneration and improving the quality of life; and that
- the overall result of new housing development in villages, towns or edge of settlement is a mix of affordable and market housing that retains and, where practical, enhances important landscape and wildlife features in the development.

9.1.2 Local planning authorities should promote sustainable residential environments, avoid large housing areas of monotonous character and make appropriate provision for affordable housing. (Affordable housing is defined in 9.2.14.) Local planning authorities should promote:

- mixed tenure communities;
- development that is easily accessible by public transport, cycling and walking, although in rural areas required development might not be able to achieve all accessibility criteria in all circumstances;
- mixed use development so communities have good access to employment, retail and other services;
- attractive landscapes around dwellings, with usable open space and regard for biodiversity, nature conservation and flood risk;
- greater emphasis on quality, good design and the creation of places to live that are safe and attractive;
- the most efficient use of land;
- well designed living environments, where appropriate at increased densities;
- construction of housing with low environmental impact (see 4.12); reducing the carbon emissions generated by maximising energy efficiency and minimising the use of energy from fossil fuel sources, using local renewable and low carbon energy sources where appropriate; and
- 'barrier free' housing developments, for example built to Lifetime Homes standards.

9.1.4 Local authorities must understand their whole housing system so that they can develop evidence-based market and affordable housing policies in their local housing strategies and development plans. They should ensure that development plan policies are based on an up-to-date assessment of the full range of housing requirements across the plan area over the plan period. Local authority planning and housing staff should work in partnership with local stakeholders, including private house builders, to produce Local Housing Market Assessments (LHMA). LHMA's must include monitoring so that responses to changing housing requirements can be reflected in updated development plans and housing strategies.

9.2.3 Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live. There must be sufficient sites suitable for the full range of housing types. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study.

9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.

9.3.5 Where development plan policies make clear that an element of affordable housing, or other developer contributions, are required on specific sites, this will be a material consideration in determining relevant applications. Applicants for planning permission should therefore demonstrate and justify how they have arrived at a particular mix of housing, having regard to development plan policies. If, having had regard to all material considerations, the local planning authority considers that the proposal for a site does not contribute sufficiently towards the objective of creating mixed communities, then the authority will need to negotiate a revision of the mix of housing or may refuse the application.

#### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 1 – Joint Housing Land Availability Study (2015)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 10 – Tree Preservation Orders (1997)
- Technical Advice Note 12 – Design (2014)
- Technical Advice Note 16 - Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)

#### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Affordable Housing
- Vale of Glamorgan Housing Delivery Statement 2009 (which partly supersedes the Affordable Housing SPG above)

- Sustainable Development
- Amenity Standards
- Biodiversity and Development
- Design in the Landscape
- Planning Obligations
- Public Art
- Trees and Development

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in August 2015

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

In addition to the above the guidance provided in Paragraph 4.2 of PPW is noted above and regard to this, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the fact that the DLDP is very close to examination, it is considered that the following proposed policies of the draft LDP are of relevance to the consideration of this application:

- Policy SP3 - residential requirement.
- Policy MG2 Housing allocations

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Affordable Housing Background Paper (2013)
- Affordable Housing Viability Study (2013 update)
- Findings of the Candidate Site Assessment Process (2013)
- Housing Supply Background Paper (2013)
- Local Housing Market Assessment (2013 update)
- Open Space Background Paper (2013)
- Population and Housing Projections Background Paper (2013)
- Sustainable Settlements Appraisal Review (2013)
- Affordable Housing Delivery Statement (2009)
- Designation of Special Landscape Areas (2013)
- Joint Housing Land Availability Study (July 2014)

### Issues

The primary issues to be considered with this application are considered to be the following:

- The principle of the development having regards to relevant Unitary Development Plan and National policies;
- Consideration of other material considerations that may outweigh Development Plan policies such as housing land supply, development viability, emerging planning policy etc.
- Issue of prematurity given the current stage in preparation of the Vale of Glamorgan Local Development Plan;
- Visual impact of the development within the wider landscape.
- Density of the development.
- Design and layout.
- Public open space.
- Highway safety and the proposed access and junction arrangement off Cowbridge Road.
- Traffic and congestion issues.
- Highways issues associated with internal road layout, and parking.
- Impact on residential amenity of existing residents.
- Amenity of the future occupiers of the site
- Drainage and flood risk.
- Ecology.
- Archaeology.
- Agricultural land quality.
- Public rights of way issues.
- S106 Planning Obligations to mitigate the impact of development (to include affordable housing provision).

## Principle of the Development

### Unitary Development Plan context

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be in accordance with the Development Plan unless material considerations indicate otherwise.

In this case, the Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (UDP). This Plan is technically time expired (as of 31<sup>st</sup> March 2011), though as yet there is no adopted replacement. Whilst the UDP remains the basis of local policy, as stated in PPW, where policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications.

Policy ENV1 of the UDP states that in the delineated countryside, development will only be permitted in the interests of agriculture / forestry; for appropriate recreational uses; for the conversion of rural buildings; or for development approved under another policy of the UDP. In this case, as discussed in detail below, when solely considering this policy, the proposed development would not be considered as justified.

In considering the other policies of the UDP, Policy HOUS2 states that favourable consideration will be given to small-scale development (which constitutes the rounding off of the edge of settlement boundaries, where it can be demonstrated that the criteria of Policy HOUS8 are complied with). In this case, while the application site adjoins the existing settlement, it is considered that the scale of the proposed development (124 dwellings) and the size of the site are such that the development could not be considered as “small scale” rounding off. Accordingly, it is considered that the proposed development could not be considered as compliant with the terms of Policy HOUS 2. Furthermore, policy HOUS 3 states that the erection of new dwellings in the open countryside will be restricted to those justified in the interests of agriculture or forestry. The proposals have no such justification and are not linked to any rural enterprise, such as those mentioned under Technical Advice Note 6 (Sustainable Rural Communities). As such, in terms of UDP local policy, the proposal for residential development would not be considered as a rounding-off development and would have no justification in accordance with TAN 6 or Policy HOUS 3. Therefore, the proposed residential development is considered contrary to the relevant policies of the UDP.

Given that the principle of the proposed development is considered to be contrary to Policies ENV1, HOUS2 and HOUS 3 for the reasons given above, it is necessary to consider, given the age of this Development Plan, as to whether there are specific material considerations which should justify any departure from the development plan to out-weigh the objection set out in the UDP.

## Local Development Plan Context

Under the Local Development Plan (LDP) Draft Deposit of 2012, the application site was included as a housing allocation site. However, as Members will be aware, on 23 January 2013, the Council resolved not to progress any further with the 2012 Deposit LDP (February 2012) and instead commence work immediately on a replacement Deposit LDP. Work subsequently progressed on a replacement LDP to guide new sustainable development in the Vale of Glamorgan.

The Deposit Draft Local Development Plan 2013 allocates the site for residential development under reference policy MG 2(44), for a total of 100 dwellings. Wick is identified in the Deposit Draft Local Development Plan as a 'Minor Rural Settlement', as part of the settlement hierarchy.

Furthermore, the Deposit draft LDP states:

*5.19 The various minor rural settlements identified in the LDP settlement hierarchy contribute towards the special character of the rural Vale and also play an important role in underpinning sustainable rural communities. These settlements tend to either be located alongside the strategic highway network or relatively close to the larger towns and villages identified within the settlement hierarchy. The types of services and facilities typically found within the minor rural settlements include places of worship, community halls, small scale retail uses and formal recreational facilities. A number of the smaller rural settlements also provide small scale local employment opportunities, either within or in close proximity to the settlements. Some of the smaller settlements such as Pendoylan, Colwinston, St Nicholas and St. Brides Major also include primary schools which serve a wider catchment area. Accordingly the minor rural settlements can be considered as being functionally linked, emphasising the importance of safeguarding facilities as well as facilitating new development opportunities.*

Nevertheless given that this is in draft form, consideration should be given as to whether the proposals would be premature, considering the site's inclusion as an allocated site in the Draft.

On the issue of prematurity, PPW advises (at paragraph 2.6.3) that "*refusing planning permission on grounds of prematurity may be justifiable in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the LDP context. Refusal will therefore not usually be justified except in case where a development proposal goes to the heart of a plan. This requires careful judgement. A refusal might be justifiable where a proposal would have a significant impact on an important settlement, or on a substantial area, with an identifiable character, but is rarely justifiable if a development proposal is likely to impact upon only a small area*"

Considering the advice of PPW, it is important to consider the potential impacts of allowing such a development at this stage and its impact to the LDP process, the overall strategy and the provision of housing supply with the Vale of Glamorgan.

Members should note that Wick is classed as a Minor Rural Settlement and this allocation is not one of the Strategic Housing Sites within the Draft plan. On the basis that the site is not a 'strategic allocation', it is considered that bringing this site forward for 124 dwellings would not 'go to the heart' of the overall LDP strategy, given that this relates to a very small percentage of the overall housing land requirement over the plan period. It is also considered that it would not go to the heart of the plan cumulatively with other LDP allocations that have been approved. While it is a relatively large extension in the context of the existing village, it is considered that Wick is not an 'important settlement' in the terms of the meaning of this PPW advice, since it is not a 'key settlement' within the LDP, nor is it a 'service centre settlement' or a 'primary settlement', rather it is a 'minor rural settlement'. Similarly it is considered that the development would not have a significant impact on a substantial area with an identifiable character, rather the impact would only be on a relatively small area (see section below on the impact on character of the village).

It is also considered that it would not undermine the deliverability of the strategic housing allocations or wider strategy of the plan, in line with the guidance set out in PPW (paragraph 2.6.3).

Nevertheless, while the site has been identified for a housing allocation site in the Deposit Draft Local Development Plan and Wick is considered a sustainable minor rural settlement for further housing development, it is recognised that this Draft plan remains unadopted. Accordingly, the weight to be afforded to the plan alone must reflect the fact that it may be subject to change before it becomes an adopted Development Plan.

Given the above and since the proposals are not in accordance with the adopted UDP, there would still need to be sufficient material considerations to justify the proposed residential development of the site now.

The following section will assess to the current situation with regards the 5-year Housing Land Supply and the impact this development would have in this regard.

### Housing Need and Supply

Firstly, consideration should be made as to whether there is a need for additional housing within the Vale of Glamorgan. PPW (9.2.3) states that Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. As such, the housing land supply and the need for housing levels and mix are important factors that must be considered in the assessment of this application.



Members will be aware that Technical Advice Note 1 (TAN1) has been recently updated and that a key change to the revised TAN1 guidance is that the use of JHLAS to evidence housing land supply is now limited to only those Local Planning Authorities (LPAs) that have in place either an adopted Local Development Plan or an adopted UDP that is still within the plan period. Previously, LPAs without an up-to-date adopted development plan were able to calculate housing land supply using a 10 year average annual past build rate. However, under the new TAN1 guidance the use of the past build rates methodology, which was based on the past performance of the building industry, is not accepted and those LPAs without an up-to-date development plan are unable to demonstrate a housing land supply for determining planning applications.

Members will be aware that the adopted Vale of Glamorgan UDP expired on 1 April 2011, and officers are currently preparing for submission of the LDP to Welsh Government for independent examination by an appointed Inspector, which is timetabled to take place from August 2015. As a consequence of the revised TAN 1 guidance, it is not until the Council has formally adopted its LDP that the Council will be able to produce its annual JHLAS report. Moreover the 2014/15 JHLAS for the Vale of Glamorgan which indicated over 7 years supply, expired at the end of March 2015.

Under the Council's LDP Delivery Agreement, adoption of the LDP is anticipated to take place in September/October 2016. Local Planning Authorities that do not have either an adopted LDP or UDP will be unable to formally demonstrate its housing land supply position and will effectively be considered not to have a five year housing land supply and as such the need to increase supply would be given considerable weight (TAN 1, para 6.2).

In this regard officers will need to keep under review the housing land supply noting that it remains a material consideration (TAN 1, 3.3) in the determination of planning applications, particularly given the emphasis on evidencing a 5 year supply on adoption of its LDP. However, Welsh Government has advised that since the assessment will not be subject to the normal JHLAS process it will not carry the same weight for planning purposes as a formal study. Nevertheless, officers will need to assess how planning proposals will contribute to both supporting delivery of the emerging LDP and the provision of a 5 year housing land supply on its adoption, and these are themselves considered to be important material considerations.

The determination of planning applications for residential development in advance of the LDP Examination would also need to fully consider all other material considerations, such as the LDP background evidence and the wider environmental, social and economic benefits of the scheme (including meeting local housing needs and the provision of local infrastructure).

As noted above the Council's Joint Housing Land Availability Study 2014 (JHLAS 2014) indicated that the Council had a 7.3 year supply of housing land. Accordingly, the Council had a sufficient supply of housing land to comply with paragraph 2.2 of TAN1. However, this JHLAS has now expired (therefore that figure cannot be relied upon), and the Council must maintain a supply of housing land in excess of 5 years for when the LDP is adopted. It is, therefore, clear that the most recent housing figure cannot be relied on in perpetuity and does not imply that all further residential developments subsequent to that should be resisted, given the need to maintain sufficient supply at all times.

While the most recent JHLAS indicated in excess of five years, it appears from the most recent assessment using the new method of calculation set out in TAN1 that the current figure may now be less than four years. While the approval of this development would not immediately alter the 'official' housing supply position (since the Council does not have an adopted LDP to enable it to produce its formal JHLAS report) TAN 1 is clear that housing land supply must nevertheless be kept under review, particularly if the Council should be able to evidence a five year supply on adoption of its LDP. It is considered that failure to have regard to the current housing supply figure (while not a formal JHLAS figure) would prejudice the Council's position in respect of housing supply at the time of LDP adoption.

Therefore, and given that the current position appears to be less than 4 years, it is considered that this represents a significant material consideration in favour of approving this residential development in advance of the adoption of the LDP, in order to maintain a healthy supply as required by PPW and TAN 1.

However, whilst there is a need to maintain an adequate Housing Land Supply for future JHLAS and when the LDP is adopted, this does not solely outweigh in principle all other material considerations, particularly if a development is considered harmful in any other respect, if it does not accord with national policies, or if it would be harmful to the deliverability or wider strategy of the LDP. Rather the need to maintain a TAN1 compliant housing supply is a material consideration that must be balanced against all other material considerations in the case of any future application for residential development in this policy context. Therefore, this does not infer that any new applications for residential development would be considered acceptable.

Members will note that in the case of application 2014/00863/OUT for 200 dwellings at land near Weycock Cross, Barry, officers were of the view that the need to maintain a healthy housing land supply did not outweigh other in principle objections to the scheme, namely that the Weycock Cross site is not allocated in the Draft LDP and is not considered to be an appropriate extension of the town or an appropriate site to meet strategic housing need in the Vale (based upon the background evidence that supports the Draft LDP). It was also considered that the development would undermine the implementation of the LDP and the fundamental process of how the Council allocates appropriate land for housing.

However, while the housing supply at that time was considered to be relatively healthy, the importance of maintaining that supply was emphasised in the officer's report and remains a significant and important consideration.

### Conclusion on housing land supply and the principle of the development

The Council's most recent JHLAS (now expired) indicated in excess of five years housing land supply, however, this must be maintained and the Council must have careful regard to how that will be maintained. It appears that the current figure is less than four years and, therefore, the proposed development would make a significant contribution to increasing the available housing land supply.

As noted above, the need to maintain this supply will not justify all new applications for residential development, rather this is one of many factors that will dictate whether an additional residential development will be acceptable in this context, in advance of the adoption of an LDP.

In this case, in addition to the current housing supply position, the proposal is supported by a raft of information within the LDP background documents, and while the LDP itself is of very little weight, that information is relevant to the application and are material considerations and demonstrates why the site has been included within the draft LDP.

Alongside this, the need to maintain a healthy housing land supply is a very important material consideration and it is considered that in the absence of any other fundamental and overriding policy conflict, this is a material consideration that weighs heavily in favour of the development.

Therefore in light of the significant amount of background information that has led to its inclusion, the current housing supply and need to maintain adequate housing land at all times, and the above assessment in terms of the deliverability of the LDP, it is considered on balance that the development of the land is acceptable in principle and outweighs any conflict with UDP policies.

However, further applications for sites within the Draft LDP will each have to be considered on their merits, having regard to the housing land supply at that time, as well as how that specific development would affect the delivery of the LDP, and all other material considerations.

### Visual impact of the Development within the Wider Rural Landscape

It is accepted that the proposed development would fundamentally alter the character of the land, however, it is considered that this does not necessarily render the development unacceptable. Rather an assessment of the visual impacts is required in the context of the surrounding landscape and how the development relates to the existing built environment.

The application site lies to the west/north west of the existing village and would directly adjoin the existing residential area to the east and south. It is enclosed by the B4265 to the east and Heol Fain to the west and it is considered that these represent logical, physical and defensible boundaries to the site. While the development would extend the built form of this part of the town by some 120m-130m to the north and west of Trepit Road and David Street, the development would not extend the village any further north or west than the existing parts of the village further to the south and east, on the other side of the B4265. Consequently, and while the development is larger than that which could be considered as small scale rounding off (under policy HOUS 2 of the UDP), it is nevertheless considered that it would appear as a relatively logical extension/expansion of the existing built environment of the village.

Furthermore, given the relationship of the site to the existing pattern of development in the town and the fact that the site is closely related to existing residential developments to the east and south, it is considered that the development would not appear as an unacceptable or excessive incursion into the countryside. From the surrounding viewpoints it would predominantly be viewed against the backdrop of the existing dwellings and it would appear as a re-defined edge of the village, but integrally related to the existing built form that closely relates to it. It is considered that while local short distance views of the village would be altered, there would not be a significant impact within the wider landscape beyond a local level.

While the site itself and the setting of the village are essentially rural in character and appearance, the site clearly adjoins the village and it is therefore not wholly 'open' or rurally isolated in appearance and context. In addition, the site does not form part of a Special Landscape Area or any other statutory landscape designation. Therefore, while the character of the land would fundamentally change, it is considered that the development would not unacceptably impact upon the wider rural landscape, and that the wider importance of the development (in terms of housing need) outweighs any negative visual impacts associated with the urbanisation of the site.

Having regard to the above, it is considered that the site represents an acceptable location for additional residential development, in terms of the impact on the landscape, and in terms of its physical relationship to the existing settlement. This is reflected in the fact that the site has been allocated in the Draft Deposit LDP.

#### Impact on the character of the village

Further to the above assessment in terms of wider landscape impact, objections have also been raised in respect of the impact of the character of the village. It is acknowledged that the development would result in a relatively large increase in the size of the village, however, it is considered that in itself does not necessarily infer the character of the village would be unacceptably affected. The shape of the village has grown over time and it now comprises a series of linear areas of housing radiating from the village centre. The development would consolidate the western part of the village, adjacent to the centre and it would clearly change the overall shape and form of the settlement.

However, the development is not closely related to a conservation area and it is considered that while the shape of the village would change, this would not result in the loss of a significant historic definition to any part of the village. Furthermore, the character and views of the vast majority of the village would remain unchanged. Therefore, while the size of the village would be materially increasing, it is considered that this would not unacceptably impact upon the character of the village.

### Density of the development

*In terms of density, PPW advises that 'Planning authorities should reassess development sites which are highly accessible to non-car modes and allocate them for travel intensive uses such as offices, shopping, leisure, hospitals and housing of sufficient density to fully utilise their accessibility potential. Sites which are unlikely to be well served by public transport, walking and cycling should either not be allocated for development or be allocated or reallocated for uses which are not travel intensive.'*

The development proposes 124 units whereas the Draft Deposit LDP allocates it for up to 100 units. Given that the LDP is in draft form, the reference to 100 units is not definitively prescriptive for the site, however, it provides a basis to consider the appropriate density for the site. It is important to ensure that sites in sustainable locations are developed efficiently, and it is also necessary to consider the character of the area and whether an increase in density would be appropriate and sympathetic to the surrounding context. The site forms part of a minor rural settlement, where densities are typically be lower than urban areas, however, while the density is higher than envisaged in the LDP, it is considered that it is not excessively dense or urban, and is compatible with the nature of surrounding developments. Having regard to the character of the surrounding area, it is considered that the density is acceptable and would represent efficient use of the land. The density (31 per ha.) complies with the aims of Policy MD7 of the Draft LDP which requires at least 25 dwellings per ha. For minor rural settlements.

### Design and Layout

#### Internal Road and Footpath Layout

The development involves the provision of a principal access road, which leads to a continuous 'loop' in the eastern part of the site, with a series of small cul-de-sacs and shared surfaces in the remainder. The main road takes a relatively winding route through the site, which in addition to the benefits of reducing traffic speeds (see below), adds character to the development. It is considered that the shared surface loop in the eastern portion and the varied layout gives positive distinction between the different parts of the site. In this respect, it is considered that the layout would create a sense of place and would not purely comprise a series of replicated/repetitive cul-de-sacs. The vehicular permeability, the continuous loop and change in materials also ensures that number turning heads are minimised and the development is not dominated by the appearance of a heavily engineered highway.

The plans show a change in materials at various points to denote a change from primary to secondary route and it is considered that this accords with the aims of manual for Streets to create a hierarchy of routes through the site. This would add to the sense of place within parts of the site and it is considered that the absence of a dedicated footway in these areas would encourage the use of these streets as shared surfaces (see highway safety issues relating to shared surfaces below).

The layout also prioritises pedestrian permeability and the network of footways and shared surfaces is such that pedestrian movements from any part of the site towards the main entrance at the B4265 and Heol Fain would be easily facilitated. It is considered that this would encourage pedestrian and cycle movements, maximise the connectivity between the site and other parts of the village and accord with the principles of Manual for Streets.

Objections have been raised by neighbours in respect of the layout and how it relates to the remainder of the village. While the form of Wick is largely founded upon linear patterns along the respective roads in and out of the village, there is also a triangular 'loop of dwellings towards the village centre and a series of small cul-de-sacs (Cwrt Y Felin, Blaen Dewi, Windmill Close). In this respect, it is considered that there is discernible variation in the pattern of development throughout the village and this is appreciable when travelling along the various streets. It is therefore considered that the proposed layout, which incorporates a small vehicular loop, a linear principal road and some smaller cul-de-sacs does not conflict with the character of the existing village. It is considered that extending the linear form of the village in any available direction would intrude significantly into the countryside and would be more harmful to the character of the countryside that consolidating new housing close to the centre of the village.

In terms of parking, the majority of dwellings would be served by driveways and garages within their curtilages however, parking areas are proposed to serve the flats and to the rear of units near to the B4265, however, it is considered that these areas are not excessive in size and subject to the use of appropriate high quality materials and sufficient soft landscaping, these parking areas would not detract from the visual amenity of the development.

In summary, it is considered that the layout has regard to the principles of Manual for Streets (insofar as it relates to the network of roads and footways) and would accord with the aims of Policy HOUS8 of the UDP.

### House Types, Design and Siting

The existing context to the site comprises a mix of detached and semi-detached dwellings along Trepit Road, David Street and the other side of the B4265. There is little consistency within the surrounding built environment and accordingly, there are no overriding design or vernacular to follow. The proposed houses comprise a mix of designs and house types, but with a consistent and relatively traditional character, predominantly utilising brick and render. It is considered that dwellings are on the whole not dissimilar in character than the existing residential areas, albeit some of the house types are a little more 'suburban' than some of the more traditional rural cottages within the vicinity. Notwithstanding this, there is a particularly varied mix of housing throughout the village as a whole and it is considered that the designs proposed would not conflict harmfully with the existing mix (which contains traditional cottages and more modern and suburban dwellings). It is considered that as a group, the house types are well designed and would result in an interesting and varied built environment, that is sympathetic to the site's context and would not demonstrably harm the character of the village. The proposed dwellings are predominantly detached and semi-detached, and this reflects the mix within the village.

The dwellings have on the whole not been sited directly adjacent to the main highway, however, they nevertheless would be sited relatively close to it (along the western side of the road) and this would provide a reasonably strong sense of enclosure to the street, creating well defined spaces and result in the buildings having an positive relationship with the road. Importantly the dwellings have been orientated to ensure that primary elevations front the roads and do not turn their back on public areas.

The dwellings are also comparable in their general scale, massing and height to the existing neighbouring residential developments and in this respect also, the proposed dwellings will be in keeping with the surrounding built environment. The scheme formerly included a three storey element, however, this has been removed and replaced with a two storey building.

There is very little evidence of brick throughout the village and it is considered that a condition is necessary which states that notwithstanding the submitted materials plan, further details of materials are to be submitted and approved. Members are advised of a similar issue that arose in the case of application 2014/00242/FUL for a residential development in Colwinston, where officers resisted widespread use of brick in favour of materials (principally render) which were more characteristic of the village.

### Public Open Space (POS)

The development makes provision for five areas of open space, the two main areas being sited towards the southern part and further areas adjacent to the road more centrally within the site.

UDP Policy REC3 requires new residential developments to make provision for public open space at a minimum standard of 2.43 hectares per 1000 population (0.6-0.8 hectares for children's playing space and 1.6-1.8 hectares for outdoor sport). This equates to 24.3m<sup>2</sup> per person or 55.4sqm per dwelling (based on the average household size in the Vale of Glamorgan being 2.28 persons per dwelling). The Council applies this policy to all residential developments of 5 or more dwellings, in addition to the basic amenity space requirements necessary to meet the immediate amenity needs of occupiers (e.g. private garden space) as outlined in the approved Amenity Standards SPG.

On the basis of the above and to accord with Policy REC3, there would be a total requirement of 6870m<sup>2</sup> of open space to serve the development of 124 dwellings. The Council's Planning Obligations Supplementary Planning Guidance breaks down the overall POS requirements into space for children's playing facilities, other children's play space and outdoor sport (0.2 ha, 0.6 ha and 1.6ha per 1000 population respectively).

In terms of children's play space (equipped and non-equipped), there is therefore a requirement to provide 2290m<sup>2</sup> in total. This would comprise 572m<sup>2</sup> of children's playing facilities and 1717m<sup>2</sup> of other children's play space, with one Local Equipped Area for Play (LEAP) and one local Area for Play (LAP). The proposed layout makes provision for a LEAP towards the south eastern part of the site with two laps, one in the southern part of the site and one towards the northern part, adjacent to the shared surface road loop. There are further areas of open space in the corridor along the main road through the site.

The proposed layout makes provision for comfortably in excess of the amount of public open space (children's play) required by the SPG and it is considered that this would therefore clearly meet the requirements of the SPG and Policy REC 3.

In terms of its location, the main area would be relatively central within the site and well located in terms of serving the development. It would also comprise a safe and useable area due to the proximity of the nearest dwellings and the degree to which it would be overlooked. The other areas would be located along the spine road and alongside the public footpath that connects through to Heol Fain and it is considered that these would therefore also be well located in terms of usability (where pedestrian flows would pass on a daily basis) and surveillance. It is therefore considered that all the areas of open space have been sited in practical and appropriate locations where they would function effectively as part of the overall layout.

In terms of maintenance, the applicant has advised that the space will be retained and managed privately. This matter would be dealt with in detail in the Section 106 Legal Agreement, if the application is approved.

No outdoor sport provision is made on site, therefore, this matter is considered below in the 'Planning Obligations' part of the report, in terms of whether financial contributions are necessary to address the shortfall.

Landscaping conditions are recommended in order to ensure that soft landscaping is used effectively within the areas of POS and throughout the whole development, to soften the visual impact.



### Highway safety- the proposed access

The application proposes a new access onto the B4265 and following negotiations with the Council's highways engineer, the layout has been amended to allow increased vision splays in both directions along the road, in accordance with the highways engineer's requirements.

The proposed access would therefore afford road users acceptable visibility when egressing out of the development and no objections have been raised in respect of highway safety when turning into the development.

### Traffic and Congestion Issues

The application is accompanied by a Transport Assessment (TA) which assesses the likely traffic / highways impacts that would result from the development, in the context of the existing road network, the number of dwellings and the likely number of car movements and movements by alternative modes.

The TA concludes that the development would create 90 and 102 additional vehicular trips during the weekday AM and PM peak periods respectively. This equates to approximately one additional vehicle on the B4265 every 35-40 seconds during the peak hours, and equates to a 24% and 28% increase in traffic in the AM and PM peak hours respectively on the B4265. Those vehicle trips have been modelled with the proposed junction and the TA concludes that although proposals will result in additional traffic accessing the B4265 via a new direct access on to the road, the priority junction will operate well within capacity during peak hour, without blocking through traffic. Consequently, it concludes that the development will not have an adverse effect upon the safety or operation of the local highway network and will not result in unacceptable congestion or traffic problems.

The Council's Highways Engineers have considered the application and no objections have been raised in respect of traffic generation or congestion as a consequence of the additional trips or the junction.

Accordingly, it is considered that the TA demonstrates satisfactorily that the existing highway network is capable of accommodating the proposed development's forecasted traffic, without resulting in an unacceptable traffic impact locally and in the within the wider highway network.

### Highways issues associated with internal road layout, and parking.

As noted above, the highway layout involves the provision of a single principal access road, which leads to a series of cul-de-sacs/private drives, with two shared surface areas (one forming a continuous loop). The design has been arrived at following meetings and negotiations with the Council's Highways Engineer and no objections have been raised in respect of highway safety through the internal layout. While the main road is relatively long without junctions, it takes a relatively winding route, which would naturally control vehicle speeds.

In particular, it is considered that the wholly shared surfaces would support the principles of Manual for Streets, in that they would de-prioritise the car and create a space that encourages safe pedestrian use. Manual for Streets also advocates this kind of surface which would reduce vehicle speeds as drivers would be aware that they are within a shared surface area.

No objection has been raised in respect of parking and it is considered that the parking provision is acceptable and provides a balance between not promoting reliance on the car and ensuring that sufficient off street capacity is provided (in the interests of the free flow of traffic within the site).

Having regard to the above, it is considered the proposed internal road layout is acceptable in planning terms and that the comments of the highways engineer can be accommodated within the engineering details required by condition.

The pedestrian footway would link through to Heol Fain, however, a footway cannot be provided along the length of the eastern side of Heol Fain between the site and Trepit Road due to an intervening dwelling (the Rectory). It appears that there is also insufficient space to provide a footway on the western side of Heol Fain, however, it is in any case considered that it would be impractical to encourage pedestrian movements across Heol Fain to the western side, where pedestrians would walk a few yards before having to cross back to the eastern side. It is also considered that pedestrians would be highly unlikely to carry out those movements and the most practical option would be to provide a footway within the area of highway verge to the south of The Rectory, linking to the existing footway on Trepit Road. There would be approximately 15m between the site and the new footway, however, given how lightly trafficked this road is, it is considered that this would not be a deterrent to pedestrian movements or a risk to pedestrian/highway safety. This could be secured from the sustainable transport contribution discussed below.

The plans indicate the provision of a new footway between the site and the bus stop on the B4265. It is considered that this is necessary to ensure safe access to the most immediate bus stop, and should form part of the works facilitated by the sustainable transport contribution.

#### Impact on residential amenity of existing residents.

The gardens of dwellings on David Street and Trepit Road adjoin the eastern and southern boundaries of the site. Presently, the occupiers of these dwellings have views over open fields, whereas the development would fundamentally alter the nature of that outlook. However, while it is understandable that existing residents would be concerned about a change of this nature to the rear of their properties, loss of view is not a planning matter and there is no statutory right to have such a view preserved, rather it is necessary to consider whether the residential amenities of those properties would be adequately protected.

The new dwellings would be sited at least 20m away from the rear boundaries of gardens on Trepit Road, and approximately 60m from the majority of dwellings themselves. The nearest dwelling would be approximately 25m from Tyn Y Cae, but as noted above, approximately 20m from the boundary.

It is therefore considered that the new houses would not appear as overbearing to these neighbours and privacy would be preserved in accordance with the Council's SPG. The main area of public open space would serve as a buffer between the new houses and existing in this area.

There is generally a closer relationship between the development and the dwellings/gardens on David Street (plots 92-100). There would be between 7.5m and 13m between the new dwellings and the rear boundaries on David Street and between 22m and 30m between the new dwelling's and the rear elevations of houses on David Street. While closer than the degree of separation with houses on Trepit Road, it is considered that this is still sufficient distance to ensure that that the new houses would not appear as physically overbearing or unneighbourly. The distances would also comply with the Council's SPG in terms of privacy.

The closest dwelling to David Street properties would be the house on plot 91, which would sit between 1m and 2m away from the rear boundary of Gwynfa. The Council's ordnance survey plans indicate that the rear elevation of this property lies approximately 18m from the application site. The new dwelling would alter the immediate outlook across the rear boundary of that property and views from the garden and rear windows would change. However, it is considered that the new dwelling would be sufficiently far away to ensure that it would not be overbearing in respect of the use of those rooms that have windows facing it- as noted above, loss of view is not a planning matter. It is also necessary to consider the impact on the garden. The outlook across the rear boundary would be altered and would be less 'open' as a consequence of the development, however, the length of the garden is relatively substantial and the garden would retain its open outlook across the two side boundaries and part of the rear boundary, since the new dwelling would not sit across the whole rear boundary.

Therefore, while it is accepted that the development would have an additional impact on the occupiers of this dwelling, it is considered that the additional impact would not relate acutely to the areas of the garden nearest to the dwelling and the development would not erode the openness of that garden as a whole to an unacceptable degree. It is, therefore, considered on balance that while the proposal would affect the amenities of the occupiers to a degree, the size and location of the development are such that it would not be unacceptably overbearing or so impactful as to warrant the refusal of the application, and would not unacceptably overshadow the garden. It is therefore also considered that the adjacent dwelling at plot 81, which would be sited further away, would also not unacceptably impact on residential amenity.

A condition is recommended to ensure that the windows at first floor in the side elevations of those dwellings are obscurely glazed, given their proximity to the boundaries.

It is considered that the new dwellings at the corner of the site would also be sufficiently separated from the gardens and dwellings at the corner of David Street/the B4265, to preserve the amenities of the occupiers privacy and the visual impact of the buildings.

There are no windows on the side elevation of Rivington, which lies adjacent to the site on the B4265, and the new dwelling at plot 124 would not project significantly past the front or rear elevations. It is, therefore considered that the amenities of the occupiers would also be preserved. The dwellings opposite the site on the B4265 would be sited in excess of 30m away from the new dwellings, well in excess of the distance required by the Council's SPG.

It is considered that the children's play areas and open space generally would be sited far enough away from existing dwellings to ensure that the use of them would not result in an excessive level of noise and nuisance.

It is, therefore, considered that the development would adequately preserve the privacy and amenities of neighbouring residents, in accordance with Policy ENV27 of the UDP and the aims set out in Policy HOUS 8.

#### Amenity of the future occupiers of the site

The dwellings would be served by private garden spaces, some of which would not meet the requirements of the Council's SPG. The gardens that do not meet the requirement of 1m<sup>2</sup> of amenity space per 1m<sup>2</sup> of gross floor space do not amount to a significant shortfall and it is considered that all of the gardens are of sufficient size to meet the outdoor amenity and functional needs of the occupiers. While the areas of amenity space are considered adequate, it is considered that the contribution the development would make to strategic housing provision outweighs the relatively modest deficit in amenity space relative to the requirements of the Council's SPG.

Finally in this respect, it is considered that the relationship of the proposed buildings to each other is such that the respective dwellings would not appear as overbearing or unneighbourly to each other, and each dwelling would benefit from adequate levels of privacy.

Concerns have been raised by the Council's Environmental Health Section, regarding possible impact from traffic noise. While it is acknowledged that occupiers of dwellings closest to the B4265 would experience noise from the main road, they would not be significantly closer than the existing houses along this road and it is considered that the level of noise experienced would not be so significant that it would render the living conditions inside those dwellings as unacceptable.

### Other neighbour objections

Many residents have raised concerns in respect of the lack of amenities in Wick, including local services, employment opportunities and bus services. It is considered that the proposed development would support and sustain the existing local services (shop, pubs etc.) and while the full range of day to day services are not present in Wick, the LDP strategy nevertheless recognises the need for new housing in rural settlements, as well as in the larger more urban areas of population. While, therefore, occupiers of the new houses would need to travel to other settlements to access some services, it is considered that this does not render the settlement of Wick or the development itself as unsustainable, since there are regular bus services and some basic local day to day services. In terms of buses specifically, the sustainable transport contribution discussed below can be spent on upgrading existing bus services/facilities/provision in the local area.

It is considered that there is no evidence to suggest the development would result in crime or anti-social behaviour and noise/disturbance from the construction phase can be minimised through compliance with a Construction and Environmental Management Plan. A condition is recommended to secure control over external lighting of the development and impact on property value is not a planning matter. It is also considered that the development would not fundamentally impact upon local tourism.

It is considered that the remaining points of objection have been addressed within this report.

### Drainage and flood risk.

The application sites lies within Flood Zone A as defined by the Development Advice maps with TAN 15.

Paragraph 6.2 of TAN 15- Development and Flood Risk, states the following:

*6.2 New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue.*

The application is accompanied by a drainage strategy which assesses flood risk, albeit the application is not accompanied by a full Flood Consequences Assessment. The Drainage Strategy concludes that the development would not be at unacceptable risk from fluvial, ground water, overland, reservoir or sewer flooding and that the development would not unacceptably increased flood risk to areas outside of the site. Natural Resources Wales have raised no objection in terms of flood risk and the Council's Drainage Engineer has accepted the conclusions of the submissions that the site is suitable for development with regards to flood risk, subject to the development of a suitable surface water drainage scheme as per TAN15.

In terms of surface water, the drainage strategy states that surface water will be attenuated with underground storage. Soakaway tests have confirmed that there is infiltration, however, the below ground storage area will need to reflect the fact that the 'half drain time' (the time taken for a soakaway to drain from full to half volume) did not meet the required 24 hour standard (BRE 365). The Council's Drainage Engineer does not object to the drainage strategy proposed, subject to a condition for full details of the proposed drainage scheme to be agreed.

In terms of foul sewerage, a pumping station is shown within the site in the field to the north of the dwellings. Dwr Cymru Welsh Water have raised no objection to a connection to the existing system, subject to relatively standard conditions, including full approval of the detailed integrated drainage proposals for the site.

Having regard to the above, it is considered that the development complies with Policies ENV 7 and ENV 27 of the UDP.

#### Ecology.

The application was initially accompanied by a habitat survey, however, the Council's Ecologist made a holding objection, pending the submission of a Great Crested Newt survey and reptile survey. Those surveys have now been carried out and assessed, and the Council's Ecologist and Natural Resources Wales now raise no objection to the application, subject to conditions.

On this basis, there is no longer an ecological objection to the development and it is considered that subject to those conditions, the proposal would satisfy the requirements of Policy ENV 16 of the UDP.

#### Trees and hedgerows

An arboricultural report has been submitted with the application. The proposed development does not lie within a conservation area and there are no TPO protected trees within the site.

A condition to require details to be submitted of all trees and hedgerows to be retained (along with details of measures to protect them during the course of development) is recommended. However, it is considered that none of the trees within the site are of such quality or contribution to visual amenity that they represent a constraint to the development.

#### Archaeology.

Glamorgan Gwent Archaeological Trust (GGAT) have been consulted and a Heritage Assessment has been submitted with the application. GGAT have requested a watching brief condition and it is considered that subject to this, any archaeological resource would be adequately protected, in accordance with Policies ENV 18 and ENV 19 of the UDP.

### Agricultural land quality.

Policy ENV 2 of the UDP states that the best and most versatile agricultural land (Grades 1, 2 and 3A) will be protected from irreversible development)

The application is accompanied by an agricultural land quality assessment, which concludes that the site is Grade 3B and Grade 4. There is no evidence to dispute this assessment.

Consequently, it is considered that the development would not unacceptably or irreversibly impact upon the best or most versatile agricultural land, in accordance with Policy ENV 2 of the UDP.

### Public rights of way (PROW) issues

The Council's Public Rights Of Way Officer has raised no objection to the proposal, but has advised as follows:

*The applicant's attention should be drawn to Public Right of Way No.5 Wick which crosses the site and which must not be interfered with as a result of the proposal. The Public Right of Way must be kept open and free for use by the public at all times, or alternatively, a legal diversion or stopping-up order must be obtained, confirmed and implemented prior to any development affecting the Public Right of Way taking place. No barriers, structures or any other obstructions should be placed across the legal alignment of the path. No adverse affect should result to the Public Rights of Way due to the development works. The applicant should ensure that materials are not stored on the Public Right of Way and that any damage to the surface as a result of the development is made good at their own expense.*

Consequently, it is considered that there are legal provisions to prevent the unauthorised diverting/blocking of the PROW and the applicant will only be able to divert the PROW if the official order is obtained. This process will allow the Council to consider the merit of any proposed diversion, however, it is considered in principle that the development would clearly maintain a useable route through the site.

### S106 Planning Obligations to mitigate the impact of development (to include affordable housing provision).

In view of the type and form of development proposed in this location, having regard to local circumstances, the following planning obligations are considered necessary to make the development acceptable in planning terms and to meet the policy and legislative tests for planning obligations.

## Affordable Housing

TAN 2 defines Affordable Housing as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households, or where staircasing to full ownership takes place, receipts are recycled to provide replacement affordable housing. This includes two sub-categories: social rented housing where rent levels have regard to benchmark rents; and, intermediate housing where prices or rents are above social rented housing but below market housing prices or rents.

UDP Policy HOUS12 requires a reasonable element of affordable housing provision in substantial development schemes. The supporting text to that policy also states: "The starting point for the provision of affordable housing will be an assessment of the level and geographical distribution of housing need in the Vale". In 2010, the Council undertook an update to the Local Housing Market Assessment (LHMA) in order to determine the level of housing need in the Vale of Glamorgan. The LHMA concluded that an additional 915 affordable housing units (for rent or low cost home ownership) are required each year over the next 5 years. The most needed properties are social rented properties where tenants pay benchmark rents set by the Welsh Government. In light of evidence contained in the latest Housing Market Assessment showing a high level of need for affordable housing throughout the Vale, the Council's Adopted Supplementary Planning Guidance on Affordable Housing (contained in the Affordable Housing Delivery Statement) seeks a minimum of 30% affordable housing on sites of 10 or more dwellings.

The Deposit Local Development Plan (October 2013) policy MG2 required 35% affordable housing to be incorporated with any residential development of this site, based on an assessment of need and viability at the time. However, as part of the Local Development Plan process there has been an assessment of 'focused' and 'minor' changes to the draft Deposit Local Development Plan (DLDP). These changes are in response to subsequent consultations and the issues raised and are considered necessary to ensure that the LDP is sound. These focused changes include an amendment to the requirement for affordable housing as part of residential development.

In response to representations on affordable housing, the Council has commissioned a review of its viability evidence base to September 2014, taking account of matters raised by the Home Builders Federation (HBF) and the Welsh Government (WG). The latest viability evidence indicates a marked increase in viability within the Vale of Glamorgan, and recommends that the Council should increase the affordable housing targets set out in Policy MG 4 from 30% to 35% in the Rural South, whilst increasing the affordable housing requirement for this site (amongst others) from 35% to 40%.



However, while this evidence is very relevant to this application (and all housing proposals), the assessment of the development has been on-going since December 2014 and at the point at which this change has come into effect, the application was extremely advanced. Following consultation with the Council's Housing Section, it is considered that the application is at such an advanced stage that it would not be reasonable to retrospectively impose this requirement upon the applicant at the very end of the process. Consequently, the relevant requirement for this application remains at 35%.

The applicant proposes 44 affordable units comprising 10 no. 1 bed units (all social rented), 30 no. 2 bed units (22 social rented and 8 low cost ownership) and 4 no. 3 bed units (all social rented). This equates to just over 35% of the 124 units and the Council's Strategy and Supporting People Manager has accepted this number and this mix of units. The units would be split at 80% social rented and 20% intermediate units, to reflect the need in the Vale.

The units would be well dispersed through the site, with the social rented and low cost ownership units also well dispersed through each other.



The Council's Housing section have confirmed that this dispersion is acceptable on the whole and would appropriately integrate the affordable units through the overall layout with a good degree of pepper potting. While not directly reflective of the mix of the development as a whole the composition of the affordable units is also considered to be acceptable to the Council's Housing section, given that it would reflect the need in the area. A small concern is raised in respect of the ten 1 bed units all being located in one block, however, given the degree to which the affordable housing has been dispersed on the whole, it is considered that the application could not justifiably be refused based on the concentration of one bed units.

In terms of phasing, the affordable housing will need to be delivered alongside the market housing on the site to ensure that it is fully integrated in the development and delivered in a timely manner to satisfy housing need in the area. Therefore, the Section 106 Agreement will include clauses requiring an appropriate percentage of affordable housing to be provided prior to beneficial occupation of a certain percentage of the market housing units.

### Education

UDP Policy HOUS8 permits new residential development within settlements, provided that, amongst other things, adequate community and utility services exist, are reasonably accessible or can be readily and economically provided. Education facilities are clearly essential community facilities required to meet the needs of future occupiers, under the terms of this policy. Planning Policy Wales emphasises that adequate and efficient services like education are crucial for the economic, social and environmental sustainability of all parts of Wales. It makes it clear that development control decisions should take account of social considerations relevant to land use issues, of which education provision is one.

The Council's formula for calculating pupil demand contained in the Planning Obligations SPG indicates that the development of 124 dwellings would generate the need for education facilities for 12 nursery school age children, 30 primary school age children and 20 secondary school age children. There is not sufficient capacity in the relevant schools, therefore, the following contributions have been sought:

- 12 nursery school children, which equates to £173,559
- 30 primary school children, which equates to £433,897 (Wick Primary School and St. Brides Major Church in Wales)
- 20 secondary school children, which equates to £663,102 (Llantwit Major Comprehensive).

This totals £1,270,558 and the applicant has agreed to this amount.

## Sustainable Transport

UDP Policy 2 favours proposals which are located to minimise the need to travel, especially by car and which help to reduce vehicle movements or which encourage cycling, walking and the use of public transport. UDP Policy ENV27 states that new development will be permitted where it provides a high level of accessibility, particularly for public transport, cyclists, pedestrians and people with impaired mobility. These policies are supported by the Council's approved Supplementary Planning Guidance on Sustainable Development and the advice in Planning Policy Wales, TAN 18: Transport and Manual for Streets which emphasise the important relationship between land use planning and sustainability in terms of transport.

Having regard to the cost of providing and upgrading sustainable transport facilities, the Council's Planning Obligations SPG provides a basis to consider the type of contribution that may be likely to mitigate the impacts of a development of this size. This is a key aim embodied in national and local planning and transport policies, which the Council is keen to deliver. In this case, a sustainable transport contribution is required to ensure that the site is sufficiently accessible by a range of modes of transport other than the private car, such that it may be considered a sustainable site.

While the site is located close to the existing settlement, there are some difficulties at present with the linkages between the site and surrounding facilities, particularly the bus stop on the B4265, and the village centre.

Given the scope of necessary infrastructure improvements in the area, it is considered that a contribution commensurate to the size of the development is justified and necessary. In this case, and in line with the rationale set out in the Council's SPG, a contribution of £248,000 was sought, as the basic contribution required to off-set the impacts of the development.

This could be spent in improving pedestrian routes between the site and the village centre, between the site and the bus stop on the B4265, access to areas of public open space, in respect of bus services provision serving the development and cycle provision in the village centre and vicinity of the site.

The applicant has agreed to this amount and it is considered that the improvements that would be implemented as a result would materially improve the degree to which the site and local services could be accessed by sustainable modes of transport, in accordance with local and national policy.

### Public Open Space

UDP Policy REC3 requires new residential developments to make provision for public open space at a minimum standard of 2.43 hectares per 1000 population (0.6-0.8 hectares for children's playing space and 1.6-1.8 hectares for outdoor sport). This equates to 24.3m<sup>2</sup> per person or 55.4sqm per dwelling (based on the average household size in the Vale of Glamorgan being 2.28 persons per dwelling). The Council applies this policy to all residential developments of 5 or more dwellings, in addition to the basic amenity space requirements necessary to meet the immediate amenity needs of occupiers (e.g. private garden space) as outlined in the approved Amenity Standards SPG.

As noted above, the development makes adequate provision for children's play space (equipped and non-equipped), however, space is not provided on site for outdoor sport. As part of the assessment of the need for outdoor sport facilities, it is relevant to consider the availability and usability of existing outdoor sport provision in the ward. In this case, given the availability of outdoor sport facilities within the ward in reasonable proximity of the site (as evidenced in the LDP Open Space background Paper), it is considered that a further provision is not critically necessary to render the development acceptable in planning terms. This assessment is also made in the context of the fact that sufficient play space is to be provided within the development and given that the dwellings themselves are also well served by private amenity space. While private amenity space and outdoor sport areas are distinct types of amenity areas, it is considered relevant to note these development would be well served in respect of the former, and children's play space.

### Public Open Space Maintenance

In terms of maintenance of the open space areas within the site, the applicant has advised that the land will be retained and managed privately. However, the legal agreement should contain provision that if the applicant does subsequently intend to pass the land to the council to adopted, sufficient commuted sums are paid.

### Community Facilities

UDP Policy HOUS8 permits new residential development where (inter alia) adequate community and utility services exist or can be readily provided. The Planning Obligations SPG acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities.

The Council has developed formula to calculate reasonable levels of contributions for community facilities, which has been derived from an analysis of the costs associated with providing such facilities, and consideration of the impact of new developments in terms of needs arising and what is considered to be reasonable to seek in relation to the scale of development proposals. The formula set out in the Planning Obligations SPG ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan. It requires community facilities to be provided at a ratio of 0.75m<sup>2</sup> per dwelling (1500m<sup>2</sup> in this case) or alternatively a contribution of £988.50 per dwelling towards the provision of community facilities. Due to the scale and nature of the proposed development, it is not considered appropriate to require a facility on site, rather a contribution is sought towards the upgrade and provision of community facilities, serving the development such as Wick and Monkash Community Hall, St. James' Church, mobile library services in the Wick area and/or the provision of dual use facilities at Wick Primary School.

The applicant has agreed to an amount of £122,574, which reflects the need that results from the development and accords with the guidance in the Council's SPG.

### Public Art

The Council has a percent for art policy which is supported by the Council's adopted supplementary planning guidance on Public Art. The SPG requires that on major developments, developers are required to set aside a minimum of 1% of their project budget specifically for the commissioning of art and the public art should be provided on site integral to the development proposal.

The applicant has proposed a figure of approximately £81,000, however, the final amount is to be calculated once build costs are known.

### S106 Administration

The Council requires the developer to pay an administration fee to monitor and implement the terms of the Planning Obligations. This fee covers the Council's costs to negotiate, monitor and implement the terms of the necessary Section 106 Agreement.

This cost is essential because the additional work involved in effectively implementing a Section 106 Agreement is not catered for within the standard planning application fee and the Section 106 Planning Obligations are deemed to be necessary to make the development acceptable. Therefore, the developer is reasonably expected to cover the Council's costs in this regard. In this case, that would equate to £32,822 in this case.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies 1, 2, 3, 8 and 11, ENV 1 (Development in the countryside), ENV 2 (Agricultural Land), ENV 7- (Water Resources), ENV 10 (Conservation of the countryside), ENV 16- Protected Species, ENV 17- (Protection of the Built and Historic Environment), ENV 18 (Archaeological Field Evaluation), ENV 19 (Preservation of Archaeological Remains) ENV 27 (Design of new developments), ENV 28 (Access for disabled people), ENV 29 (Protection of environmental quality), HOUS 2 (Additional residential development), HOUS 3 (Dwellings in the countryside), HOUS 8 (Residential Development Criteria), HOUS 12 (Affordable Housing), TRAN 9 (Cycling development), TRAN 10- (Parking), REC 3 (Provision of public open space for new developments), REC 6 (Children's Play Facilities) and REC 12 (Public Rights of Way and recreational routes) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the Supplementary Planning Guidance 'Amenity Standards' and 'Planning Obligations', Planning Policy Wales (Edition 7) and Technical Advice Notes 1- Joint Housing Land Availability Studies, 2-Planning and Affordable Housing, 5- Nature Conservation and Planning, 10 – Tree Preservation Orders, 12-Design, 16-Sport, Recreation and Open Space, 18-Transport, and 22-Sustainable Buildings; it is considered that the proposals are acceptable, based on the material considerations set out within the report, by reason of its sustainable location and the requirement to address the need for new residential development and affordable housing within the Vale of Glamorgan. The proposals are also acceptable by virtue of the appropriate layout and scale of the proposed development, its suitable means of access, and with no unacceptable impact in terms of residential amenity, flood risk and ecology.

## RECOMMENDATION

Subject to the relevant person(s) first entering into a Section 106 Legal Agreement or undertaking to include the following necessary planning obligations:

- Procure that at least 44 (35%) of the dwellings built pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity, of which at least 80% would be social rented properties, and the remaining 20% would be intermediate properties.

- Pay a contribution of £248,000 towards sustainable transport facilities in the vicinity of the site, minus the costs of the provision of a pedestrian footway link between the application site and the bus shelter on St. Brides Road (B4265) (north west of the application site) where the construction costs shall be fully detailed and submitted and approval by the Local Planning Authority. The contribution is to be used on one or more of the following: improving pedestrian routes between the site and the village centre, between the site and the bus stop on the B4265, access to areas of public open space, bus services provision serving the development and cycle provision in the village centre and vicinity of the site.
- The provision of the pedestrian footway (referred to in the bullet point immediately above) to link the new pedestrian footway proposed across the frontage of the application site to the bus shelter on St. Brides Road (B4265) north west of the application site.
- Public open space to be provided on site in the form of at least 1 No. Local Area for Play (LAP), and 1 No. Local Equipped Areas for Play (LEAP) with 6 types of equipment, which shall be provided in accordance with a scheme to be approved by the Local Planning Authority.
- The developer shall make appropriate provision for the future maintenance of the public open space or if the Developer and Local Authority agree, may transfer the public open space to the Council free of charge and pay commuted sums to cover the costs of future maintenance of the public open space for 20 years.
- Pay a contribution of £122,574 to provide or enhance community facilities in respect of one or more of the following: Wick and Monknash Community Hall, St. James' church, mobile library services in the Wick area and the provision of dual use facilities at Wick Primary School.
- Pay a contribution of £1,270,558 to meet the cost of providing nursery, primary and secondary education services to children arising from the development.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the legal agreement (£32,822 in this case).

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the plans and documents registered on the 16th December 2014, other than where amended and supplemented by the following plans:

- Amended site layout plan 100 Rev L received on 18 June 2015.
- Amended materials layout 104 Rev A received on 18 June 2015.
- Amended movement plan received on 18 June 2015.
- Amended movement plan 105 Rev A received on 18 June 2015.
- Affordable housing plan 107 received on 18 June 2015.
- Kedleston plan HB-WD11 M received on 2015.
- Burghley plan TR-PWD01 received on 2015.
- Herpetofauna survey and report received 18 June 2015.
- Updated planning statement received 18 June 2015.
- Updated Design and Access Statement received 18 June 2015.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Prior to the commencement of the construction of any of the dwellings, details of the finished levels of the site and dwellings, in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the visual amenity of the area is safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

4. Notwithstanding the submitted plans, full engineering details of the new vehicular / pedestrian access to the site and all internal roads within the site, incorporating turning facilities and vision splays, and including sections, street lighting, surface water drainage and details of the location and design of all rumble strips, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be implemented thereafter in accordance with the approved details.

Reason:

In the interests of highway safety in accord with Policy ENV27 of the Unitary Development Plan.



5. The dwellings hereby approved shall not be brought into beneficial use until such time as the applicant / developer enter into a legal agreement under Section 38/278 of the Highways Act 1980, with the Council to secure the proper implementation of the highway works approved in conjunction with Condition 5 of this planning permission. The alterations to the highway as approved under the terms of Condition 5 of this permission shall thereafter be completed in accordance with a schedule of timescales that shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of those works and prior to the commencement of works to create the new access into the site.

Reason:

In the interests of highway safety and to ensure compliance with Policy ENV 27 of the Unitary Development Plan.

6. The measures contained within the Mayer Brown Residential Travel Plan (November 2014) shall be carried out in full, in accordance with the timescales contained in that document.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Policies 2, 8 and ENV27 (Design of New Developments) of the Unitary Development Plan.

7. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority, to include details of parking for construction traffic, the proposed routes for heavy construction vehicles, timings of construction traffic, the means of defining and controlling such traffic routes and timings, and wheel washing facilities, shall be submitted to and approved in writing by the Local Planning Authority, and the development shall at all times thereafter be carried out in accordance with the approved details unless the Local Planning Authority gives prior written consent to any variation.

Reason:

To ensure that the parking provision and highway safety in the area are not adversely affected and to meet the requirements of Policies TRAN10 and ENV27 of the Unitary Development Plan.

8. Prior to the commencement of development, a Construction and Environmental Management Plan to include such matters as the control of noise, vibration, dust and other deposits, and mitigation measures in respect of silt laden run-off (and to include proposed hours of working during the development construction phase) shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented throughout the course of the construction phase of the development.

Reason:

To safeguard the amenities of neighbouring properties and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. Notwithstanding the submitted plans, further details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

10. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

11. Any vegetation clearance should be done outside the nesting season, which is generally recognised to be from March to August inclusive, unless it can be first demonstrated that nesting birds are absent.

Reason:

In order to ensure that no protected species are adversely affected by the development and to ensure compliance with Policy ENV16 of the Unitary Development Plan.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) the dwellings hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

14. Any windows in the side elevations of the dwellings at plots 81 and 91 facing towards the dwellings on David Street, at first floor level, shall be glazed using obscured glass to a minimum of level 3 of the `Pilkington` scale of obscuration at the time of the construction of the development hereby approved and prior to the first beneficial use of the respective dwellings, and shall thereafter be so maintained at all times.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

15. Notwithstanding the submitted plans, all means of enclosure associated with the development (to include means of enclosure around the public open space and pond) hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 and the Town and Country Planning (General Permitted Development) Order 1995, (or any Orders revoking or re-enacting those Orders with or without modification), no gates, fences, walls or other means of enclosure (other than those approved under the terms of conditions of this planning permission) shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, in the interests of residential amenity and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

17. Notwithstanding the submitted plans, prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used, including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) the garages hereby approved shall not be physically altered or converted to any other domestic purpose without first obtaining the formal consent of the Local Planning Authority. The garages and parking spaces identified on the plans hereby approved shall be retained at all times for the parking of private motor vehicles associated with the dwellings hereby permitted.

Reason:

To ensure that adequate on site parking is retained in the interests of highway safety in accordance with Policies TRAN10 - Parking and ENV27 - Design of New Developments of the Unitary Development Plan.

19. Notwithstanding the submitted plans, prior to the first beneficial occupation of any dwelling hereby approved, full details (including timescales) of the lighting to be provided on the highways, footpaths and public open space areas within the development shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall thereafter be carried out in full accordance with the approved details and prior to the first beneficial occupation of any part of the site to which the lighting relates.

Reason:

To ensure satisfactory lighting is provided throughout the development, in the interest of public safety and security, in the interests of ecology and to accord with Policy ENV27 of the Unitary Development Plan.

20. No development shall commence until a scheme for the comprehensive and integrated drainage of the site, showing how foul water, surface water and land drainage will be dealt with, has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented prior to the first beneficial occupation of any of the dwellings and so maintained at all times thereafter.

Reason:

To ensure that adequate drainage facilities are in place to serve the development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

21. The implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that land drainage run-off and surface water shall not discharge, either directly or indirectly, into the public sewerage system.

Reason:

To prevent hydraulic overloading of the public sewerage system, pollution of the environment and to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with the terms of Policy ENV27 of the Unitary Development Plan.

22. The information submitted in accordance with the requirements of Condition 20 above shall include full details of the proposed perpetual management and maintenance of the drainage system serving the whole development, and including a written declaration to confirm the responsibility for the future maintenance and repair of the drainage system. The development shall at all times be carried out and maintained in accordance with the approved management and maintenance scheme.

Reason:

To ensure the effective maintenance of the site's drainage system and to ensure compliance with Policies ENV 7 and ENV 27 of the Unitary Development Plan.

23. No dwelling hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas to serve that dwelling, have been laid out in full accordance with the details shown on the approved plans and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

24. Prior to the commencement of construction of any of the dwellings, a scheme for the provision and maintenance of the Public Open Space (including the children's play equipment) shall be submitted to and approved in writing by the Local Planning Authority, to include details of the timing of its provision.

Reason:

To ensure the timely provision of the public open space and to ensure compliance with Policies ENV 27 and REC 3 of the Unitary Development Plan.

25. No more than 62 of the dwellings hereby approved shall be brought into beneficial use until the children's play area shown on the approved plans (and approved under the terms of Condition 24 of this planning permission) has been constructed on site and is capable of use by the future occupiers of the development.

Reason:

To ensure the recreational facilities are delivered in a timely manner to meet the needs of the future occupiers of the development in accordance with Policies REC3 and REC6 of the Unitary Development Plan.

26. Prior to the first beneficial occupation of any dwelling hereby approved, full details of the public art to be provided on the site, shall be submitted and approved in writing by the Local Planning Authority. The Public Art shall thereafter be implemented on the site in accordance with the approved details no later than 12 months following the substantial completion of the development.

Reason:

To ensure the delivery of Public Art on the site in accordance with the Council's Public Art SPG.

27. No development shall commence until an Ecological Management Plan (EMP) has been submitted to and approved in writing by the Local Planning Authority. The EMP shall be complied with at all times and shall include:
- details of working methodologies to minimise or avoid ecological impacts.
  - where appropriate, identify biodiversity protection zones and measures to protected retained important habitats or create compensatory habitats.
  - details of biodiversity enhancement measures. aims, objectives and duration of post development management of natural habitats where appropriate, details for monitoring and remedial measures. details of the body/organisation responsible for the implementation of the plan.

Reason:

In the interests of ecology and to ensure compliance with Policies ENV 16 and ENV 27 of the Unitary Development Plan.

28. Notwithstanding the submitted plan, further details of the proposed hard landscaping materials (including the roads and including details of the proposed location and design of any rumble strips) shall be submitted to and approved in writing by the Local Planning Authority. the development shall at all times thereafter be carried out and maintained in accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV 27 of the Unitary Development Plan.

29. The developer shall ensure that a suitably qualified archaeologist is present during the undertaking of any ground disturbing works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief shall be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority shall be informed in writing at least two weeks prior to the commencement of development on site of the name and address of the said archaeologist and no work shall commence on site until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief shall be submitted to the Local Planning Authority within two months of the fieldwork being completed by the archaeologist.

Reason:

To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource, and to ensure compliance with Policies ENV18 and ENV19 of the Unitary Development Plan.

**NOTE:**

1. The attention of the applicant is brought to the fact that a public right of way crosses the site. The grant of planning permission does not entitle one to obstruct, stop or divert a public right of way. Development, in so far as it affects a right of way, must not be commenced until the necessary legal procedures have been completed and confirmed for the diversion or extinguishment of the right of way.
2. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).
3. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.
4. Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.
5. The applicants are advised that all necessary consents / licences must be obtained from Natural Resources Wales (formerly Environment Agency Wales) prior to commencing any site works. The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

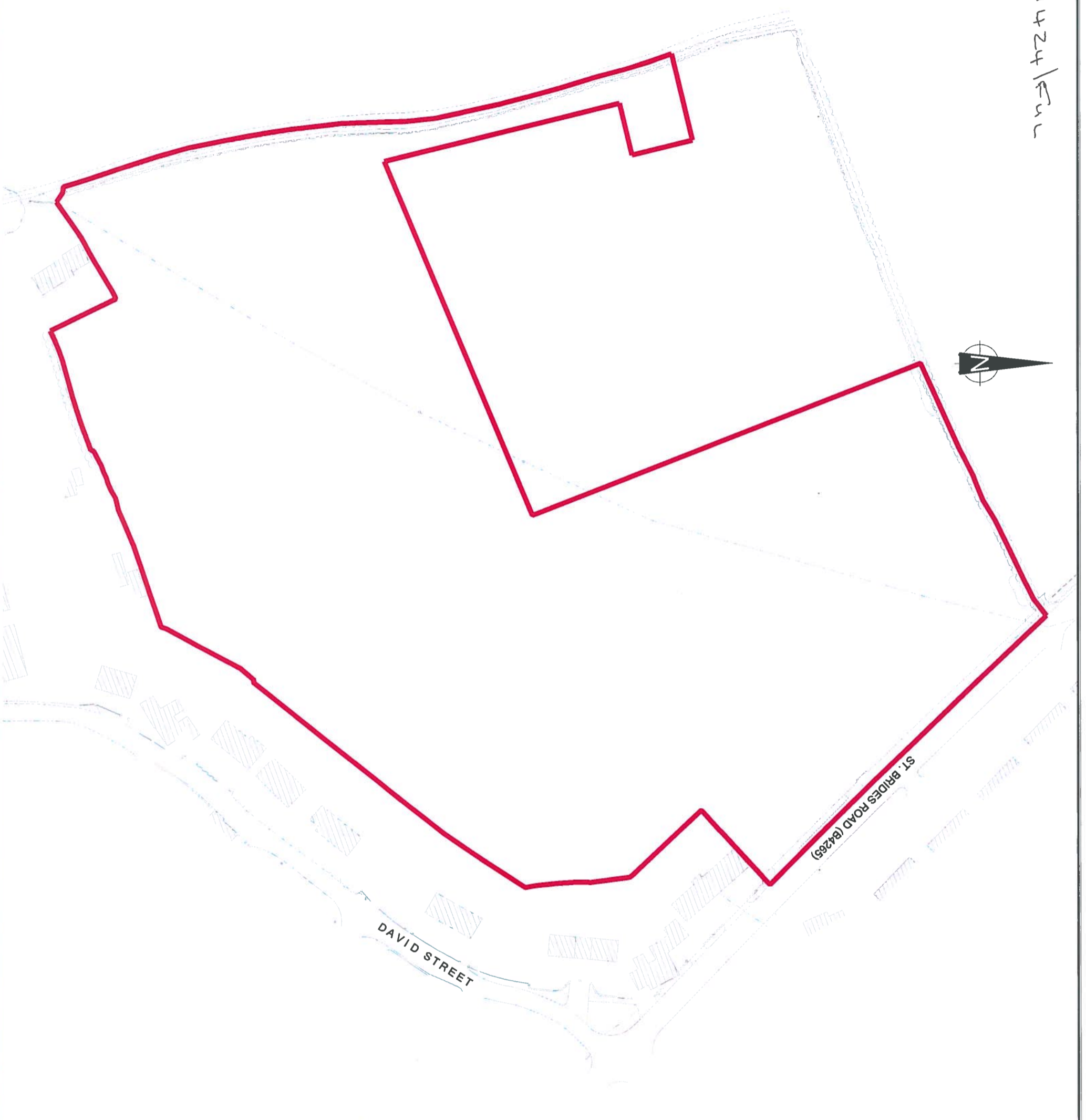
In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).



**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**

2014/01424/Car



The Contractor is to comply in all respects with the current Building Legislation, and Building Regulations whether or not specifically stated on this drawing.  
 The drawing must be read and checked against any Structural, Geotechnical or other specialist information or Plans provided.  
 This Drawing is not intended to show details of Foundations, Ground conditions or other specialist information. Any specialist information should be provided by the contractor. A suitable method of foundation should be provided allowing for existing ground conditions. Any specialist information should be investigated by a suitable expert.  
 Where existing lines are shown to be retained they should be subject to a Ltd provided to accommodate proposed new planting.

**General Notes**

Rev	Date	By	Comment
A	04.12.14	IB	Redline updated to Clients Instructions

**Hammonds Yates**  
 Architectural  
 Town Planning  
 Urban Design  
 Civil Engineering Design  
 Planning Supervision  
 Licensed Code Assessor  
 Landscape Architecture

**HAMMONDS YATES LIMITED**  
 Keitel Court, Harbour Road, Portlhead, S820 7AN  
 T: 01275 944744 E: Mail: info@hammondsyates.com

Client  
**David Wilson Homes**  
**South Wales**

Project Title  
**St Brides Road**  
**Wick**

Drawing Title  
**Location Plan**

Drawing Status	
Drawn By	IB
Scales	1:1250
Date	A3 NOV 2014
Job No.	1465
Drawing No.	101
Rev.	A

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The Estate of the Late Jeanne Moorsom C/o Agent.  
Savills, 12, Windsor Place., Cardiff., CF10 3BY

**The Coppice, Park Road, Dinas Powys**

Demolition of all existing buildings and structures and the erection of five dwellings, access, landscaping and associated works

**SITE AND CONTEXT**

The site relates to a single dwelling within a large curtilage on the edge of Dinas Powys. There is also a detached two storey annex residential building (garaging on the ground floor with a flat above) within the boundary. There are neighbouring residential dwellings to the east and south, with open countryside and woodland and countryside to the north and west. The site is accessed via the end of the cul-de-sac Park Road, which connects with Pen-Y-Turnpike Road. The site is within the Settlement Boundary of Dinas Powys.

There are numerous mature trees within the site, and is also adjacent to 'Case Hill' Woodland (designated as 'Ancient Woodland') and the Special Landscape Area of the Cwrt Yr Alla Basin. Some of the trees within the site are protected under Tree Preservation Order (No 14).



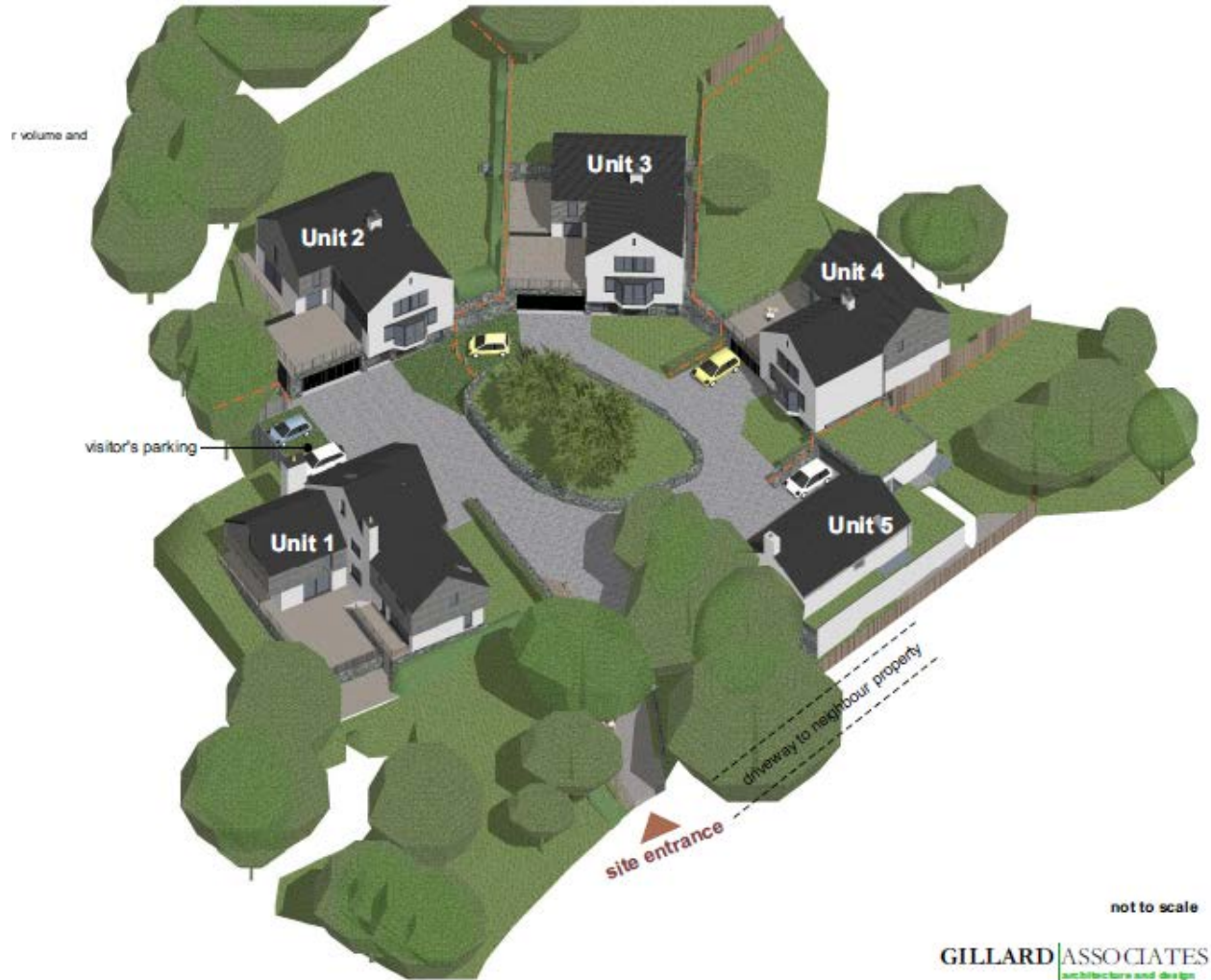
## DESCRIPTION OF DEVELOPMENT

The proposal is for the demolition of the existing large house and the two storey annex and develop 5 detached houses set around a communal garden area. Each dwelling will also have a private garden and also a terrace above the proposed garages. Access is to be as existing.



*Layout Plan of site*

## Development at The Coppice, Dinas Powys



### ***Proposed development***

#### PLANNING HISTORY

1985/00091/FUL : Plot 1, r/o The Coppice, Park Road, Dinas Powys - One two storey house and garage - Approved 12 March 1985.

1984/00466/FUL : Plot Two, The Coppice, Park Road, Dinas Powys - One two storey dwelling and garage - Approved 3 July 1984.

1984/00392/FUL : Plot 1, rear of the Coppice, Park Road, Dinas Powys - New two storey house - Approved 26 June 1984.

1982/01635/OUT : r/o 'The Coppice', Park Road, Dinas Powys - One detached dwelling house - Approved 8 February 1983.

1982/01634/OUT : Rear of 'The Coppice', Park Road, Dinas Powys - One detached dwelling house - Approved 8 February 1983.

## CONSULTATIONS

**Michaelston le Pit with Leckwith Community Council** – Objection due to loss of Edwardian house and “over 40 trees”, contrary to strategic policy 1 (The Environment). Part of the site is part of a SINC. Pen-Y-Turnpike Hill is dangerous for pedestrians and the site is only accessible by car. See **Appendix A** for full Community Council comments.

### **Highway Development** –

*“Further to reviewing amended drawings submitted in relation to the above, it is considered that the proposed development is now acceptable.*

*Therefore, provided that the details below are made conditional to the planning consent, an objection in relation to the highway and transportation aspects of the proposals is not raised in this instance.*

#### Conditions:

- 1 *Before commencement of any works at the site, full engineering details of the proposed highway improvements at the junction of Park Road and Pen Y Turnpike Road, including the provision of street lighting, junction build-outs, carriageway markings and vehicle activated signing are required to be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the works are required to be completed before first occupation of the development. **Reason:** In the interests of highway safety*
- 2 *The means of access to the site shall be provided at a minimum width of 4.5m for the first 10.0m from the adjacent highway. **Reason:** To enable vehicles to pass side by side when entering and existing the site, in the interests of highway safety.*
- 3 *The means of access to the site shall be constructed from a bound material for a minimum distance of 6 from the boundary of the adjacent highway. **Reason:** To prevent loose material being deposited on the adjacent highway, in the interests of highway safety.*
- 4 *Before commencement of any works, details of 3 No. car parking spaces that shall be provided to serve each dwelling within the boundary of the site are required to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the proposed car parking provision shall be maintained and retained at all times for the use of the development. **Reason:** To ensure the provision of adequate car parking facilities to serve the development, in the interests of highway safety.*
- 5 *Before beneficial occupation, the proposed manoeuvring area within the site as shown on the submitted drawings shall be provided and thereafter maintained and retained at all times. **Reason:** To ensure the provision of adequate manoeuvring facilities within the boundary of the site for the use of servicing vehicles.”*

**Environmental Health (Pollution)** – No objection subject to conditions relating to the construction phase.

**Dinas Powys Ward Members** – No comments received

**Dwr Cymru/Welsh Water** – No objection subject to standard drainage conditions;

**The Council's Ecology Officer** – Following consideration of the submitted ecology survey, no objections subject to conditions relating to reptile protection, protection and retention of habitats, dealing with non-native species and the submission of the European Protected Species licence;

**Natural Resources Wales** – Welcomed submitted survey. Advised condition for replacement roosts.

**The Council's Drainage Engineer** – No objection received

### REPRESENTATIONS

The neighbouring properties were consulted on 22 December 2014. A site notice was also displayed on the 23 December 2014. There have been representations received from three neighbours to the site raising issues such as the following:

- Overlooking and overshadowing impact from proposed windows
- Dwelling proposed at Unit 5 is larger than the existing annex
- Overdevelopment of the site
- Proposed dwellings not in-keeping with surroundings
- Loss of historically significant house
- Increase traffic flow for Pen-Y-Turnpike Road and Park Road
- Insufficient pedestrian access
- Concern about the presence of Japanese Knotweed
- Loss of trees

See a copy of an objection letter at **Appendix B**.

### REPORT

Members will recall that this application was deferred for a site visit when brought in front of Planning Committee on the 2 July 2015. The application shall return to Planning Committee on the 30 July 2015, following a site visit.

## Planning Policies and Guidance

### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

#### *Policy:*

- ENV4 - Special Landscape Areas
- ENV11 - Protection of Landscape Features
- ENV16 - Protected Species
- ENV27 - Design of New Developments
- ENV29 - Protection of Environmental Quality
- HOUS2 - Additional Residential Development
- HOUS8 - Residential Development Criteria
- HOUS11 - Residential Privacy and Space
- REC3 - Public Open Space
- TRAN10 - Parking

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*



*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 12 – Design (2014)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Amenity Standards
- Biodiversity and Development
- Planning Obligations
- Trees and Development

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

## Issues

### Principle of Development

The proposals are for the demolition of the existing house and annex and the development of five dwellings within the existing curtilage boundary. It is recognised that the site is within the settlement boundary of Dinas Powys, as defined by the adopted Unitary Development Plan. As such, the principle of residential development is accepted, as stated with Policy HOUS2, subject to various criteria, including those found with policy HOUS8 (Residential Development Criteria).

The existing dwelling is of distinctive traditional design and architecture of its time. However, it is not of a quality that has resulted in the property being listed for its architectural or historic value, neither is it a County Treasure. It is also noted that the house and adjacent annex do not appear to be in a good state of repair and have seemingly been in decline for some time. On this basis, it is considered that there is no objection to the demolition of the existing dwelling.

### Layout and Design

The proposal is for five detached dwellings positioned around a central communal garden. All five dwellings face the central communal garden and the internal access road area. The arrangement of houses is also a result of the site topography, which rises to the north, and the mature trees within and immediately adjacent to the site.

The area is characterised by large detached houses in spacious plots, which would be reflected in the proposed scheme. Each dwelling would have a significant amount of amenity space, mostly in the form of rear gardens, which would be in accordance with the Supplementary Planning Guidance 'Amenity Standards'. The central communal garden provides a positive feature and focal point for the development. This arrangement is considered acceptable and an efficient use of an irregular shaped plot. Given the above although the proposed dwellings are large, they do not result in the overdevelopment of the site. It is therefore considered that five dwellings of the size and layout proposed are suitable for the large overall plot size.

Of the five dwellings there are three house types, all of which maintain the same design approach and palette of materials. These include slate roofs, walls of timber cladding, stone cladding and render, which is considered suitable for this site.

Units 2, 3 and 4 (towards the north of the site) are to be house type A. Using the difference in levels these houses will be over three levels, with double garaging incorporated. There are to be four bedrooms and the house design includes stone cladding to the lower level, with a terrace over the garage. There is to be a rendered front projection with the house in an 'L' shape.

Unit 1, which is in much the same location as the existing house, is house type B. This is a large dwelling with high ridge, essentially incorporating three storeys. There are terraces and balconies to the rear elevation to benefit from the views this elevation will have available (much the same as the existing house). The house will have an integral garage to the front.

Replacing the existing annex is Unit 5, which is house type C. This is the smallest of the proposed dwellings, with a detached garage that is connected to the side of Unit 4. The house will have a single storey flat roof section to the side, to allow for further accommodation at ground floor.

The design of all three dwelling types is considered acceptable, but in terms of their materials, form and appearance. Unit 1 is particularly large, will not be overly prominent from Park Road due to the existing boundary trees that are to be retained. It should also be noted that this house would replace the existing house, which is also of a significant size. It is considered that the scale of the dwellings proposed is acceptable and will not result in any significant impact to the character of the area or the adjacent Special Landscape Area. The retention of many mature trees around the edges of the site and the sloping topography (which would result in the dwellings being less prominent from the north and west), assimilates the development into its setting.

Overall, the proposed dwellings and their layout are considered acceptable for this site.

## Drainage

No objections have been raised by Welsh Water or Natural Resources Wales with regard to any drainage problems at the site and standard conditions have been recommended ensuring that surface water and sewerage are drained separately. The Council's drainage engineer has also raised no objections to the scheme.

## Access and Parking

Access into the site would be via the existing site entrance. This connects with the top of Park Road. An internal access road around the central communal garden would serve all the dwellings. Swept path analysis plans have been submitted to show that larger vehicles could enter, turn and exit the site. Each dwelling would have a double garage, with further external parking also available to the front of the garages and the parking and internal turning provision is considered acceptable for the scale of development.

Concern was raised by the Highways Development Officer with regards to additional houses being built off Park Road, due to the substandard junction with the busy and steep Pen-Y-Turnpike Road. Following negotiations it has been proposed by the applicant that off-site highway works would be undertaken to improve this junction. This includes a minor build-out at the junction of Park Road and Pen-Y-Turnpike Road, a 30mph 'roundel' on a red surface and speed activation signs, both as a form of traffic calming. Furthermore, there is in addition lighting column proposed opposite the entrance to Park Road. These improvements provide a significant potential improvement to the junction in terms of highway safety and would mitigate any adverse impact of additional traffic using Park Road as a result of the proposed development. These improvements should be required via a Grampian condition, which would prevent occupation of the dwellings until the works are undertaken.

It is recognised that there is a lack of pedestrian footways along Pen-Y-Turnpike Road, however it is considered that these proposals which lead to a net increase of four additional dwellings to this residential area would not reasonably be sufficient to require substantial off-site highway works to provide footways. It is also recognised that the width of Pen-Y-Turnpike Road is such that new footways would not be achievable. The traffic calming measures as described above are considered sufficient improvement to make the proposals acceptable from a highway safety perspective.

The surface finish of the access and parking areas should be finished in a permeable material to safeguard against unacceptable surface water run off and to prevent flooding in the area.

## Neighbour Impact

Unit 1, towards the south of the site, would have views towards neighbouring dwellings to the south, but this would be a similar situation as exists with the existing dwelling. It is also noted that the combination of the distance to neighbouring properties and the woodland screening is such that direct impacts should not be significant.

Concern was initially raised as regards the dwelling proposed at Unit 5, near the boundary with Park Mount. Subsequently, amended plans have been received to reduce the bulk of the new dwelling on the boundary. This is done through the omission of the side first floor section, reducing the amount of first floor accommodation. This results in the impact of the proposed dwelling near the boundary of Park Mount being similar to that of the existing two storey annex which is a similar location, in terms of potential overshadowing or overbearing impact. It is considered that there would be some level of overshadowing impact from the proposed dwelling, but this would not be significantly more than that of the existing annex and it is also considered that the proposed house is also set off the boundary (at first floor level) which also helps to mitigate impact. There is only one first floor rear elevation window facing towards Park Mount, which serves the stairs area of the house, which is not a habitable room is indicated as to be obscurely glazed. As such, this should result in no significant overlooking impact.

Accordingly whilst it is noted that the proposed dwelling at Unit 5 would result in some impact to the occupiers of Park Mount, the amended proposals are such that any impact would not warrant refusal of the application. Overall, the proposed development is not considered likely to result in any inconvenient or significant neighbour impact, over that of the existing dwelling.

#### Impact to trees

An Arboricultural Report was produced by Mr Chesterton (June 2014) and submitted with the application. This report was necessary due to the significant amount of mature trees within the site, most of which are protected under Tree Preservation Order 14, dated 1973. The effect of the proposals were considered by the report and concluded as such:

*'Whilst the proposed design will require the removal of trees and shrubs, it is considered that remedial tree work to retained trees and low density construction will more than offset the loss of amenity resulting from the removal of trees from a wooded site which is already over stocked. Moreover, the trees of best quality will be retained and limited replanting together with future natural regeneration and good woodland management will redress the balance of tree cover.'*

Root protection areas have been included on the proposed layout plan, to avoid construction that would adversely affect the health of the trees. The trees to be retained and protected are generally the most important and valuable, and would maintain the 'wooded' nature of the site, being on the edge of the village adjacent to existing woodland.

To ensure the protection of the trees conditions should be attached to any approval requiring tree protection measures and also the submission of an Arboricultural Method Statement, prior to the commencement of development. Further landscaping works including replacement trees should also be also required via condition, which should complement the existing retained mature trees and hedgerows.

## Ecology Issues

An ecology survey has been submitted to accompany the application (David Clements Ecology Ltd) which found that the site indicated roosting by low number of bats, primarily under external structural features. To mitigate the loss of existing potential roosts it is recommended that bat boxes be located in the walls of the proposed houses. Also, prior to demolition bat boxes should be erected in adjacent trees as a temporary measure. Sensitive lighting within the site is also recommended to protect bat foraging areas from light spillage.

Other recommendations include avoidance of site clearance in nesting season, having a precautionary approach to safeguarding common reptiles and also the protection of the adjacent Case Hill Wood SINC. Furthermore, it is noted the presence of Japanese Knotweed and other invasive species. An appropriate strategy to deal with this issue is recommended, which can be required via condition.

The recommendations proposed are considered suitable and shall be required via condition to ensure the safeguarding of protected species and the removal of invasive species.

## Planning Obligation (Section 106) Matters

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances.

In this case, the application relates to a development of 5 houses at Park Road, Dinas Powys. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

In light of the particular circumstances of this development, the following planning obligations have been considered and agreed by the developer:

## Public Open Space

Under Unitary Development Plan Policy REC3, new residential developments are expected to make provision for public open space. Given the character and form of development on the site in relation to surrounding development and the limitation due to the nature of the site's topography, there is no scope for any significant on-site provision. Therefore, an offsite contribution will provide or enhance public open space off site to serve the needs of future occupiers in accordance with the advice in the supporting text to REC3 and TAN16 (Sport, Recreation and Open Space). This will be secured through a Section 106 Agreement. This equates to a payment of £2,280 per dwelling which will total £11,400.

The applicant has agreed to this obligation if the application is approved and to the Local Planning Authority's fee for administering such agreement.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV27 (Design of New Developments), ENV4 (Special Landscape Areas), ENV16 (Protected Species), ENV29 (Protection of Environmental Quality), HOUS2 (Additional Residential Development), HOUS8 (Residential Development Criteria), HOUS11 (Residential Privacy and Space), ENV11 (Protection of Landscape Features), REC 3 (Public Open Space) and TRAN 10 (Parking) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is considered that the proposals are acceptable, by reason of their appropriate design, materials and scale, with no significant detrimental impact to the character of the area or the amenities of neighbouring occupiers. The proposals therefore comply with the relevant planning policies and supplementary planning guidance.

## RECOMMENDATION

Approval - Subject to the interested person(s) first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- Provide for an off-site contribution to public open space, with the financial contribution towards public open space calculated to be £11,400.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the Legal Agreement (£330 in this case).

And subject to the following conditions:

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the following approved plans and documents: C200/AL(0)6 P6, C200/SK12 P1, C200/SK13 P1, C200/SK04 Rev P1, C200/SK11 P, C200/SK10 P, C200/SK06 P, C200/SK07 P, C200/SK08 P, C200/SK09 P, C200/SK03 P2, C200/SK15 P1, C200/SK16 P1, W151638/A/04 Revision A, C200/AL(0)5 P, W151638/B/02 Revision A

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

4. Notwithstanding the submitted details, further details of a scheme for foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority, which shall ensure that foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system. The approved scheme shall be fully implemented in accordance with the approved details prior to first beneficial occupation of any of the dwellings hereby approved.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.



5. Prior to the commencement of development, details, including cross sections, of the existing ground levels of the site, the finished levels of the site and the finished floor levels of the dwellings hereby approved in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that visual amenities and neighbour amenities are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

6. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas, have been laid out in full accordance with the details shown on C200/AL(0)6 P6 and the submitted swept path plans, and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. No dwellings hereby approved shall be occupied until the off-site highway improvement works, including the 'build-out' vision improvement works on the junction between Park Road and Pen-Y-Turnpike Road, the new lighting column and traffic calming measures on Pen-Y-Turnpike Road, have been completed in accordance with submitted plan W151638/B/02A and W151638/A/04A.

Reason:

To ensure the provision on safe access into site, in the interests of Highway / Public Safety and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

8. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. A scheme providing for the fencing of the trees to be retained and showing details of any excavations, site works, trenches, channels, pipes, services and areas of deposit of soil or waste or areas for storage shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of development including any site clearance or demolition works and no such development shall be commenced on site until the approved protection scheme has been implemented and the scheme of tree protection shall be so retained on site for the duration of development works.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

10. A landscaping scheme (including details of replacement trees) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development including any site clearance or demolition works. The landscaping scheme shall include indications of all existing trees and hedgerows on the land and details of any to be retained.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

12. Prior to the commencement of development, an Arboricultural Method Statement, produced by a suitably qualified tree surgeon/arboriculturalist, shall be submitted to and approved in writing by the Local Planning Authority. Any development shall be undertaken in complete accordance with the agreed details of the Arboricultural Method Statement.

Reason:

To safeguard important mature trees and hedges, and to ensure compliance with the terms of Policies ENV27 and ENV 11 of the Unitary Development Plan.

13. The development shall be carried out in accordance with the recommendations of the submitted 'Ecological Assessment and Survey for Bats' (David Clements Ecology Ltd), detailed in section 6 of this report.

Reason:

To safeguard protected species, in accordance with Policy ENV16 of the Unitary Development Plan.

14. Prior to the commencement of development including any site clearance or demolition works, details of a strategy for the protection of reptiles on/from the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy as approved shall be implemented in full accordance with the development hereby approved.

Reason:

To ensure protection for protected species, in accordance with policy ENV 16 of the Unitary Development Plan.

15. Prior to the commencement of development, an Invasive/non-native species Eradication Programme shall be submitted to and approved in writing by the local planning authority, detailing the containment, control and removal of all Schedule 9 (Wildlife and Countryside Act 1981) species on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason:

To suitably eradicate invasive species, in accordance with policy ENV 29 of the Unitary Development Plan.

16. The window in the first floor rear elevation of Unit 5 (facing towards Park Mount) shall be glazed using obscured glass to a minimum of level 3 of the 'Pilkington' scale of obscuration at the time of the construction of the development hereby approved and prior to the first beneficial use of the dwelling and shall thereafter be so maintained at all times.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking, amending or re-enacting that Order) no windows shall be inserted in the first floor rear (east) or side (north) elevation of the dwelling shown as Unit 5 on the submitted plans hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

18. The flat roof to the single storey section of the dwelling and the detached garage at Unit 5 hereby approved shall not be used at any time as a sitting out or additional amenity space/balcony area.

Reasons:

To protect the privacy and amenity of neighbouring properties and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

19. Prior to their use in the development hereby approved, full details of the internal access road materials and finish (which shall be of a permeable construction) shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

In the interests of the visual amenities of the area to prevent surface water flooding and to meet the requirements of Policies ENV27 and ENV29 of the Unitary Development Plan.

**NOTE:**

1. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
2. **Please note that as the tree(s) referred to in this application are not situated on land in your ownership you are strongly advised to contact the owner in order to obtain their permission as necessary prior to carrying out the works hereby approved.**

- 3. Please note that the site is subject to a Tree Preservation Order and therefore if at any time you wish to undertake development which constitutes Permitted Development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) you should contact the Directorate of Environmental and Economic Regeneration. Works constituting Permitted Development affecting trees covered by a Tree Preservation Order, whether branches, roots or its trunk require consent under Tree Preservation Order legislation. Similarly consent is required for works to Tree Preservation Order trees in general including lopping, topping and felling.**
- 4. This development is on adopted highway and therefore a Highway Extinguishment under the Highways Act 1980 will be required before work can commence. For further details please contact the Highways Department, The Vale of Glamorgan Council, The Alps, Wenvoe, Cardiff; CF5 6AA. Telephone No. 02920 673051.**
- 5. Bats must not be disturbed or destroyed during tree work. A full visual inspection of the trees to be worked on must be carried out prior to intended work to check for the presence of bats. Advice on bats and trees may be obtained from the Natural Resources Wales (Countryside Council for Wales as was). Bats may be present in cracks, cavities, under flaps of bark, in dense Ivy and so forth. Should bats be identified, please contact either Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**
- 6. You should note that the building / site may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**

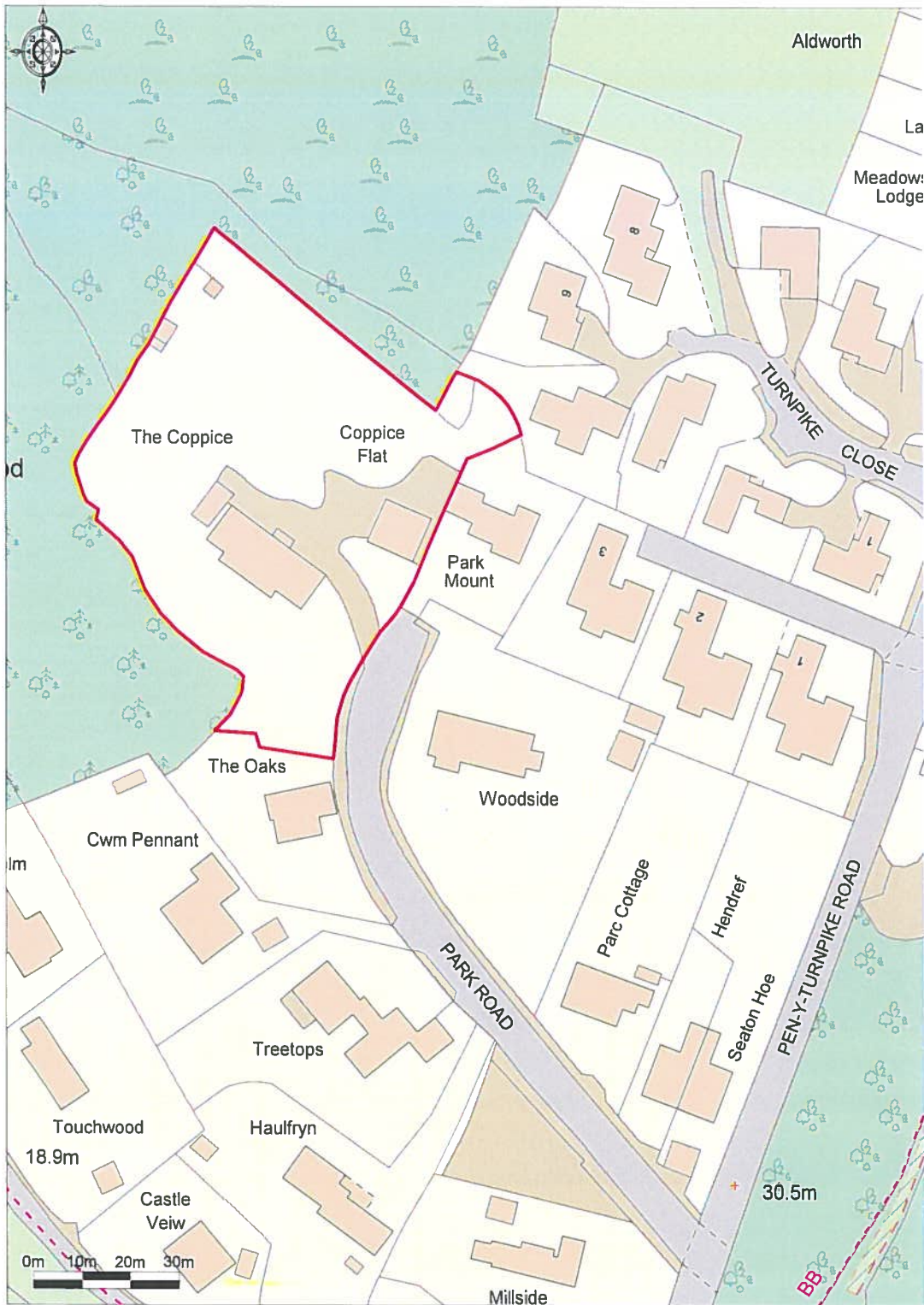
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**

2014/01452/FUL



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scale 1:1250 @ A4

# GILLARD ASSOCIATES

architecture and design

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Job Title  
Residential Development at  
The Coppice, Dinas Powys

Drawing Title  
**Site Location Plan**

Date 11/12/2014 Drawn by:

Drawing No

**C200/AL(0)1**

Revision

**P**

Client  
**Moorsom Estate**

File: C200 BIM Model Moorsom\_141205.pln

Waterstone Homes, C/o Agent  
Mr. Andrew Muir, Harmers Limited, 39, Lambourne Crescent, Cardiff Business  
Park, Llanishen, CF14 5GG

## **Land to the South of Craig Yr Eos Avenue, Ogmore by Sea**

Residential development for 20 dwellings

### **SITE AND CONTEXT**

The application site is undeveloped but lies within defined settlement boundary of Ogmore by Sea as defined by the Vale of Glamorgan Council Unitary Development Plan 1996-2011. Access to the proposed development would be from Craig yr Eos Avenue from the north, which currently terminates at No.7 from the north of the site. The site slopes downwards from east to west towards the common and foreshore beyond, whilst there is existing residential development to the north west, north, north east and south of the development site. The applications site also falls within the Glamorgan Heritage Coast along with the remainder of the village of Ogmore.

### **DESCRIPTION OF DEVELOPMENT**

The application as amended is for the development of the site for 20 residential units and associated infrastructure. The development comprises of a mix of dwelling types including 8 no. affordable units comprising of two two bedroom dwellings and 6 no. one bedroom flats and 12 no. market units all of which are four bedroom dwellings. The design of the dwellings proposed vary with some two storey units and other units which sit 'within' the relief of the site appearing as single storey dwellings from the front, although providing split level accommodation as viewed from the Common/foreshore. A site layout plan and elevational details of two of the proposed house types are shown below:



Site layout plan of proposed development.





FRONT ELEVATION  
HOUSE TYPE C

SIDE ELEVATION  
HOUSE TYPE C



REAR ELEVATION  
HOUSE TYPE C

SIDE ELEVATION  
HOUSE TYPE C



FRONT ELEVATION

REAR ELEVATION



SIDE ELEVATION

SIDE ELEVATION

*Elevation details of House Type C and House Type B as proposed*

## PLANNING HISTORY

1992/01218/OGWR – land south of Craig Yr Eos Avenue and fronting Slon Lane  
– Residential Development (Outline) - Refused

1992/00341/OGWR – vacant plot adjacent to Craig Yr Eos Bungalow, Slon Lane  
– Erection of detached bungalow (Outline) - Refused

## CONSULTATIONS

**The Council's Highway Development section** was consulted with regard to the scheme and following the receipt of the amended plans indicated that they had no objection subject to full engineering details being submitted with regard to both on-site and off-site works.

**The Council's Highways and Engineering (Drainage) section** was consulted and have advised that prior to commencement of development a scheme for the drainage of the site and future maintenance should be provided for approval by the LPA.

**The Council's Environmental Health Section** was consulted with regard to the application. They indicate that a Construction Environmental Management Plan should be required by condition including provision for limiting hours of operation to restrict potential detriment to the amenities of neighbouring occupiers. They also indicate that they do not foresee there being contaminated land issues at the site although indicate that an appropriate condition should be attached to any condition granted to mitigate should contamination be identified during the course of the application.

**Glamorgan Gwent Archaeological Trust** was consulted with regard to the proposals and indicate that they 'have no objection to the determination of this application.'

**St. Brides Major Community Council** were consulted with regard to the application and raise objections due to:

- Highway safety of access to the site
- Overloading of sewerage system
- Increased surface water runoff
- Overdevelopment of the site in Heritage Coast
- Dwellings out of character with adjacent development
- No buffer zone to neighbouring properties and loss of privacy
- Limited amenities within the village

They also provide a number of observations with regard to difficulty of emergency services vehicles accessing the site and lack of S106 contributions proposed.

**The St. Brides Major Ward Member** was consulted although no comments had been received at the time of writing this report.

**Dwr Cymru Welsh Water** was consulted with regard to the application and recommend that conditions be attached to any permission given including foul flows connecting to the public foul sewer between manholes SS86755001 and SS86754041; foul and surface water discharged draining separately from the site land and surface water not being allowed to connect directly or indirectly to the public sewerage network; no development to commence until comprehensive scheme of integrated drainage for foul, surface and land drainage has been agreed by LPA; and also note the position of the sewer on the site and that no part of the building will be permitted within 3 metres of this sewer. They also indicate that 'no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site'.

**The Council's Ecology Officer** was consulted and indicate that they 'do not object to the application' subject to conditions relating to the provision of a Reptile Clearance Strategy and the provision of a Ecological Management Plan.

**The Council's Waste Management section** were consulted with regard to the application although no comments had been received at the time of writing this report.

**Crime Prevention Design Advisor** was consulted with regard to the application although no comments had been received at the time of writing this report.

**The Council's Housing Strategy section** were consulted with regard to the original scheme indicating that there is a demonstrable need for Affordable Housing within the Vale. They requested clarification of the mix of affordable units and suggested that the units should be better dispersed throughout the site.

Comments were received from **Wales and West Utilities**, indicating that they 'have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works' to contact them.

**Natural Resources Wales** was consulted and initially objected to the application, 'because the risks to groundwater from the development may be unacceptable. The applicant has not supplied adequate information to demonstrate that the risk of pollution to controlled waters can be acceptably managed.' With regard to protected species they recommend that the finding of the submitted ecological report are followed. Following further consultation with Natural Resources Wales, they confirmed that they were able to remove their objection subject to a condition requiring further details of the proposed wet well being provided prior to the commencement of development.

**The Council's Education Section** have provided advice in respect of the pupil yield from the development and the financial contribution required to accommodate these pupils within the relevant schools. This is discussed in detail later in the report.

## REPRESENTATIONS

The neighbouring properties were consulted on 12 January 2015 and 4 February 2015, and re-consulted 7 July 2015. Site notices were also displayed on 4 February 2015 and the application was also advertised in the press on 13 January 2015. At the time of writing this report, 50 letters of representation had been received raising the following points:

- Highway safety concerns with regard to access to the site from Craig Yr Eos Road and Craig Yr Eos Avenue
- Previous application refused on basis of highway safety
- Noise and disturbance
- The scale and type of development is out of character
- Detriment on the Heritage Coast
- Impact upon amenity of neighbouring properties by virtue of loss of privacy and overbearing
- Pressure on drainage and sewerage system
- Cumulative overdevelopment with other sites
- Lack of reference to lizards within ecological report
- Inadequate facilities within Ogmere including schools, doctor, dentist, shops, public transport
- Loss of green space within Heritage Coast
- Difficulty of access by larger vehicles
- Loss of view
- Concerns over position of the pumping station
- Lack of detail with regard to boundary treatment
- Devaluation of property
- Inadequate public consultation with regard to proposals

A sample of five letters of objection can be found at Appendix A.

Comments were also raised from **Alun Cairns MP** who raised concern with regard to the cumulative overdevelopment of the village from this and other major applications and the lack of infrastructure and facilities within the village. Appendix B.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

*Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 7 – TRANSPORTATION NETWORK IMPROVEMENT

POLICY 8 – TRANSPORTATION

POLICY 11 - SPORT & RECREATION

POLICY 14 COMMUNITY AND UTILITY FACILITIES

*Policy:*

ENV1	– DEVELOPMENT IN THE COUNTRYSIDE
ENV2	– AGRICULTURAL LAND
ENV5	– THE GLAMORGAN HERITAGE COAST
ENV7	– WATER RESOURCES
ENV10	– CONSERVATION OF THE COUNTRYSIDE
ENV16	– PROTECTED SPECIES
ENV18	– ARCHAEOLOGICAL FIELD EVALUATION
ENV27	– DESIGN OF NEW DEVELOPMENTS
ENV28	– ACCESS FOR DISABLED PEOPLE
HOUS2	– ADDITIONAL RESIDENTIAL DEVELOPMENT
HOUS8	– RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2 SETTLEMENTS
HOUS12	– AFFORDABLE HOUSING
REC3	– PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS
REC6	– CHILDRENS PLAY FACILITIES

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).’*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is key in that many other chapters of PPW make reference to it, part 4.2 in particular

Chapter 5 of PPW sets out the Welsh Government guidance for Conserving and Improving Natural Heritage and the Coast.

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 1 – Joint Housing Land Availability Study (2006)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2014)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 16 - Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Affordable Housing
- Vale of Glamorgan Housing Delivery Statement 2009 (which partly supersedes the Affordable Housing SPG above)
- Sustainable Development
- Amenity Standards
- Biodiversity and Development
- Planning Obligations
- Public Art

- Sustainable Development - A Developer's Guide

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Affordable Housing Background Paper (2013)
- Affordable Housing Viability Study (2013 Update)
- Affordable Housing Delivery Statement 2009
- Open Space Background Paper (2013)
- Sustainable Settlements Appraisal Review (2013)
- Community Facilities Assessment (2013)
- Education Facilities Assessment (2013)
- Sustainable Transport Assessment (2013)
- Rural Affordable Housing Needs Survey Report (2010)
- The Affordable Housing Delivery Statement (2009)
- Vale of Glamorgan Council Local Development Plan Delivery Agreement
- Vale of Glamorgan Housing Strategy

## Issues

Having regard to the above national and local policy context, the location of the site and consultation responses, the main issues in relation to this application are the principle of development; design and layout; house types, design and siting; residential amenity; trees and landscaping; drainage and flood risk; ecology and Planning Obligations.

## Principle of Development

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be in accordance with the Development Plan unless material considerations indicate otherwise.

## Unitary Development Plan

In this case, the Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (UDP). This Plan is technically time expired (as of 31 March 2011), though as yet there is no adopted replacement. Whilst the UDP remains the basis of local policy, as stated in PPW, where policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications.

The application site falls within the settlement of Ogmere By Sea as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. As the site falls within the defined settlement boundary, UDP Policy HOUS2 applies which allows for housing infill, small-scale development and redevelopment which meets the criteria of HOUS8. Policy HOUS8 states that development within settlement boundaries will be permitted provided certain criteria are met including a development with sympathetic scale, form and character, no unacceptable effect on amenity and character of existing or neighbouring environments of noise, traffic congestion, exacerbation of parking problems or visual intrusion and that amenity standards are in accordance with Council's approved guidance. The development complies with Policy HOUS2 in principle and it is considered that this policy is not superseded by national guidance, which maintains the need to site new dwellings in sustainable locations.

The site falls within the Glamorgan Heritage Coast area, and therefore the impact of the development to this landscape is a primary issue that will need to be addressed, in accordance with Policy ENV5 of the Unitary Development Plan.



## Local Development Plan

Policy MG1 – Housing Supply in the Vale of Glamorgan in the draft of the Local Development Plan, indicates the requirements of housing supply that will be met by the allocation of sites, development of extant permissions, development of unallocated windfall sites in sustainable locations and other smaller sites. The application site does not benefit from an allocation within policy MG2 of the Plan, nor is there an extant consent, although for the purposes of this plan it can be considered as a windfall site within a sustainable location, noting its situation within the settlement of Ogmore, which is identified as a Sustainable Settlement (minor rural settlement) within the Sustainable Settlements Review prepared as background evidence as part of the Local Development Plan Process.

Essentially, the policy context allows for residential development on this site in principle as it falls within the settlement boundary of Ogmore-by-Sea, subject to various criteria including preserving local character, impact upon amenity of neighbouring properties, drainage, ecological constraints and being acceptable in highway terms.

### Density and layout of the development

As noted the application relates to a site of 1 hectare and the proposed dwellings would be built at a density of approximately 20 dwellings per hectare. While it is important to ensure that sites in sustainable locations are developed efficiently, it is also necessary to consider the character of the area and whether a minor reduction in density would be appropriate and sympathetic to the surrounding context. The site lies within a minor rural settlement in a semi-rural location on the edge a seaside town within the Glamorgan Heritage Coast where densities are typically lower and a dense and very 'urban' scheme would be out of character with the surroundings. Having considered the above and the relatively low density of surrounding development, the proposed density of approximately 20 dwellings per hectare is considered to be appropriate.

The application as amended proposes the development of the generally rectangular site for 20 dwellings, with a variety of house types and a central spine road continuing directly from Craig Yr Eos Avenue. Some units would enjoy direct access whilst others would be accessed from private drives. A change in materials on the main spine road is proposed with adoptable shared surfaces proposed on the roads leading from the main road.

Eight no. affordable housing units are proposed within the scheme and proposed within one position within the site with 6 no. one bedroom flats and 2 no. two bedroom dwellings adjacent to the access into the site. Whilst it is noted that the affordable units are not strictly 'pepper potted' throughout the site, the provision of 40% affordable units through the scheme is welcomed and this does not conflict with the Council's SPG, which seeks to ensure that groups of no more than 10 affordable units are located together.

The majority of units have been orientated to face towards the main road and provide a significant degree of active frontage which is considered to sensitively respect its context and provide a more visually engaging form of development. The general pattern of development in the wider area is dwellings fronting onto the highway, and it is considered that this proposal respects that. The few small private drives do not directly reflect the layout in the immediate area however, these are necessary to efficiently develop the site, given its shape.

Applications for new residential development would usually require the provision of a meaningful area of open space within the confines of the site to provide for future occupiers of development in accordance with the requirements of UDP Policies HOUS8, REC3 and REC6 and TAN 16: Sport, Recreation and Open Space (2009). Noting the relatively constrained nature of the site it was considered that a meaningful area of public open space could not readily be provided within the confines of the site. The revised proposals include a footpath link to the common land to the west of the site and that the applicant has agreed to an appropriate off-site contribution to enhance existing open spaces within Ogmere By Sea it is considered in this instance that an area of open space within the confines of the site is not essential.

It is, therefore, considered that the layout has due regard to the principles of Manual for Streets and would accord with the aims of Policies HOUS8 and ENV27 of the UDP in terms of being compatible with the surrounding area.

#### Visual impact and Glamorgan Heritage Coast

The site lies within the settlement of Ogmere By Sea as defined by the Vale of Glamorgan Unitary Development Plan and within the Glamorgan Heritage Coast. As well as considerations of the proposed development layout, it is important to consider the visual impacts of the development in the wider context. It is accepted that the proposed development would fundamentally alter the character of the land, however notwithstanding other considerations it is considered that this does not necessarily render the development unacceptable. Rather an assessment of the visual impact is required in the context of the surrounding landscape and how the development relates to the existing built environment.

It is noted that the site is bordered by residential properties to the north, south and east. The proposed development would not project beyond the settlement boundary nor would it project further to the west than either the existing boundary enclosing the land or neighbouring residential development. Given the existing pattern of development it is considered that the proposed development would not appear as an arbitrary incursion or harmful visual intrusion into the countryside or the Heritage Coast as it is viewed against the backdrop of existing residential development within Ogmere By Sea and would appear as a logical physical continuation of the existing built form. It should also be noted that the development proposed is of a high quality contemporary and bespoke design, with a suitable palette of materials that reflects that found within the wider village. This coupled with the revised ridge heights of the dwellings proposed would allow the development to readily assimilate within the built form of the village as a whole.

Whilst it is acknowledged that the proposals would undoubtedly alter the character of the land and would be visible from the adjoining Public Right of Way, adjacent Common Land and wider view, on balance it is not considered that the proposals would cause an unacceptable degree of visual detriment especially given the developed backdrop against which the development of the site will be viewed and given that the site lies within the settlement boundary. In that respect it is relevant to note that the whole of the village lies within the Heritage Coast.

### Scale and design of dwellings

Policy ENV27 of the UDP relates to all new forms of development and requires proposals to be of a high standard of design, have regard to the context of the environment within which they are proposed and minimise the detrimental impact on adjacent areas. Similarly Policy HOUS8 requires the scale and form of the proposed development to be in keeping with the environs of the site and ensure that the proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments by virtue of visual intrusion.

TAN 12 advises at paragraph 5.53 that “the design of housing layouts and built form should reflect local context, including topography and building fabric. Response to context should not be confined to architectural finishes. The important contribution that can be made to local character by contemporary design, appropriate to context, should be acknowledged”.

There was significant concern with regard to the form of the houses as originally submitted, noting that the properties were over-scaled for this site comprising of large detached houses with ridge heights of 9.5 metres, with accommodation appearing to be split over three levels. Following extensive negotiation with the applicant, an amended set of six different house types were proposed, all of a contemporary design and utilising a variety of materials. House types A and B are two storey dwellings albeit with lowered ridge heights (7.5 metres and 7.45 metres respectively) and first floor windows shown as breaking through the eaves. House types C and H are proposed to have lower eaves (both 2.775m) and ridge heights (both 6.9 metres) to their front elevation, although they would appear as two storey dwellings when viewed from the rear.

The affordable housing units sit adjacent to the main vehicular access to the site, and have the appearance of a small terrace and a pair of semi-detached dwellings. Each of these sets have split gable frontages with ridges running perpendicular to the vehicular carriageway, which serves to break up their general mass and bulk. The units are commensurate, in terms of their height, to the market units having ridge heights of 7.35 and 7.5 metres respectively. The front elevation of the proposed flatted block is shown below:



The proposed units are to be finished in a variety of materials although the predominant finishes will be weather boarding, render and decorative stonework with concrete interlocking roof tiles. It is noted that there is significant variation in the form and materials of the finishes of housing within the area. The amended housetypes proposed are significantly less bulky in terms of their scale than those originally submitted, and the general mass and bulk of the units is not considered to be excessive in the context of surrounding dwellings. In general terms the proposed houses are considered to be of an interesting contemporary design and the use of a number of varied house types and materials provides interest to the proposed street scenes and from wider view. The existing housing within Ogmore immediately adjacent to the site and the wider area is largely of limited architectural interest predominantly comprising dormer bungalows, providing limited cues for a scheme of this nature to follow. Notwithstanding this it is acknowledged that the development site sits in a prominent position within the settlement of Ogmore and would be visible from a number of vantage points. Given its visual prominence it is considered that any development of the site should be of a suitably high quality design. Acknowledging this it is considered that the amended proposals now have significantly reduced massing such that scale is more commensurate with the general scale of dwellings within the vicinity of the site, and would now not appear alien or overscaled within their setting. Noting the dwellings' relative prominence it is considered that the designs would introduce variety and interest within the built environment that would not cause undue detriment to the visual amenities of the wider area and would positively contribute to the street scene.

Furthermore, the affordable units are considered to be of equal quality in design terms (to the market units) and there would be continuity between market and affordable units in terms of the general layout and the way the units address the street. Overall, therefore it is considered that the proposal comprises of a good mix of designs and house types that whilst not directly reflecting the vernacular of local buildings, are of a high quality design and provide interest through the use of a variety of materials. Consequently as a group they provide an interesting and varied built environment.

### Affordable Housing layout

UDP Policy HOUS12 (Affordable Housing) states that where there is a demonstrable need, the Council will seek the inclusion of a reasonable element of affordable housing within developments. The accompanying Affordable Housing and Planning Obligations SPG set out more detailed guidance on the application of this policy. Furthermore the 2010 Local Housing Market Assessment demonstrates a requirement for affordable housing within the Vale of Glamorgan while the Homes4U waiting list evidences a demonstrable need for affordable housing within the rural vale.

The affordable housing units are shown in a row adjacent to the access to the site, comprising of a mix of 6 no. one bedroom flats and 2 no. two bedroom dwellings. It is noted that the Affordable Housing Officer has raised concern that the units provided were not sufficiently dispersed through the site being solely situated adjacent to the road adjacent to the main access. Notwithstanding this the application as amended proposes the erection of 20 dwellings including 40% affordable housing provision. Noting the relatively modest size of the site and low number of dwellings proposed it is considered that the proposed position and clustering of the units within the site is acceptable in this instance, particularly given that the cluster would not exceed 10 units, as required by the Council's SPG. Therefore, while the comments of the Affordable Housing Enabler are appreciated, it is considered that the compliance with the SPG fundamentally means the development could not be resisted on those grounds.

### Provision of Amenity Space

Policy ENV27 of the Unitary Development Plan requires new developments to meet the Council's approved guidelines with respect to the provision of amenity space and public open space. These approved guidelines are contained within the adopted Supplementary Planning Guidance (SPG) 'Amenity Standards', which provides guidelines to ensure that all new residential developments contribute towards a better quality of life without adversely affecting the amenity enjoyed by existing residents. Policy 2 of this document is considered to be of particular relevance in this instance, which states that 'the council will ensure that useable, adequate and appropriate private amenity space is provided as part of residential development'.

The guidance contained within this policy notes that developers at a minimum should provide 1m<sup>2</sup> of amenity space per 1m<sup>2</sup> of the gross floor area for new dwelling houses, whilst 20m<sup>2</sup> of readily accessible amenity space should be provided per occupier of flatted development. It is acknowledged that the current application proposes residential accommodation principally in houses. With regard to the amenity provision for dwelling houses it is noted within the amenity standards SPG that the detailed amounts are not intended to be a prescriptive standard however the majority of units will have access to an area of private and defensible amenity space which as a minimum should be sufficient for functional requirements including relaxation, clothes drying, refuse storage etc.

With regards to the flatted development a shared area of amenity space is shown to the rear of these units that would provide an area of approximately 120m<sup>2</sup>. The amenity areas the flats as indicated would represent a shortfall in provision compared with the adopted standards contained within Policies HOUS8 and ENV27 and the supporting SPG. However, whilst acknowledging the lack of amenity space in comparison to the requirements in the Council's SPG, it is recognised that the area provided would serve to provide sufficient for functional requirements including relaxation, clothes drying, refuse storage etc, whilst the flats would only be approximately 110 metres from the Common to the South-West. Accordingly, it is considered there is potential for the requirement for private amenity space on-site to be relaxed to some degree.

In light of the above it is considered that although there may be a shortfall in private defensible amenity space for some units that sufficient amenity space is provided to meet functional needs. As such it is considered that adequate amenity space is provided to serve future occupiers of the development.

#### Impact upon amenity of neighbouring residential properties

There are existing residential dwellings to both the north and south of the site, whilst Craig Yr Eos Bungalow to the east of the site. The Gables is situated in close proximity to the boundary of the site adjacent to plot 18 as shown on the proposed site layout. The revised layout indicates a two storey dwelling being situated 5 metres of the boundary, whilst the single storey garage would be set approximately 3 metres from the boundary. It is noted that there are windows within the side elevation of the Gables serving a kitchen. However, whilst noting that the garage at plot 18 would be visible from these windows, it would be set approximately 4 metres from these openings and, it is considered that this element of the dwelling would not cause unacceptable detriment, noting its single storey height and hipped roof design. The proposed dwelling is set 5 metres from the boundary with the property and no windows serving habitable rooms are proposed within the first floor northern side elevation of this dwelling. Whilst the dwelling would be visible from the rear garden of this property, noting its set off from the boundary and the lack of windows within first floor side elevation, it is considered that this unit would not cause an unacceptable overbearing impact or overlooking of the amenity area to the rear of The Gables.

The originally submitted drawings showed a dwelling within close proximity of 46 Craig Yr Eos Road, and there was significant concern raised in this regard. The amended layout indicates a revised house type and location at this plot (now plot 17) and at its closest point is approximately 10 metres from the dwelling at 46 Craig Yr Eos Road. Whilst noting the front elevation of the dwelling at plot 17 fronts towards the garden of number 46, the amended dwelling type C (as proposed at this plot) only has windows serving habitable rooms in the front elevation at ground floor level and would be set at an oblique angle to the rear of the neighbouring property. As such it is considered that this dwelling would not cause an unacceptable degree of overlooking or an overbearing impact to 46 Craig Yr Eos Road.

The dwellings at plots 12 and 13 would run parallel to the boundary with Ger Y Mor to the south of the site. The two storey mass of plot 12 would be set 5 metres from the boundary with the neighbouring property adjacent to the driveway. Noting its position adjacent to the driveway and the set off from the boundary it is not considered that the proposed dwelling would result in an unacceptable degree of overbearing of Ger Y Mor. Whilst there is a window proposed within the southern elevation of the dwelling, it is noted that this serves a family bathroom and as such would be obscure glazed and this would be further controlled by condition to prevent any overlooking. The main mass of the dwelling of plot 13 would similarly be set 5 metres from the boundary and would project beyond the rear of Ger Y Mor. Again noting this set off and the lack of windows serving habitable rooms at first floor level fronting onto the neighbouring dwelling, it is considered that this dwelling would similarly not cause an unacceptable degree of overlooking or overbearing of the amenity enjoyed at Ger Y Mor. It is also noted that there are a number of side facing windows fronting onto the application site serving Ger Y Mor which appear to be secondary windows serving habitable rooms. Noting that the windows appear to be secondary openings, and that the single storey garages would be set 5 metres from these openings, it is considered that the proposals would not unacceptably impact upon them.

The proposed flat block would largely sit adjacent to the blank gable end of number 7 Craig Yr Eos Avenue. An entrance door to one of the flats is shown at ground floor level and a bathroom window shown at first floor level, although noting that the first floor window will be obscured glazed (controlled by condition), it is not considered that there will be an unacceptable degree of overlooking of the neighbouring property. Furthermore noting the siting of the flatted block it is considered that the proposals would not result in an unacceptable overbearing impact.

The dwelling at plot 9 would be set in excess of 21 metres from the rear of the nearest dwelling 2 Craig Yr Eos Place. The Council's adopted Amenity Standards SPG requires a separation of at least 21 metres between opposing windows serving habitable rooms to ensure that an unacceptable overlooking impact does not result. Noting this separation therefore it is considered that the proposals would not result in an unacceptable impact upon the amenity of the properties within Craig Yr Eos Place.

The adopted amenity standards SPG indicate that with an obscure angle of view that a lower degree of separation needs to be maintained between principal windows. Given the separation and obscure angle of view it is considered that the first floor flats at plots 1-6 would not result in an unacceptable degree of overlooking of the dwellings of 1 and 2 Craig Yr Eos Place.

It is also noted that a number of raised terraces are proposed as part of the works and limited details of privacy screens have been provided with the submissions. As such a condition requiring further details of privacy screens will be attached to any consent granted to ensure that there would not be an unacceptable degree of overlooking of neighbouring residential properties.

A number of letters of objection received have noted concern with regard to the loss of view and potential devaluation of property caused by the proposals. Whilst sympathetic to this, it is noted that this is not a material planning issue that would represent a reason to refuse planning permission.

Overall, it is considered that the scheme as amended would not result in an unacceptable impact upon the amenity enjoyed by occupiers of neighbouring residential units and as such it is considered to comply with the requirements of policies ENV27 and HOUS8 of the Development and adopted Amenity Standards SPG.

### Highways and Parking

The proposed development would be accessed from the road running to the west of the site via a single proposed access point, in a similar position to the existing agricultural field access. Accordingly, it is necessary to assess the highways impact of the development in the immediate context of Ogmore By Sea.

The application is accompanied by a Transport Statement prepared by Spring Design dated March 2015 which assesses the likely traffic / highways impacts that would result from the development, in the context of the existing road network, the number of dwellings proposed and the likely number of car movements and movements by alternative modes. The submitted TA concludes that having *'examined the local highway network, existing public transport provision and facilities for pedestrians and cyclists. It is concluded that there are no existing highway safety issues in the immediate vicinity of the site and that for a rural location, the site provides adequate opportunities for future residents to access local services and larger settlements. The report demonstrates that the proposed site access arrangement is appropriate to serve the development and that the additional vehicle movements generated by the proposed development will not have a significant impact on the local highway network.'*

Following consultation with the Council's Highways Department, the Council's highways traffic engineer has assessed the submissions and concluded that the submitted Transport Statement is acceptable. However, in terms of highway safety, the Council's Highways Traffic Engineer indicated that the junction of Craig Yr Eos Avenue from Main Road to the north of the site should be improved to assist any additional vehicular movements generated by the development. Following negotiation with the developer, a scheme of off-site works to improve this junction (see Appendix C) was submitted to the LPA and accepted by the Council's Traffic Engineer, and this will be secured through a Section 278 agreement to be agreed with the Highways Authority. Given that the Council's Highways Section are satisfied with the proposals and off-site works have been agreed in principle it is considered therefore that the proposed development would not have any significant adverse impact to traffic flows along the local highway network.



Ogmore by Sea is considered a sustainable settlement within the Sustainable Settlements Appraisal that forms part of the background evidence of the LDP, with shops, a post box, regular bus service and a place of worship. It is also of relevance that any approval would require a contribution towards sustainable transport provision which would mitigate impacts by providing and promoting more sustainable forms of transport, which is detailed later within the report. Accordingly, it is considered that while there will clearly be some increase in traffic, the submitted assessment demonstrates satisfactorily that the existing highway network is capable of accommodating traffic generated by the proposed development, without resulting in an unacceptable traffic impact in the vicinity.

Given the linear nature of the site, the applicant has introduced a rumble strip adjacent to the access to the site and a change of materials within the site to assist in traffic calming. This provision would assist in controlling vehicle speeds at the junction to the site as would the use of a change of materials elsewhere through the scheme. Such an approach is advocated by Manual for Streets, given their use would reduce speeds which are considered necessary in this instance given the long straight road when considered with Craig Yr Eos Avenue. It is recommended that full engineering details of the roads and associated infrastructure will be required by condition attached to any consent given.

In terms of parking, the dwellings would be served by driveways and garages within their curtilages and the affordable units would largely be served by parking courts to the front of these units, with spaces allocated for each of the unit. Visually, it is considered that this is an appropriate form of layout and would avoid large communal parking areas.

Sufficient parking is provided for each dwelling, with all market properties having between 3 to 4 parking spaces, to accord with CSS Parking guidelines. The affordable one bedroom flats are shown to have one space each and two bedroom dwellings two spaces each, which is considered to be acceptable.

Following the submission of the revised layout the Highways Engineer has raised no objections with regard to the internal layout of the site as a whole. Having regard to the above, it is considered that the proposed access arrangements and layout are acceptable in terms of highway safety and traffic generation, in accordance with Policy ENV27 and the aims of policy HOUS8 of the UDP and Manual for Streets, PPW and TAN18: Transport.

## Drainage

It is noted that a number of the letters of objection relating to the planning application raise concerns with regard to drainage and sewerage discharge from the development and potential capacity issues on the local network. Following consultation with the Council's Drainage Engineer, Welsh Water and Natural Resources Wales, it has been agreed in principle that an appropriate scheme of drainage can be provided, subject to conditions. Furthermore correspondence from Dwr Cymru Welsh Water also indicates that there are no capacity issues relating to the sewerage network in this area. Noting that there is no objection in principle to a form of drainage to serve the site, subject to conditions (including the requirement for a comprehensive scheme of drainage and further details with regard to the provision of temporary foul water storage), the development is acceptable in drainage terms.

## Ecology

The application is supported by an Ecological Assessment and Survey for Bats undertaken by David Clements Ecology Ltd dated September 2014 and a Strategy for Clearance of common reptiles dated October 2014. Following consultation, it is noted that neither the Council's Ecologist nor Natural Resources Wales object to the application. The submitted surveys include a number of mitigatory measures with regard to the development including those relating to slow worms. Noting the lack of objection from either the Council's Ecologist or Natural Resources Wales, it is considered that there is not an ecological constraint restricting the grant of planning permission subject to appropriate conditions being attached to any consent being granted.

## Planning Obligations

### Planning Obligation (Section 106) Matters

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to any material circumstances.

In this case, the application relates to a development of 20 dwellings (including 8 affordable units) at land to the South of Craig Yr Eos Avenue, Ogmere By Sea. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

## Affordable Housing

TAN 2 defines Affordable Housing as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households, or where stair casing to full ownership takes place, receipts are recycled to provide replacement affordable housing. This includes two sub-categories: social rented housing where rent levels have regard to benchmark rents; and, intermediate housing where prices or rents are above social rented housing but below market housing prices or rents.

UDP Policy HOUS12 requires a reasonable element of affordable housing provision in substantial development schemes. The supporting text to that policy also states: "The starting point for the provision of affordable housing will be an assessment of the level and geographical distribution of housing need in the Vale". In 2010, the Council undertook an update to the Local Housing Market Assessment (LHMA) in order to determine the level of housing need in the Vale of Glamorgan. The LHMA concluded that an additional 915 affordable housing units (for rent or low cost home ownership) are required each year over the next 5 years. The most needed properties are social rented properties where tenants pay benchmark rents set by the Welsh Government. In light of evidence contained in the latest Housing Market Assessment showing a high level of need for affordable housing throughout the Vale, the Council's Adopted Supplementary Planning Guidance on Affordable Housing (contained in the Affordable Housing Delivery Statement) now seeks a minimum of 30% affordable housing on sites of 10 or more dwellings.

It is also relevant to consider the background evidence to the LDP. National guidance contained within Technical Advice Note 2 (Planning and Affordable Housing) places a requirement on local planning authorities to ensure that local planning policy requirements for the provision of affordable housing should be based on a robust assessment of site viability across the authority's administrative area (paragraph 10.4 refers). To address the issue of viability in the LDP, the Council commissioned Three Dragons to prepare an Affordable Housing Viability Assessment (AHVA 2010) to determine the levels of affordable housing that can economically be provided throughout the Vale of Glamorgan. This led to a draft Policy MG4 in the Draft Deposit Local Development Plan (November 2013) of 35% in Ogmore by Sea.

However, as part of the Local Development Plan process there has been an assessment of 'focused' and 'minor' changes to the draft Deposit Local Development Plan (DLDP). These changes are in response to subsequent consultations and the issues raised and are considered necessary to ensure that the LDP is sound. These focused changes include an amendment to the requirement for affordable housing as part of residential development.

In response to representations on affordable housing, the Council has commissioned a review of its viability evidence base to September 2014, taking account of matters raised by the Home Builders Federation (HBF) and the Welsh Government (WG). It concluded that in Minor Rural Settlements including Ogmore By Sea, that affordable housing should be provided at a ratio of 40% (draft LDP policy MG4 refers).

The amended scheme proposes the provision of 8 no. affordable units (6 no. social rented one bedroom flats and 2 no. intermediate two bedroom houses) of the 20 no. units proposed, which accords with the 40% provision as above. The provision would provide a 75:25 split in favour of social rented units which is also considered to be acceptable. It is worth noting that the viability evidence supporting the change in policy position contained within draft LDP policy MG4 did so on the basis of a 70:30 tenure split rather than the 80:20 split previously sought. Noting the relatively modest size of the development as a whole and the provision of 40% affordable units it is considered that the tenure split is considered to be acceptable.

In terms of layout, whilst the LPA would require units to be dispersed throughout the site where possible and appropriate, the affordable units are all proposed within one block adjacent to the access to the site which is not considered to result in an unacceptable clustering of units due to the relatively low number of units proposed within the site as a whole (see previous section on affordable housing layout).

### Education

UDP Policy HOUS8 permits new residential development within settlements, provided that, amongst other things, adequate community and utility services exist, are reasonably accessible or can be readily and economically provided. Education facilities are clearly essential community facilities required to meet the needs of future occupiers, under the terms of this policy. Planning Policy Wales emphasises that adequate and efficient services like education are crucial for the economic, social and environmental sustainability of all parts of Wales. It makes it clear that development control decisions should take account of social considerations relevant to land use issues, of which education provision is one.

The Council's formula for calculating pupil demand is contained in the Planning Obligations SPG and following consultation with the Local Education Authority identifies that the development of this site for 20 units would generate demand for two nursery and four primary school pupils to attend St Brides Major Primary School where there is insufficient capacity to meet this additional demand. Therefore a contribution of £86,779.56 has been sought from and agreed by the Developer.

In addition, the initial school transport costs associated with the new demand for school transport generated by the development has been calculated as £19,500 to cover school transport costs for the first 3 years following occupation of the development. This has also been agreed to by the Developer.

## Sustainable Transport

UDP Policies 2 and 8 favour proposals which are located to minimise the need to travel, especially by car and which help to reduce vehicle movements or which encourage cycling, walking and the use of public transport. UDP Policy ENV27 states that new development will be permitted where it provides a high level of accessibility, particularly for public transport, cyclists, pedestrians and people with impaired mobility. These policies are supported by the Council's approved Sustainable Development SPG and Planning Obligations SPG and the advice in Planning Policy Wales, TAN 18: Transport, and Manual for Streets, which emphasise the important relationship between land use planning and sustainability in terms of transport.

In particular TAN 18 states that "Planning authorities may use planning obligations to secure improvements in roads, walking, cycling and public transport, whether as a result of a proposal on its own or cumulatively with other proposals and where such improvements would be likely to influence travel patterns, either on their own or as part of a package of measures" (9.20 refers). At paragraph 9.21 it continues "Circular 13/97 sets out the way in which planning obligations can be applied, but practical examples relating to influencing movement to a site include the funding of additional or improved bus services, commuted sums towards new or improved bus and rail interchanges, and improvements to pedestrian or cycle routes which go near the site or make it easier to access the site."

The Council has developed formula to calculate reasonable levels of contributions for off-site works to enhance sustainable transport facilities, which has been derived from an analysis of the costs associated with providing enhanced sustainable transport facilities, and consideration of the impact of new developments in terms of needs arising and what is considered to be reasonable to seek in relation to the scale of development proposals. The formula set out in the Planning Obligations SPG ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan. It requires a contribution of £2,000 per dwelling to be used to improve access to the site, local employment opportunities and other facilities and services likely to be required by the future occupiers, by more sustainable transport modes. In this case, this would equate to £40,000, which has been agreed by the developer. This contribution would be used to fund specific projects related to the scheme which could include localised improvements to assist in pedestrian movements along Craig Yr Eos Road, improved footpath links with the Common, junction improvements between Craig Yr Eos Road and Main Road and improvements to bus services and facilities serving Ogmere (including the 303 bus service).

## Public Open Space Provision

UDP Policies HOUS8, REC3 and REC6 require new residential developments to make provision for public open space and the Planning Obligations SPG provides further advice about how these standards should operate in practice. TAN 16: Sport, Recreation and Open Space (2009) states "Planning conditions and obligations (Section 106 Agreements) can be used to provide open space, sport and recreational facilities, to safeguard and enhance existing provisions, and to provide for their management.

PPW indicates that planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Local planning authorities will usually be justified in seeking planning obligations where the quantity or quality of provision for recreation is inadequate or under threat, or where new development increases local needs. An assessment of need and an audit of existing facilities, will enable local planning authorities to use planning obligations to provide a benefit for the land and/or the locality by providing open space and suitable facilities, particularly in relation to housing, retail and employment developments" (paragraph 4.15 refers).

In terms of open space, Policy REC3 advises that new residential developments are expected to provide public open space on site and/or contribute towards the enhancement of public open space in the area (at a standard of 2.43 hectares per 1000 population, which equates to 24.3sq metres per person or 55.40 sq metres per dwelling). In line with the provisions of the aforementioned policies, a scheme of the size proposed would require the provision of public space for 1108 sq metres.

The revised scheme indicates the provision of no on-site areas of open space. The LDP Open Space Background Paper (2013) identifies that there is a requirement for children's play space and outdoor sport provision within Ogmores By Sea, that would need to be met by 'windfall' developments such as this one. Therefore, whilst the development fails to provide adequate open space to meet the Policy requirements, this will be mitigated by a payment to enhance the existing facilities nearby, which can be secured through a section 106 agreement. In light of the need generated and the cost of open space facilities, a contribution of £45,600 has been negotiated and agreed by the developer to provide or enhance public open space and children's play facilities off site in Ogmores By Sea, either for improvements of the area of public open space adjacent to Slon Lane, on the Common and/or adjacent to the beach, as appropriate.

### Community facilities

UDP Policy HOUS8 permits new residential development within settlements where (inter alia) adequate community and utility services exist or can be readily provided. The Planning Obligations SPG acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities. The LDP Community Facilities Assessment Paper identified that there are inadequate community facilities available in Ogmores By Sea to cater for current and existing demand:

*'the settlements of Ogmores by Sea.... where at the ward level numerically the assessment identifies adequate provision, deficits exist due to there being no provision within the settlement itself and also the location of the nearest facilities falling beyond the applied catchment areas.'*

As such a contribution of £19,770 was sought from and agreed by the Developer for improvements to community facilities, particularly for the provision of a village hall within Ogmores By Sea.

## Public Art

The Council has a percent for art policy which is supported by the Council's adopted supplementary planning guidance on Public Art. The SPG requires that on major developments, developers are required to set aside a minimum of 1% of their project budget specifically for the commissioning of art and, public art should be provided on site integral to the development proposal. This has been agreed by the Developer.

## S106 Administration fee

The Council requires the developer to pay an administration fee of £4,232.99 to the Council to monitor and implement the terms of the Planning Obligations. This fee covers the Council's costs to negotiate, monitor and implement the terms of the necessary Section 106 Agreement.

This cost is essential because the additional work involved in effectively implementing a Section 106 Agreement is not catered for within the standard planning application fee and the Section 106 Planning Obligations are deemed to be necessary to make the development acceptable. Therefore, the developer is reasonably expected to cover the Council's costs in this regard.

## CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies ENV5 – Glamorgan Heritage Coast ENV7 - Water Resources, ENV11 - Protection of Landscape Features, ENV16 - Protected Species, ENV17 - Protection of Built and Historic Environment, ENV27 - Design of New Developments, ENV28 - Access for Disabled People, ENV29 - Protection of Environmental Quality, HOUS2 - Additional Residential Development, HOUS8 - Residential Development Criteria, HOUS12 - Affordable Housing, TRAN10 - Parking, REC3 - Provision of Open Space within New Residential Development, REC6 – Children's Playing Facilities, REC7 – Sport and Leisure Facilities, REC12 - Public Rights of Way and Recreational Routes, Strategic Policies 1 & 2-The Environment, 3-Housing, 8-Transportation and 11-Sport & Recreation, of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; The Council's Supplementary Planning Guidance on Amenity Standards, Biodiversity and Development, Design in the Landscape, Planning Obligations, Sustainable Development and Affordable Housing (contained within The Vale of Glamorgan Affordable Housing Delivery Statement), national guidance contained in Planning Policy Wales 7<sup>th</sup> Edition (2014) and Technical Advice Notes 1- Joint Housing Land Availability Studies, 2-Planning and Affordable Housing, 5-Nature Conservation and Planning, 11-Noise, 12-Design, 15-Development and Flood Risk, 16-Sport, Recreation and Open Space, 18-Transport, and 22-Sustainable Buildings; and Manual for Streets, it is considered that the proposal is acceptable in in terms of its principle, appearance, layout, visual impact, impact upon neighbouring properties, highways impact, drainage, ecological impact and other regards.

## RECOMMENDATION

Subject to the relevant person(s) first entering into a Section 106 Legal Agreement or undertaking to include the following necessary planning obligations:

- Procure that 40% (8) of the dwellings built on the site pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity.
- Pay a contribution of £86,779.56 for the provision or enhancement of education facilities to meet the needs of future occupiers generated at St. Brides Major Primary School
- £19,500 towards school transport costs generated by the development for the first three years.
- Pay a contribution of £45,600 to provide or enhance open space facilities off site in Ogmores By Sea to be spent on one or more of the area of public open space adjacent to Slon Lane, on the Common and/or adjacent to the beach.
- Provide public art on the site to the value of 1% of project costs in accordance with details to be submitted for approval.
- Pay a contribution of £19,770 towards the provision or improvement of Community Facilities within Ogmores By Sea to be spent on the provision of a village hall within Ogmores By Sea.
- Pay a contribution of £40,000 to provide or enhance sustainable transport facilities in the vicinity of the site to be spent on one or more of localised improvements to assist in pedestrian movements along Craig Yr Eos Road, improved footpath links with the Common, junction improvements between Craig Yr Eos Road and Main Road and improvements to bus services and facilities serving Ogmores (including the 303 bus service).
- Pay the Council's standard administration fee for negotiating, monitoring and implementing the terms of the s106 agreement (£4,232.19 in this case).

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.



2. This consent shall only relate to the amended plans reference:
- House Type A 2082-200-08 Rev E received 16 June 2015
  - House Type B 2082-200-06 Rev F received 16 June 2015
  - House Type C 2082-200-03 Rev C received 16 June 2015
  - House Type H 2082-200-10 received 16 June 2015
  - Plans and Elevations 1 Bed flats Plots 1-6 2082-200-09 Rev B received 08 April 2015
  - Plans and Elevations House Type D 2082-200-04 Rev C received 08 April 2015
  - Site Layout Plan 2082-101E received 02 July 2015
  - Site levels and sections 2082-110A received 16 June 2015

and the development shall be carried out strictly in accordance with these details.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used, including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan

4. Notwithstanding the submitted details, full details of a comprehensive scheme for the site shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be fully implemented in accordance with the approved details prior to the beneficial occupation of any of the dwellings hereby permitted.

Reason:

To ensure adequate drainage facilities at the site, and to ensure compliance with the terms of Policies ENV7 and ENV27 of the Unitary Development Plan.

5. The development hereby permitted shall not be commenced until such time as a scheme to install the underground tank (wet well for foul water temporary storage before being pumped to main sewer) has been submitted to, and approved in writing by, the local planning authority.

The scheme shall include the full structural details of the installation, including details of: excavation, the tank depth, tank surround, associated pipework, sealing of tank and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.

#### Reasons

To ensure protection of controlled waters (groundwater) within the Principal Aquifer in accordance with policy ENV7 of the Development Plan.

6. The implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that no surface water or land drainage run-off shall discharge, either directly or indirectly, into the public sewerage system.

#### Reason:

To prevent hydraulic overloading of the public sewerage system and to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with the terms of Policies ENV27 and ENV29 of the Unitary Development Plan.

7. Notwithstanding the submitted details, prior to the commencement of development, details of the finished levels of the site and the proposed development in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

#### Reason:

To ensure that the visual amenities of the site and amenities of neighbouring residential properties are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

8. Notwithstanding the submitted plans, full engineering details of the off-site highways works including improvements to the junction of Main Road and Craig Yr Eos Avenue (as shown on drawing 2082/SK550 Rev A), and all footways, new vehicular / pedestrian access to the site and all internal roads within the site, incorporating turning facilities and vision splays, and including sections, street lighting, surface water drainage and the details of the location and design of all rumble strips, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be implemented thereafter in accordance with the approved details.

Reason:

In the interests of highway safety in accord with Policy ENV27 of the Unitary Development Plan.

9. Notwithstanding the submitted plan, further details of the proposed hard landscaping materials (including the roads and including details of the proposed location and design of all traffic calming features) shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times thereafter be carried out and maintained in accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

10. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority, to include details of parking for construction traffic, the proposed routes for heavy construction vehicles, timings of construction traffic and means of defining and controlling such traffic routes and timings, shall be submitted to and approved in writing by the Local Planning Authority, and the development shall at all times thereafter be carried out in accordance with the approved details unless the Local Planning Authority gives prior written consent to any variation.

Reason:

To ensure that the parking provision and highway safety in the area are not adversely affected and to meet the requirements of Policies TRAN10 and ENV27 of the Unitary Development Plan.

12. Notwithstanding the submitted plans, further details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority which shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

14. Notwithstanding the details shown on the approved plans, all means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. The means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use and maintained as such thereafter unless otherwise agreed by the Local Planning Authority.

Reason:

To safeguard local visual amenities and protected species, and to ensure compliance with the terms of Policies ENV27 of the Unitary Development Plan.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking or re-enacting that Order with or without modification) the dwellings hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 and the Town and Country Planning (General Permitted Development) Order 1995, (or any Orders revoking or re-enacting those Orders with or without modification), no gates, fences, walls or other means of enclosure (other than those approved under the terms or conditions of this planning permission) shall be erected, constructed or placed on the application site without the prior written consent of the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

18. The first floor windows in the northern side elevation of unit 18, northern side elevation of unit 1-6 and southern side elevation of unit 12 shall be installed as a non-opening window (with the exception of a top light) and shall be glazed using obscured glass to a minimum of level 3 of the `Pilkington` scale of obscuration at the time of the construction of the development hereby approved and prior to the first beneficial use of the dwellings and shall thereafter be so maintained at all times.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

19. Notwithstanding the submitted details of screening, further details of screening to the balconies and details of the external finishes of the proposed balconies shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed in accordance with the approved details and the screening shall be erected in accordance with the approved details prior to the first beneficial use of the dwelling they relate to and shall thereafter be so retained at all times.

Reason:

In the interests of the visual amenity of the area and to protect the amenity of occupiers of neighbouring residential properties in accordance with Policy ENV27-Design of New Developments of the Unitary Development Plan.

20. No dwelling hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas to serve that dwelling, have been laid out in full accordance with the details shown on the approved plans and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

21. Prior to the first beneficial occupation of any dwelling hereby approved, full details of the public art to be provided on the site, shall be submitted and approved in writing by the Local Planning Authority. The Public Art shall thereafter be implemented on the site in accordance with the approved details no later than 12 months following the substantial completion of the development.

Reason:

To ensure the delivery of Public Art on the site in accordance with the Council's Public Art SPG.

22. Prior to the commencement of development, an Ecological Management Plan, to include a scheme for the maintenance and enhancement of biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The agreed Ecological and Landscape Management Plan shall be implemented in full accordance with its recommendations and details in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure protection for protected species and ecological enhancement, in accordance with policy ENV 16 of the Unitary Development Plan.

23. The development shall be carried out in accordance with the recommendations of the submitted 'Ecological Assessment and Survey for Bats' dated September 2014 and Strategy for Clearance of Common Reptiles dated October 2014 both prepared by David Clements unless the Local Planning Authority agree in writing to any variation.

Reason:

To safeguard protected species, in accordance with Policy ENV16 of the Unitary Development Plan.

**NOTE:**

1. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
2. **Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
3. **The applicants are advised that all necessary consents / licences must be obtained from Natural Resources Wales (formerly Environment Agency Wales) prior to commencing any site works. The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
4. **Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.**

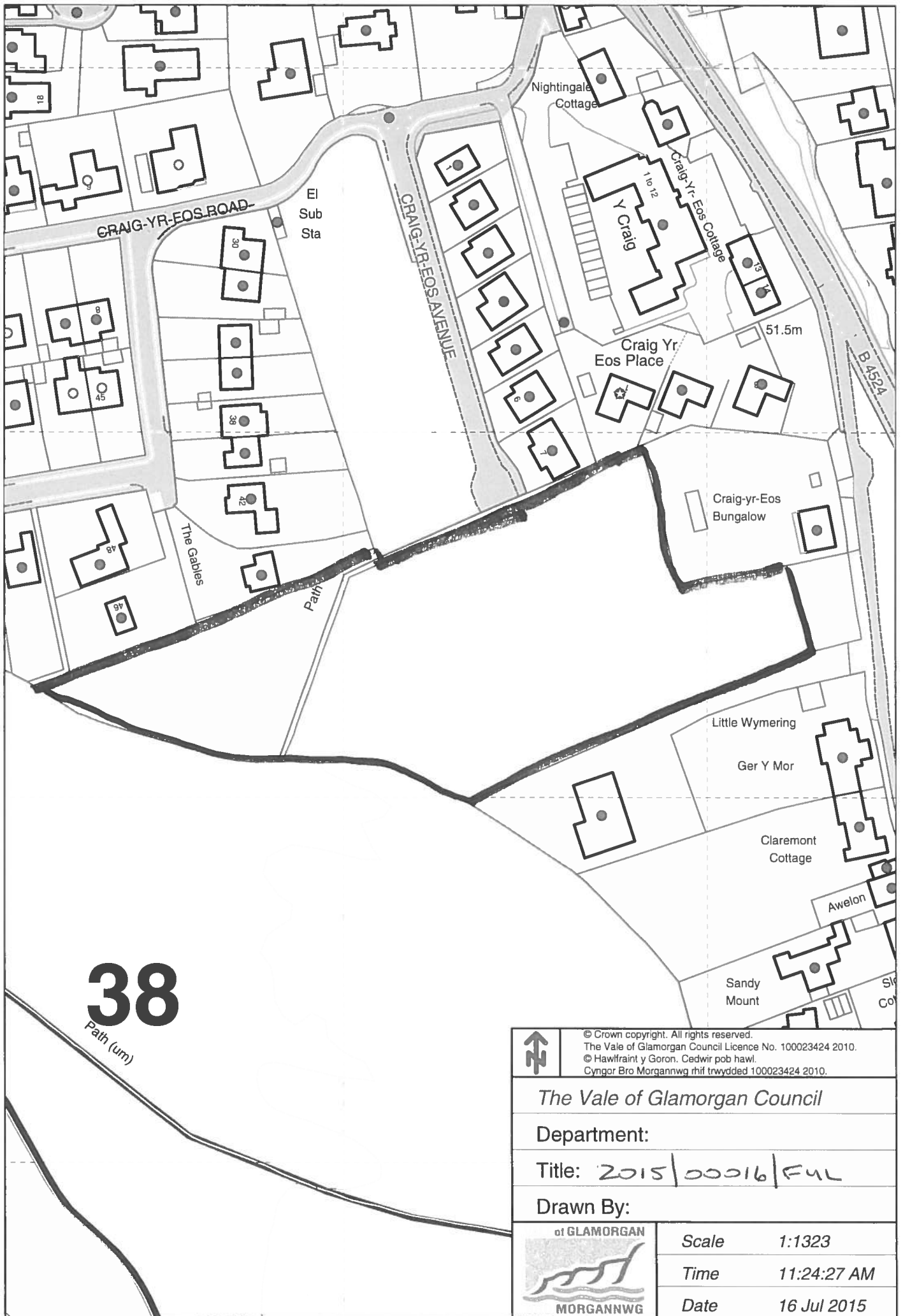
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**


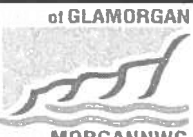
**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**





**38**  
Path (um)

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	<i>The Vale of Glamorgan Council</i>	
Department:		
Title: 2015/00016/FUL		
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	Scale	1:1323
	Time	11:24:27 AM
	Date	16 Jul 2015

**2015/00031/OUT** Received on 5 February 2015

Sunrise Renewables (Barry) Ltd, Gilbert Wakefield House, Bewsey Street,  
Warrington, WA2 7JQ

Sunrise Renewables (Barry) Ltd, Gilbert Wakefield House, Bewsey Street,  
Warrington, WA2 7JQ

### **David Davies Road, Woodham Road, Barry**

Outline application for a wood fired renewable energy plant

### INTRODUCTION

Members will recall that this application was deferred at the 2 July 2015 Committee following request from members for site visit.

The following report is that presented to the 18 June Committee (other than where updated to relate to additional representations received and some comments regarding these representations in the issues section).

### SITE AND CONTEXT

The application site forms part of the wider developed coastal area of Barry Docks, being located to the immediate north-east of the existing industrial units occupying the old Nissen huts on Woodham Road, and to the north of Dock No.

Access to the site is via Woodham Road, off the Ffordd-y-Milleniwm roundabout adjacent to the Council's Dock Offices. The site is currently vacant, having been occupied until recently by a container storage and refurbishment operation.

The nearest residential development is located on Dock View Road to the north and northeast of the site. The properties on Dock View Road closest to the appeal site are some 250 metres to the northeast. The first phase of the Barry Waterfront development is to the west of the site with the nearest dwellings being some 400 metres from the site.



## DESCRIPTION OF DEVELOPMENT

This is a full planning application made by Sunrise Renewables Limited for a Wood Fuelled Renewable Energy Plant / Biomass Plant of up to 72,000 tonnes of waste wood.

Having full regard to the previous proposals on the site the application was reconsidered as a new application and an updated screening of the proposal was assessed on the basis of the changes to be made to the application. As such, the Council consider the application to be a Schedule 2 development as described under Part 11 (b) of the EIA regulations. On the basis of its location and the changes proposed over the previously considered proposals it was not considered to have a significant environmental effect and no EIA was required. The application has been accompanied by a appropriate level of information, with the following key elements taken from the submitted supporting statement. This includes the following documents

- Design & Access Planning Statement
- Transport Statement
- Noise Statement and updated Noise Survey
- Stack height assessment
- Air Quality Assessment
- Updated Air Quality Assessment
- Ecology Appraisal
- Groundsure Environmental Data Report
- Groundsure Geology & Ground Stability Report
- Flood risk assessment
- Waste Planning Assessment (as required by TAN21)

### The Building/ Equipment

The previous consent granted permission for a single building with a footprint of approx. 2700sqm. At a height of 14m. Under the new proposals the applicant proposes that the proposed buildings footprint will be reduced to 2,497sqm, however, this will be separated into separate structures, most notably two large buildings and an increased stack structure. The application outlines that the details of the structure proposed are as follows: -

Wood storage and feed building: The wood storage and feed building (52.4 x 21.6 x 13.7m High) remains similar in height to the previously approved 14m high building

Turbine, Welfare and Ancillary buildings: This building 29.1 x 17.9 x 11m high) This building incorporates the switchgear, the main control room and turbine room (removing the formerly proposed piston engines)

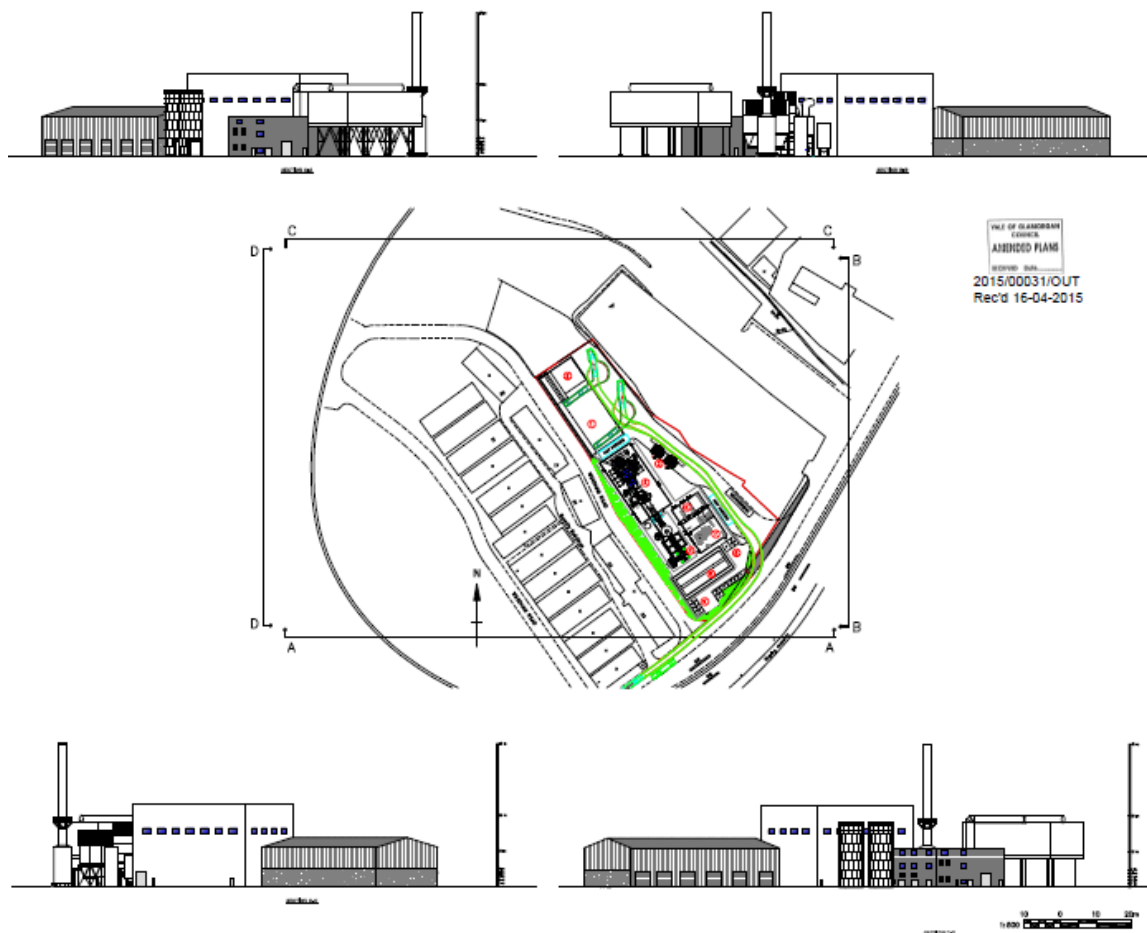
Main process building: This is the largest building and will comprise of the gasification equipment (41.4m x 20.4m x 23m high). This will significantly improve containment of the process as a whole.

ACC Unit: An external air cooled condenser (32m x 14.5m and 20m High) mounted on steel stilts adjacent to the turbine, welfare and ancillaries building

External Equipment: Ash silos- two cylinder shaped structures (18.4m high x 6.7m diameter). Flue gas treatment, exhausting to the chimney stack will also be external

Chimney Stack: 40m high stack; (previously 20m high) located to the south of the site and is this height to meet emissions. The diameter will also increase from the previous consent from 1m to 2.75m.

Parking provision will be 12 cars (including one disabled) and four cycle bays for employees and visitors



### The Process / Proposal

The design of the previous plant was undertaken by Prestige Thermal equipment (which produced a 9 MW average net output) but this is replaced in this proposal by Outotec. The Outotec technology is more efficient and will result in an average of 10MW rather than the approved 9MW for the same fuel amount (i.e 72,000 tonnes). This equates to approximately 216 tonnes per day. The wood fuel accepted will be manufactured from clean wood, pallets, construction timber and other woods which have been removed from the construction and demolition waste stream locally. In short, the plant will process dry, non-hazardous batches of timber and wood.

The plant will be capable of producing syngas through a fluidized bed process while the previous produced syngas through pyrolysing. Both technologies are gasification. The general process is as follows

- Wood-waste feedstock is chipped off-site and delivered to the plant prior to being gasified. At the time of delivery, feedstock has a variable moisture content, the water having a function as a reformation agent in the gasification process.
- The wood fuel is fed into the gasifier system where it is converted into a raw natural gas ('syngas') which is reformed and used as the primary fuel in the gasification boiler to generate steam to power the steam turbine. The Outotec gasifier will process up to 72,000 dry tonnes of wood waste per year to produce an average net output of up to 10 MW (compared to 9 MW with the Prestige system) and is more flexible with respect to moisture content.
- The steam turbine uses the steam to produce electricity and the plant transfers electricity to the grid via an alternator, transformer and on-site substation. The turbine is enclosed in an acoustically attenuated extension to the electricity switchroom, to reduce noise to a minimum. The process is regulated from a computerised control room. The buildings will be lit internally using electricity generated from the process.
- The Outotec equipment utilises a single turbine-alternator which replaces the previously proposed system of multiple reciprocating piston engines.
- Burning of the refined syngas in the gasifier to produce energy combined with various plant and equipment used to reduce emissions results in cleaned exhaust emissions from the facility.

The change in technology remains one based on gasification. In addition, as the plant is proposed to be more efficient, i.e. 9MW rather than 10MW, the efficiency levels means there is no surplus heat generated. As such, the new proposal will not be a combined heat and Power Plan (CHP) Plant.

The plant would have a design life of approximately 25 years and will be operated during the following hours for the receipt of fuel and all other external operations:

- Monday to Friday 07:00 - 19:00
- Saturday 07:00 - 19:00
- Sunday /Bank/Public holidays 08:00 - 16:00

However, the applicant has outlined an intention to only operate deliveries over a 5 day period, excluding the weekends. Otherwise the plant itself will operate and generate electricity as a 24 hour process within the building:

The plant will operate and provide electricity to the grid 24 hours per day, with allowances for maintenance and breakdowns. The entrance gates will be closed upon the cessation of daily operations to ensure that there is no unauthorised access.

The applicants statements outline that the benefits from the Project remain essentially the same as for the 2010 Permission, namely:

“12.1.1 Renewable electricity: Utilising established biomass energy technology in order to contribute to national targets for renewable energy provision. The facility will supply electricity via the electricity grid which is equivalent to the annual energy usage of approximately 23,600 households (increased from the previous level of 22,000) based on an average UK household consumption of 3,300kWh.

12.1.2 Climate change: Contributing to creating “A resilient and sustainable economy for Wales that is able to develop whilst reducing its use of natural resources and reducing its contribution to climate change.” (Planning Policy Wales Edition 7, Para 4.1.5).

12.1.3 Reduced landfilling: Reducing the need to dispose of wood to landfill, thereby conserving finite landfill capacity and facilitating a more sustainable end use for waste wood as a renewable energy resource in accordance with the waste hierarchy (Planning Policy Statement 10). There remains an over-supply of waste wood in the UK and consequently, large volumes of wood continue to be directed to landfill or other less sustainable uses.

12.1.4 Assisting wood recycling: Providing an additional outlet for recycled wood to enhance the commercial viability of wood recycling, both locally and nationally.

12.1.5 Traffic: Achieving a reduction in the number of vehicle movements carrying waste wood to local and national landfill sites.

12.1.6 Economy/employment: Utilising a vacant industrial plot in order to provide skilled employment opportunities and investment in local goods and services. Up to 12 full-time equivalent jobs based at the site plus 2 office staff will be provided.”

## PLANNING HISTORY

2010/00240/FUL : Land off Woodham Road, Barry - Erection of new industrial building and installation of 9MW wood fuelled renewable energy plant - Withdrawn 20 April 2010.

2008/01203/FUL : Land at Woodham Road, Barry - Erection of new industrial building and installation of 9MW fuelled renewable energy plant - Refused 31 July 2009.

2008/00828/SC1 : Land at Woodham Road, Barry Docks - Proposed industrial building and installation of 9MW Biomass Gasification Plant to generate electricity from reclaimed timber - Environmental Impact Assessment (Screening) - Not Required 14 August 2008.

1987/00821/FUL : Woodham Way, Barry Docks - Construction of plant store - A 17 November 1987.

1985/00574/FUL : Woodham Road, North Side, No. 2 Dock, Barry - The land will be enclosed by a security fence and used for the storage of car trailers, such as touring caravans, boats etc. – Approved 23 July 1985.

1984/00348/FUL : Woodham Road, No. 2 Dock, Barry Docks, Barry - Proposed fenced off compound for the purpose of storage and distribution of solid fuel - Approved 17 May 1984.

1984/00214/FUL : Woodham Road, No. 2 Dock, Barry - Erection of a security fence around the plot of land which will be used for the storage of caravans. Approved 1 May 1984.

#### Other Relevant History

**2014/00610/FUL** : Dow Corning Ltd, Cardiff Road, Barry - Planning Application to develop a Biomass Energy Facility (BEF) including associated works. The BEF facility will be capable of generating 24.2MW of thermal energy (steam) via the gasification of up to 60,000 tonnes per annum (tpa) of recycled wood chip fuel on land within the Dow Corning Barry site. - Withdrawn 18 July 2014.

**2009/00021/FUL** : Land accessed off of Atlantic Way within Barry Docks, Barry - Change of use from B2 - General Industrial Use to Sui Generis - Waste Use which would include operational development in the form of the construction of a gasification waste to energy plant for non-hazardous waste - Approved 23 December 2009.

#### CONSULTATIONS

**Barry Town Council** was consulted on 16 February 2015. Strong objection to the proposals on the basis that the increased height of the stack, proximity to the residential properties and transport impacts congested the existing roads to the site.

**Environmental Health (Pollution)** was consulted on 16 February 2015. Environmental health has no objection to the proposed development but made the following comments: -

#### Air Quality

Based on the modelled data provided, there appears to be no evidence of the Renewable Energy Plant (REP) breaching the relevant ambient air quality objectives (Nitrogen Dioxide, Sulphur Dioxide, PM<sub>10</sub>, Carbon Monoxide). Specific stack emissions have also been modelled and indicate that they would comply with imposed permit conditions as set by Natural Resources Wales.

However, reference has not been made to other approved sites (that may not yet be in operation) that could have a contributing/cumulative pollutant factor which may adversely affect the air quality.

Due to the topography of the local area, the height of the stack may be level with sensitive receptor locations, subject to planning approval that are yet to be constructed. The air quality assessment has not considered sensitive receptor locations yet to be constructed, including their relative elevations to the proposed stack.

It is recommended a condition is attached requiring quality control on the source material

### Noise

The noise impact assessment and predictions are based on background noise measurements and locations as identified in a previous application. We do not believe that background noise levels within the area have increased. However, reference has not been made to other approved sites that are yet to be constructed as they may impact on background levels.

The noise impact assessment and predictions indicate no adverse impact upon amenity from the REP. Nevertheless the process will need to demonstrate Best Available Technique for noise control during the permitting process. This will offer further opportunity to limit impacts and will be for discussion with Natural Resources Wales.

It is advised that the operators of mobile plant within and outside curtilage of the facility use reversing safeguards that have low off site impact. For example, bleeper alarms are omni-directional and can be audible over a large distance – alternatives to be used, for example directional sound or white noise.

### Construction Phase

Prior to this phase, a Construction Environment Management Plan (CEMP) should be submitted to and agreed with the LPA. This must detail the control of noise and dust etc. prior to works commencing.

### Odour

There should be no odour from the REP as it works on negative pressure.

### Lighting

A condition should be attached regarding exterior lighting should be installed in accordance with the Institute of Lighting Engineers guidelines for the control of obtrusive light. Reason: to avoid negative impact upon amenity by obtrusive light.

### Ground Conditions

The submitted report includes a recommendation for further gas monitoring. This is recommended. A detailed ground investigation will be required to ensure that any contamination does not impact upon the end use.

### Environmental Permitting Regulations

It is essential to note that the operation of this process cannot legally operate until it benefits from an Environmental Permit issued by Natural Resources Wales.

**Cardiff Airport (Safeguarding)** was consulted on 16 February 2015. No objection to the proposed development.



**Glamorgan Gwent Archaeological Trust** was consulted on 16 February 2015. No objection to the proposals.

**Policy Section (Planning)** was consulted on 16 February 2015. No principle objection to the proposed development, subject to the proposal being considered acceptable under Policies ENV6, ENV27, ENV29, TRAN11, COMM8 and WAST 1 & 2

**Local ward members** were consulted on 16 February 2015. No formal comments submitted

**Dwr Cymru Welsh Water** was consulted on 16 February 2015. No comments.

**The Council's Ecology Officer** was consulted on 16 February 2015. No objections have been received with respect to the proposal.

**Waste Management** was consulted on 16 February 2015. No comments

**Finance, ICT and Estates, Energy Manager** was consulted on 16 February 2015. No comments have been provided.

**Highways and Engineering** was consulted on 16 February 2015. No objection to the proposed development subject to conditions on visibility splays, parking provision and cycle provision within the site.

**Natural Resources Wales** was consulted on 16 February 2015 and 6th May 2015

Following the submission of the Air Quality Assessment (AQA) no objection to the proposals

NRW initially objected to the proposed development outlining that insufficient information had been submitted for the matter to be properly considered and that an updated AQA would be required.

NRW outlined that the proposed development lies within close proximity to the Severn Estuary (designated as a Special Area of Conservation (SAC) Special Protection Area (SPA) and RAMSAR site and is also within proximity of Hayes Point to Bendrick Rock (SSSI) and Barry Island (SSSI) and as such advised that a further assessment of aerial emissions should be undertaken. This was to ensure the principle of development at this location could be acceptable.

We confirm that the AQA has adequately assessed the potential impacts upon the above sensitive habitats. Our advice is that the proposed development is not likely to have significant effects on these sensitive habitats. We therefore remove our objection.

**Public Health Wales** was consulted on 16 February 2015 and 6 May 2015

In their second comments on the updated air quality assessment Public Health Wales outline that based on the information provided by the applicant, there is limited potential for risk to public health from the proposed process itself. However, they have raised concerns that previous permissions for similar uses have been approved in the vicinity (i.e. wood pellet plant Dow Corning and residual waste gasification plant approved in Atlantic way) and multi storey residential properties may have permission approximately west of the site. As such, if this is the case then the AQA has not taken into account additional emission sources or receptors. As such, public health Wales do not object but suggest a condition requiring an additional AQA taking these matters into account.

### **Members note:**

The consent for the gasification plant at Atlantic Way (2009/00021/FUL) expired on 23 December 2014 and would now require a new planning permission to be implemented. The proposals for a wood chip gasification plant in Dow Corning (2014/00610/FUL) were withdrawn on 18 July 2014.

**Health and Safety Executive** was consulted on 16 February 2015. No comments have been received in regard to this matter

**Associated British Ports** was consulted on 16 February 2015. ABP outlined that there are in support of the application for the wood fired renewable energy plant and specifically outlined

### **REPRESENTATIONS**

The neighbouring properties were consulted on 16 February 2015.

A site notice was also displayed on 13th March 2015

The application was also advertised in the press on 13 March 2015

Over 104 letters and emails have been submitted in response to this application. The main issues raised are as follows: -

- Emissions and Health issues
- Traffic impacts. i.e. heavy lorries and intensity
- Noise
- Visual impact of the proposed Stack
- Proximity to residential properties
- Lack of information
- Types of wood being used

- Health grounds / Quality of Life (including asthmatic sufferers).
- Objection on the grounds that it is a waste disposal plant not the energy generation plant stated in the application; proximity to houses; lack of guaranteed reuse of waste heat.
- Impact of exhaust gases and particulates; and more appropriate sites for the facility.
- Siting in a highly populated residential area, and impact on road access; pollution; effect on community; impact in future; alternative sites more appropriate.
- potential use for other fuels in addition to wood; air quality; lack of jobs for local people;
- Emissions (smells, dioxins) noise from plant and lorries; traffic. Considers the plant to be a good idea but in the wrong location.
- Tourism- Impacts upon the Barry waterfront development regeneration and Barry Island regeneration.
- Property prices within the locality will decrease.
- Ecological impacts of the proposal.
- Wood waste is far more hazardous to health.
- Environmental impact assessment is required.
- Gasification- bad science.
- More public consultation is required.
- Docks area should be used as retail and leisure.
- Fire hazard or ash waste and wood chip stockpiles.
- Effects on Business

Five letters which are generally indicative of the objections received are attached as Appendix A.

Letters from local AM, MP and MEP have also been received and are attached at Appendix B

A letter of support has been provided by ABP.

### Update from Previous committee report

Since the report was drafted for the committee on 2 July, the Council have received another 4 letters of representation regarding the proposal. Three of the objections received were from residents in Barry that outlined their concerns with respect to the proposals to site the wood fired renewable energy plant at Woodham/David Davies Road. It is considered that the concerns outlined in these three letters have been addressed in the report and there is no new issues raised with respect to these representations.

A further email was received by the campaign group Friends of Earth objecting to the proposed development.

With respect to their comments on the Waste Planning Assessment (WPA), this was requested by the officer directly as it can be required by TAN21 Waste. The WPA was not requested by NRW and they had already outlined that they raised no objection to the proposed development. Accordingly, whilst the document does set out some of the planning policy requirements of such a development, the information contained within the document had already been produced by the existing submissions by the applicant. As such, it was not considered necessary to consult NRW on this basis.

With respect to Officers' understanding of the plant being a combined heat and power facility, the statement quoted in the FoE representation is taken from the description of development section of the report and not the further analysis of the information submitted. The description of the development will outline the developers proposal as set out in the application. The matter was raised with the developer who did address that the surplus heat produced by the plant would not be sufficient for it to be considered a Combined Heat and Power Plant, as this proposal would produce 10% more electricity than the previous consent but have less surplus heat.

It is considered that all other matters that have been raised by FoE have been addressed either in the report or by responses by the developer that have been provided as part of the application information.

Nevertheless, FoE recent representations have been considered by the applicant and two documents have been provided by Sunrise Renewables to address the matters raised. These have been attached as additional Appendix E to the report, titled 'Responses to comments from FoE dated 6 July 2015' and 'Waste Disposal Status of the Project'.

The first document addresses those recent matters raised by Friends of the Earth while the other document outlines Sunrise renewables position on its status as an Energy Recovery Plant. The second document categorically states that the plant is not a waste incineration installation and would not be regulated by the Waste Framework Directive and therefore the requirement to meet the energy efficiency standards set out in the R1 formula are not required. However, having run hypothetical calculations the applicant maintains that the plant would still meet those energy efficiency calculations as set out in the R1 formula.

## REPORT

### Planning Policies and Guidance

#### **Unitary Development Plan:**

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18<sup>th</sup> April 2005, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 4 – ADDITIONAL EMPLOYMENT LAND

POLICY 13 – WASTE MANAGEMENT

POLICY 14 COMMUNITY AND UTILITY FACILITIES

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005.

Under the chapter on Waste, the following objectives are put forward for the purposes of guiding future decisions relating to waste disposal:

- To ensure that waste disposal is carried out with adequate environmental protection, so that there is no harm to human health, no pollution of the environment and no detriment to the amenities of the locality.
- To ensure that the waste disposal requirements of the County are adequately catered for within the context of other objectives.
- To ensure that waste disposal and other types of waste management facilities are considered within a hierarchy of priorities including:

Reduce (the production of waste)

Re-use

Recover (recycling, composting and energy recovery)

Disposal (with minimum environmental impact)

The UDP as a whole includes the following policies which are of relevance to these proposals:

STRATEGIC POLICY 13 – favours development proposals which encourage sustainable principles for waste disposal based on a hierarchical approach of (i) waste minimisation / avoidance; (ii) re-use of waste; (iii) waste re-cycling or recovery (including waste conversion to energy); and (iv) waste disposal land fill with minimal environmental impact.

## WAST 1 PROVISION OF WASTE MANAGEMENT FACILITIES

Proposals for the provision of waste management facilities including the handling, treatment and transfer of waste will be permitted where they are located on:

- i. Existing waste sites;
- ii. Existing and allocated B2 and B8 employment sites;
- iii. Within operational mineral working sites; or
- iv. The case of green waste composting and management, on land within or adjacent to farm building complexes.

Proposals will be considered having regard to the criteria listed in Policy WAST 2.

## WAST 2 CRITERIA FOR ASSESSING WASTE MANAGEMENT FACILITIES

Subject to the provision of Policy WAST 1 proposals for waste management facilities will be permitted if the proposal:

- i. Conforms with the principle of the waste hierarchy (reduction, re-use, recovery and safe disposal); the “proximity principle”; the principle of regional self sufficiency; the objective of waste avoidance, reduction and disposal; the setting of targets for reduction and modes of disposal:
- ii. Does not unacceptably affect residential amenity or pose a threat to public health;
- iii. Does not unacceptably affect the quality or quantity of water resources (both surface and groundwater);
- iv. has regard to the adequacy of the highway network and the need to minimise the demand on the transport network;
- v. does not unacceptably conflict with the interests of agriculture, nature conservation, areas of ecological, wildlife or archaeological importance or features of geological or geomorphological importance or landscape protection policies;
- vi. has a high standard of layout, landscaping and design;
- vii. Provides arrangements for the after treatment and future use of the site which are to the satisfaction of the local planning authority; and
- viii. Is not at an unacceptable risk of flooding, including tidal inundation, or does not increase the risk of flooding elsewhere.

Para. 10.6.7. of the justification advises that the disposal or treatment of waste in any form is often a controversial issue, no matter how well managed. It is important therefore that any proposals for this type of activity can be thoroughly assessed against the above criteria and that any permission is conditioned to mitigate and / or abate environmental detriment and nuisance.

#### COMM 8 OTHER RENEWABLE ENERGY SCHEMES

Proposals for other renewable energy schemes will be permitted if all of the following criteria are met:

- i. the proposal has no unacceptable effect on the immediate and surrounding countryside;
- ii. The proposal has no unacceptable effect upon the sites of conservation, archaeological, historical, ecological and wildlife importance;
- iii. Adequate measures are taken, both during and after construction, to minimise the impact of the development on local land use and residential amenity.

Para. 11.4.45. of the justification states that "...the Council recognises that policies for developing renewable energy must be weighed carefully with its continuing commitment to policies which seek to protect the local environment. The Council acknowledges the advice in TAN 8 that proposals to harness renewable energy can display a variety of factors peculiar to the technology involved. ... The Council will assess applications for renewable energy developments in the light of the guidance put forward by the Welsh Assembly Government in TAN 8.

#### ENV6 EAST VALE COAST

States that development within the undeveloped coastal zone will be permitted if a coastal location is necessary for the development; and the proposal would not cause unacceptable environmental effects. In areas of existing or allocated development within the coastal zone, any new proposal should be designed with respect to its local context and sensitive to its coastal setting.

The justification notes that, "though outside of the defined settlement boundary for Barry, the Port estate is clearly a developed area and its continued use and development as a commercial/ industrial estate and for the expansion of operational port facilities by ABP is endorsed". (3.4.22 of UDP).

ENV7 - WATER RESOURCES

ENV16 -PROTECTED SPECIES

ENV18 - ARCHAEOLOGICAL FIELD EVALUATION

ENV26 - CONTAMINATED LAND AND UNSTABLE LAND

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

States that development will not be permitted if it would be liable to have an unacceptable effect on either people's health and safety or the environment: (i) by releasing pollutants into water, soil or air, either on or off site; or (ii) from smoke, fumes, gases, dust, smell, noise, vibration, light or other polluting emissions.

#### EMP2 NEW BUSINESS AND INDUSTRIAL DEVELOPMENT

States, inter alia, that proposals for new business and industrial development will be permitted if nine specified criterion are met, including that the size and relationship of any new building and / or alteration or extension is not disproportionate to its size and setting; the proposal does not have an unacceptable effect on residential amenity; does not present additional risk to the health or safety of users of the site and does not unacceptably pollute air, water, or land; and does not unacceptably affect the use of the adjoining land by virtue of the risk and impact of potential pollution.

#### EMP3 GENERAL INDUSTRY

States, inter alia, that development will be permitted for B2 use (general industry) where the proposal is compatible with existing business / industrial / warehousing uses; will not cause detriment to the amenities of nearby residential areas; the nature and scale of the proposed development does not unacceptably affect surrounding uses; it does not present additional risk to the health or safety of users of the site and does not unacceptably pollute air, water or land; and it does not unacceptably affect the use of the adjoining land by virtue of the risk and impact of potential pollution.

#### TRAN10 - PARKING

#### TRAN11 - ROAD FREIGHT

States, inter alia, that, in order to reduce the unacceptable environmental effects of heavy goods vehicles...developments which generate HGV movements which would unacceptably affect the amenity and character of the existing or neighbouring environments by virtue of noise, traffic congestion, or parking problems will not be permitted.

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, chapter 2 of Planning Policy Wales (Edition 7, 2014) provides the following advice on the weight that should be given to policies contained with the adopted development plan:

*2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).*



*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

With the above advice in mind, the policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded. The following policy, guidance and documentation support the relevant UDP policies.

### **Planning Policy Wales:**

National planning guidance in the form of Planning Policy Wales (Edition 7, July 2014) (PPW) is of relevance to the determination of this application.

Section 12 of PPW can be considered

12.5.1 The Welsh Government's general policy for waste management is contained in its overarching waste strategy document *Towards Zero Waste* and associated sector plans. Planning authorities should, in principle, be supportive of facilities which fit with the aspirations of these documents and in doing so reflect the priority order of the waste hierarchy as far as possible.

12.5.2 The Collections, Infrastructure and Markets (CIM) Sector Plan describes the waste management framework considered to provide the best solutions to meet environmental, social and economic needs to 2050. It indicates a move towards a position where disposal and recovery options are reduced in favour of high volume source segregated collection followed by reprocessing (as well as preparation for re-use and prevention). The reality as we move from where we are now towards these aspirations is the need for planning authorities to facilitate the provision and suitable location of a wide ranging and diverse waste infrastructure which includes facilities for the recovery of mixed municipal waste and may include disposal facilities for any residual waste which cannot be dealt with higher up the waste hierarchy.

12.5.3 The land use planning system has an important role to play in facilitating sustainable waste management by providing a framework for decision making which recognises the social, economic and environmental benefits that can be realised from the management of waste as a resource to meet the needs of society and businesses, whilst at the same time:-

- minimising adverse environmental impacts and avoiding risks to human health;
- protecting areas of designated landscape and nature conservation from inappropriate development; and
- protecting the amenity of residents, of other land uses and users affected by existing or proposed waste management facilities.

### **Technical Advice Notes:**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 8 – Renewable Energy (2005)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2014)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 21 – Waste (2014)
- Technical Advice Note 23 – Economic Development (2014)

### **Supplementary Planning Guidance:**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Sustainable Development
- Amenity Standards

### **The Local Development Plan:**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20th March – 1st May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection).'*

*Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The guidance provided in Paragraph 4.2 of PPW is noted above. In addition to this, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Waste Planning Background Paper (2013)
- Sustainable Transport Assessment (2013)

Specific Policies that would be relevant to this application

Policy SP8- Sustainable Waste Management

**Other relevant evidence or policy guidance:**

Land Fill Directive 1999

Waste Framework Directive 2008

South East Wales Regional Waste Policy (1<sup>ST</sup> Review 2008)

Project Gwyrdd 2008

Towards Zero Waste 2010

The Collections, Infrastructure and Markets (CIM) Sector Plan July 2012

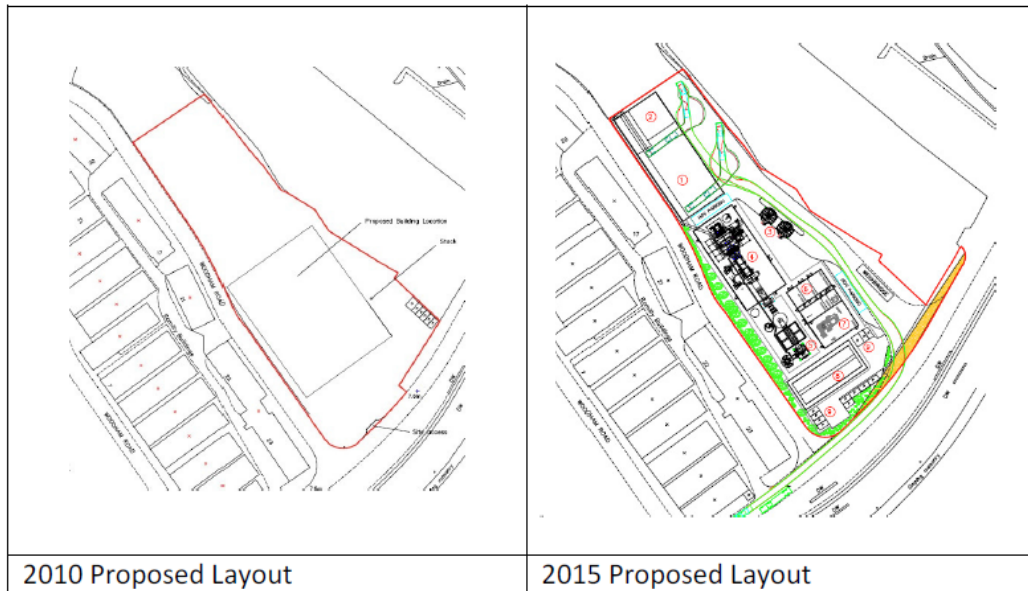
Background to the Proposal

Members will note that this application is a resubmission of the approved application 2008/01203/FUL, which was refused by Members at planning committee but allowed by the Planning Inspectorate following a public enquiry into the application in 2010. The appeal decision is attached as Appendix C. The main difference between this application and the previously approved is the following:

**Technology:** a change in the manufacturer of the advanced conversion technology (ACT) from gasification based on pyrolysis to one based on a fluidised-bed. The proposed technology is more fuel efficient and will improve the average annual power output to 10 MWe compared to 9.0 MWe in the 2010 Permission. It also means that there is no waste heat generated during the process.

**Layout:** accommodation of the proposed technology at the Project site requires a different configuration of the buildings housing the various components – the 2010 Permission contemplated a single connected structure while the revised layout breaks this up into three separate but functionally interconnected buildings. The footprint of these buildings is 7.5% less than under the 2010 Permission.

Elevations: the revised layout comprises two buildings that are lower than the building height in the 2010 Permission and one that is higher. The average building height of the 2010 Permission is 14m while the average building height of the revised layout is 16.3m. In order to meet emissions requirements, the stack height will be increased to 40m. This is less than the stack height approved for the waste-energy plant already approved for construction at Atlantic Way on the opposite side of the dock, although Members should note that this consent has now technically lapsed.



As there are no other changes made to the application it is considered that the plant will be fuelled by reclaimed wood arising (for example) from local recycling operations.

### Issues

While members understand the material weight that should be given to the previous 2010 consent, the application must be considered in its entirety against National, regional and Local Policy objectives.

As such, this next section addresses some of the policy changes since the previous 2010 approval.

### National Policy (Planning Policy Wales 7<sup>th</sup> Edition), TAN21- Waste

Waste Policy in Wales is influenced by two major European Directives, the Waste Framework Directive and the Land Fill Directives, which came into effect in 2008 and 1999 respectively. These directives effectively set out a move away Landfill and the member states to take account of the best available technology to develop a network of disposal installations, taking into account the Waste Hierarchy as well as the 'Proximity principle and self-sufficiency.

While not significantly different to the National and Regional Policies that were considered in 2010 approval, Planning Policy Wales as well other documents on the Waste Strategy in Wales have been updated.

The Welsh Government's general policy for waste management is contained in its overarching waste strategy *Towards Zero Waste* (para 12.5.1 PPW). Planning authorities should, in principle, be supportive of facilities which fit with these documents– i.e. zero waste and associated plans – and in doing so reflect the priority order of the waste hierarchy as far as possible.

PPW also sets out the general criteria that proposals should meet (para 12.5.3), i.e.:

- Minimising adverse environmental impacts and avoiding risks to human health.
- Protecting areas of designated landscape and nature conservation
- Protecting residential amenity and other land users and uses

The proposal fits with the Governments waste policy since the processing of the wood waste at the plant results in Energy Recovery by Gasification. According to the Councils Waste Planning Background Paper for the LDP (Page 8 Para 4.2.1) the residual wood waste that would be used at the plant would be otherwise sent to be landfill at Trecati Landfill Site rather than energy recovery. As such, the proposed use does comply with the overarching policy of PPW zero waste and reflects a progression in the waste hierarchy.

TAN 21 Technical Advice Note for Waste (February 2014) TAN 21 reinforces the PPW approach towards 'zero waste' and includes the Waste Hierarchy (below). At chapter two TAN 21 promotes the EU Directive waste hierarchy as follows:

### ***Waste Hierarchy diagram***



The Waste Hierarchy

TAN 21 sets the framework for facilitating the delivery of sustainable waste management infrastructure through the planning process. Paragraph 1.10 of TAN21 explains:

Sustainable development is a key functioning principle of the Welsh Government and its policies. The movement towards sustainability in relation to planning for waste should be guided first by the wider principles of sustainability contained in Planning Policy Wales, however, with specific reference to waste management land use planning should help to:

- Drive the management of waste up the waste hierarchy and facilitate the provision of an adequate network of appropriate facilities;
- Minimise the impact of waste management on the environment (natural and man-made) and human health through the appropriate location and type of facilities;
- Recognise and support the economic and social benefits that can be realised from the management of waste as a resource within Wales.

TAN21 also indicates at paragraph 3.2 that: In the short to medium term there will be a continued need to develop more waste treatment and recovery facilities in order to reduce reliance on landfill.

Paragraph 3.26 advises: In general, the most appropriate locations will be those with the least adverse impacts on the local population and the environment, and with the best potential contribution to a broad infrastructure framework. Particular care should be taken to avoid locations where new or extended waste facilities may be incompatible with existing land-uses' amongst potential sites for facilities paragraph 3.27 includes:

- industrial areas, especially those containing heavy or specialised industrial uses
- degraded, contaminated or derelict land - well-located, planned, designed and operated waste management facilities may provide good opportunities for remediating and enhancing sites which are damaged or otherwise of poor quality, or bringing derelict or degraded land back into productive use
- existing or redundant sites or buildings - which could be used, or adapted, to house materials recycling facilities, or composting operations

The proposal will clearly raise the treatment of the wood waste from the bottom of the hierarchy (landfill) to the second level (recovery). The proposed site is within an industrial area, in accordance with para 3.26 of TAN 21 above, and on a site already approved as an energy recovery use in 2010.

It should be noted that some representations have been received that outline that the efficiency levels of the plant are below the requirements outlined in TAN21, rendering the development a Waste Disposal unit rather than an Energy Recovery. In particular para 4.33 states that

*The recovery of energy from waste should be carried out at a high level of energy efficiency. In the case of energy from waste facilities using mixed municipal wastes and residual waste as a feedstock, in order to be classed as a 'recovery operation' these need to meet (as a minimum) the energy recovery efficiencies as defined under the 'R1 formula' (detailed in Annex 1 to the Waste Framework Directive). The Collections, Infrastructure and Markets Sector Plan provide details on the way in which the efficiency of energy from waste facilities is calculated using the R1 formula (see Collections, Infrastructure and Markets Sector Plan at p.217). Energy from waste facilities are categorised as recovery installations when their efficiency, as expressed using the R1 formula, is equal to or greater than:*

*Where facilities using municipal waste, or mixed municipal and industrial wastes as a feedstock operate at an R1 efficiency level of <0.6, the operation is classed as a disposal operation for the purpose of the waste hierarchy.*

In this instance, the developer has provided additional information, attached to this report as Appendix D that identifies that the energy recovery at the proposed plant would be efficient enough to meet the efficiency levels set out under the R1 formula. Accordingly, the proposal complies with the efficiency set out in TAN21 to be considered a recovery plant rather than a Waste Disposal.

## **Regional Waste Policy**

Regional waste policy covering Barry is set out in the 'South East Wales Regional Plan March 2004' which was endorsed by all of the local authorities within the area covered.

The Regional Waste Strategy is as follows:

- *Aim to achieve the 2020 Landfill Directive targets by 2013 (diversion of biodegradable waste from landfill)*
- *Achieve this principally through maximising recycling and composting deal with residual waste by Mechanical Biological Treatment*
- *Choose between either sending the residual waste from Mechanical Biological Treatment to landfill or using it as Refuse Derived Fuel; and*
- *Limit the amount of waste going to landfill to that which cannot be dealt with acceptably in any other way.*

A Review of the South East Regional Waste Plan was published in September 2008. The review had two elements, a Technology Strategy and a Spatial Strategy. The purpose of these strategies is to guide and support the unitary authorities in their plan making.

The Technology Strategy does not identify a single preferred technology but offers seven possible approaches all incorporating high source segregated recycling and composting levels with all remaining residual wastes, where possible, being managed by combinations of pyrolysis, incineration with energy recovery, MBT, gasification and autoclave. All are aimed, amongst other things, at minimising waste to landfill.

In relation to the development of a spatial strategy the Review:

- a) Provides map based very general areas of search which it stresses should not be used for development management decision making, and
- b) Concludes that the potentially available land area on existing B2 (and similar) or major industry sites and B2 sites that have already been allocated in development plans has shown that in each Unitary Authority area for which data is available there was, at 2008, a clear surplus of developable land with a B2 (and similar) planning permission or proposed use to accommodate the highest estimate of the total land area required for new in-building waste management facilities. In South East Wales there was a total of 729 developable hectares of land with a B2 (and similar) planning permission or proposed use.

The Regional Waste Policy identifies a need for additional energy recovery by gasification or other advanced technologies, Paragraph 7 of the Waste Background Paper to the deposit LDP also estimated that 6.6 (indicative number of facilities) are required to deal with 252,836 tonnes of waste and on an estimated land area of 8.6ha.

The LDP goes onto identify suitable locations for Waste Management Facilities based on the RWP identification for suitable locations for waste facilities and the guidance set out in TAN21. TAN 21 promotes the Local Development Plan (LDP) concept at paragraph 3.18. It explains that the locational requirements of waste facilities should be considered when preparing local development plans: *so as to ensure that the provision of a wide range of waste management infrastructure can be facilitated.* And at paragraph 3.21 it advises that LDPs should: *indicate where suitable and appropriate sites exist for the provision of all types of waste management facilities in order to provide some certainty for waste operators interested in fulfilling demand in an area.*

The background paper has drawn upon guidance as well as the findings of a study commissioned by Prosiect Gwyrdd to identify potential sites for developing a regional waste management facility. The background paper study assessed 59 sites, of which 14 were located within the Vale of Glamorgan and of the 14, 4 were identified as being the most suitable locations for residual waste treatment facilities. Specially Atlantic Trading Estate, the Operational Port of Barry Docks (application site), Llandow Trading estate, and land adjacent to Bosch at Junction 34. (Emphasis added)

As such, at a National and Regional level of policy of waste, the proposal for an Energy recovery unit at the applications site has been supported by the updates to Planning Policy Wales, TAN21 and the Councils background paper for the LDP on Waste Planning. While it is not zero waste, it is an acceptable short to mid range solution away from the land fill and is located within a sustainable location in an existing allocated employment land use.



This compliance with National and Regional policy is validated by the Councils deposit LDP and background papers. While the LDP is not adopted to date, the background paper is clear evidence that the application site is considered to be an appropriate location for potential waste facilities, subject to the proposal complying with the criteria outlined in the relevant local policies in the existing development plan (UDP 1996-2011) and general planning considerations

### **Local Planning Policy**

Policy EMP1 of the Unitary development Plan (UDP) lists the sites allocated for Employment Uses. Site 3 is the Barry Docks and Chemical Complex within which 16.6Ha of land is shown as available for development. The site lies within this designated area, which is specifically shown for development falling within Use Classes B1, B2 and B8 – ie business, general industrial and storage and distribution.

Policy WAST1 seeks to make provision for waste management facilities more generally:

*Proposals for the provision of waste management facilities including the handling, treatment and transfer of waste will be permitted where they are located on:*

- i) Existing waste sites*
- ii) Existing and allocated B2 and B8 employment sites*
- iii) Within operational mineral sites*
- iv) Composting at Farms*

Accordingly, the proposal is acceptable in principle as it is located on an existing dockland employment site, complying with criteria (ii) of the above mentioned policy.

Policy WAST2 provides criteria for assessing waste management facilities. This includes: Compliance with the waste hierarchy, residential amenity and public health, surface and groundwater quality, adequacy of the highway network, nature conservation, archaeology, geology and landscape; good layout and design, and flood risk.

These matters will be considered in turn below: -

### Compliance with Waste Hierarchy

Members should note that this matter has already been considered in this report in the sections relating to National and Regional Policy. The proposal is considered to comply with the Waste Hierarchy by producing energy through waste and being considered betterment to the existing land fill that is currently being used by the Vale of Glamorgan Council.

## **Impact on Local / Residential Amenity.**

The application site is located no greater than 250 metres from the existing residential properties on Dock View Road which overlook the site from an elevated height, with such proximity having raised many concerns from the public concerned about the impact of the proposed use on their amenities.

Such matters are addressed below, with specific consideration given to the following:

- Proximity to local residential properties
- Noise
- Air Quality
- Dust
- Odour
- Traffic Impact
- Visual Impact

### Proximity to Local Residential Properties

As discussed above, the choice of location is considered acceptable in land use terms, albeit there is a clear policy requirement (primarily Policies WAST2, COMM8 and ENV27) to ensure that any such development would not (amongst many other things) unacceptably affect residential amenity or pose a threat to public health.

As expanded upon below, it is considered that the proximity of the site, coupled with the appropriate controls and mitigation measures, ensure that there would be no demonstrable harm to local residential amenity, such that a refusal would be warranted.

### Noise Issues

The applicant advises that the plant has been designed to meet the BAT (Best Available Technology) requirements of the Environmental Permitting regime, which include noise emissions controls. The steam turbines produce the most noise, hence their enclosure within an acoustically attenuated compound within the building. The applicant goes on to say that plant as a whole is designed to be fully compliant with the applicable dBA requirements. In addition, the applicant has commissioned a contractor to ensure that the design and construction of the building ensures that the plant is compliant with all of the relevant noise guidance in Wales.

The application was submitted with an updated noise statement, the original noise survey and upon request the detailed survey that led to the updated noise statements conclusions. The additional background noise survey was submitted to Council on 13 March 2015.

The noise statement outlined that Power Consulting had been employed to consider whether background noise levels have changed in a way that would invalidate the conclusions in the 2009 reports and does the new plant expect to operate within the noise constraints that were envisaged for the original design approved under the 2010 permission.

During the survey on 21 November 2014 the background levels at all three locations (Dock View Road, Cory Way and Cei Dafydd) were re-checked and found to be still valid. This was supported by the updated noise survey submitted on 13 March 2015, which set out the contracted company's methodology and results from the three locations.

Ultimately, it was concluded that measurements used in the previous application remain valid and, therefore, if the specified internal level of 90 dBA is achieved then the external level of the proposed plant at the various locations will be equal to or less than the measured background level. In addition, it is also reasonable to conclude that the background measures proposed by AB acoustics for the original application remain valid.

The Environmental Health (Pollution Control) section has considered the submitted noise assessment and notes that the noise impact assessment and predictions are based on background noise measurements and locations as identified in a previous application and have advised that they do not believe that background noise levels within the area have increased.

The noise impact assessment and predictions indicate no adverse impact upon amenity from the REP. Nevertheless the process will need to demonstrate Best Available Technique for noise control during the permitting process. This will offer further opportunity to limit impacts and will be for discussion with Natural Resources Wales.

In addition, while not requested it is considered important to reapply the noise related conditions to ensure that the buildings doorways / openings in frequent use do not face sensitive locations, that such openings remain closed except when receiving deliveries, and that operators of mobile plant within and outside the facility use reversing safeguards that have low off site impact (e.g. bleper alarms are omni-directional and can be audible over some great distance and thus avoided).

In addition, given the relative proximity of the site to residential properties, and the undoubted concerns expressed by many of the residents, it is considered prudent to require submission of a Construction Environmental Management Plan (CEMP) via condition to cover noise, including matters such as hours and delivery times, during the construction phase.

Environmental health and Public Health Wales have also commented on the information not taking into account the cumulative impacts of the proposed use with other applications that have been considered, approved but not implemented to date. In particular, the concerns relate to other pending and determined applications for similar developments within the locality and their cumulative impact when considered with this proposal. Specifically application **2014/00610/FUL** and **2009/00021/FUL** for energy recovery plants at the docks.

Notwithstanding the fact that these matters have been considered previously and were not found to have a detrimental impact upon the surrounding residential amenity, it is important to note that the application at Dow Corning was withdrawn before determination and the approved application at Atlantic way was approved but has since expired in the last year. As such, there cannot be any implementation of the two other applications and no cumulative impact at this stage if this is the only approved plant on the dock.

### Air Quality

The application was accompanied by the original Air Quality Assessment, the stack height assessment and on request from NRW an updated air quality assessment was provided.

The applicants advise that the proposal will not impact upon local air quality because its emissions must meet the limits set in the Environmental Permit. In this respect, they add that gaining a planning consent does not authorise the operation, it must still have a permit and agreed abatement technology before it can operate. Not only does the plant have to meet strict emission criteria it must also be the Best Available Technology (BAT) for the use.

As part of the permit application process National Resource Wales will assess the emissions modelling carried out and set emission limits for the process.

The stack height assessment outlines that the stack height assessment was conducted for a range of stack heights between 30 m and 55 m using ADMS, an industry standard dispersion modelling tool. Worst case emission limits for Nitrogen Oxide (NO), as defined in the Industrial Emissions Directive (IED), were assumed and five years of meteorological data were used to take account of inter-annual variability in local weather conditions. It was assumed that for long term impacts, all NO emissions have been converted to NO<sub>x</sub>, whereas for short term emissions, a worst case assumption was made whereby 50% of NO emissions have been converted to Nitrogen Dioxide (NO<sub>2</sub>).

The impact of Sunrise Renewables' proposed ERF was assessed across a 2 km x 2 km modelling domain from which the highest modelled ground level pollutant concentrations have been extracted and used to calculate a stack height for which the impact of emissions can be described as 'NEGLIGIBLE'. It was the conclusion of the assessment that a stack height of 43 m will be sufficient for adequate dilution and dispersion of residual emissions from the plant and it is shown that there would only be very minor appreciable benefits gained by increasing the stack height further.

The previous application submissions emphasised that the proposed biomass plant is not a mass burn process which results in large volumes of emissions at the stack which require abatement, rather that by the time the gas reaches the engines it has to be clean to ensure that the engines operate efficiently. In other words, the stack (exhaust) will have no visible air emissions as particulates will be controlled using the abatement equipment agreed with the National Resource Wales. In essence, the technology used is modern and is not a traditional 'incineration', but rather a gasification process which breaks down the fuel into a gas which drives an engine to create electricity, with the 40m stack acting as an 'exhaust' rather than a traditional flue.

The EHO has also considered the submitted assessment in detail and has concluded that, while any process of this kind will generate emissions to atmosphere, the key issue is to assess whether these emissions significantly impact upon health or the environment both in the immediate vicinity and further afield.

It has been confirmed that based on the modelled data provided, there appears to be no evidence of the Renewable Energy Plant (REP) breaching the relevant ambient air quality objectives (Nitrogen Dioxide, Sulphur Dioxide, PM<sub>10</sub>, Carbon Monoxide). Specific stack emissions have also been modelled and indicate that they would comply with imposed permit conditions as set by Natural Resources Wales.

Nevertheless it is required by the EHO that the Local Planning Authority (LPA) should ensure that the REP will not lead to any Process Environmental Concentrations (PECs) breaching any relevant Environmental Assessment Levels or local air quality objectives to be addressed. It is noted that the environmental permit amended by NWR also requires for these issues, and as such a condition is proposed (No.29) to deal with this. However, a condition proposal is considered necessary to require the developer to submit a further investigation once the plant is operational.

In addition, National Resource Wales initially objected to the proposal as it was outlined that the information submitted was insufficient to assess the impact the proposal would have on nearby sensitive receptors, i.e. SPAR and SSSI. However, on the submission of an Air Quality Assessment that took into account the impacts the emissions could have on the nearest sensitive sites, National Resource Wales removed their objection to the proposal.

Accordingly, there are not considered to be any sustainable objections in respect of the impact on local air quality which would justify refusal of this application on such grounds.

### Dust

As for any industrial process, there is an opportunity for dust to create a nuisance in the local area unless adequately controlled. In this respect, the applicants have advised that site operations will be carried out to minimise the creation of dust, with a permanent constant mains water supply available and all external water pipes are to be lagged to prevent frost damage.

They advise that water sprays and/or bowsers will be used to reduce dust levels on all external site surfaces where necessary; that vehicles carrying potentially dusty loads off site will be securely sheeted or sprayed with water to reduce dust emissions; and that site staff will continuously monitor dust emissions whilst the plant is in operation and take appropriate action when required.

Subject to conditions covering such dust control measures, there are not considered to be any adverse impacts on local area by reason of dust generation.

### Odour

The submissions advise that no material will be accepted which is likely to cause an odour nuisance, and that any loads which are malodorous will be rejected and the appropriate authorities informed. They also state that the Biomass plant itself does not produce odorous emissions.

No objections have been raised by the EHO or NRW in respect of prospective odour nuisance.

### Traffic Impact

The amount of traffic generated by this process, in comparison with the existing local and industrial traffic on the network (particularly Fford-y-Milleniwm) is not considered to be great, and in this respect there are not considered to be any substantive reasons to object to the proposal on the grounds that there would be an unacceptable increase in noise or activities from lorry movements, not least because the site is located in an industrial area (notwithstanding proximity to dwellings) where such activities are not uncommon.

The Highways Officer has made observations on the application and has no objection subject to site specific requirements the vision splays being provided and these requirements being attached as condition.

### Visual Impact

The application site is located to the immediate east of the industrial/ commercial units within the old Nissen huts on Woodham Road, The site is visible from Fford y Milleniwm and higher ground (Dock View Road etc.) to the north, and (up close and at a distance) from Barry Island and the Waterfront in general to the west, as well as generally from the Docks. Nevertheless, in terms of its wider context, it clearly relates primarily to the wider industrialised area of Barry Docks.

A visual analysis document was submitted with the application, which outlined that on the basis of the previous approval at appeal as well as the approved development at Atlantic Way, there was no real reason for the Council to refuse this application on visual amenity grounds, despite the buildings and stack being taller. In particular, the agent highlighted the Planning Inspector's comments in his appeal decision: -

*8. Local Residents may wish otherwise but the site lies in an industrial area. The Council conceded at the inquiry that it had no objection to the appearance of the proposed building. Looking down from Dock View Road the new building would be seen in the context of the development within the docks, and, in my view, would sit comfortably in its industrial surroundings.*

In considering the physical impact of the development the applicants have copied drawings submitted for the Atlantic way application (2009/00021/FUL) which displayed cross-sections demonstrating the height of the buildings and stack compared to approved Atlantic way application and the docks office building. In this respect it is notable that the ridge height to the proposed Welfare & Ancillaries building is 23m, compared to 29.2m to the ridge of the Council's Dock Office, as well as being lower than the approved buildings along Atlantic way. This is considered to demonstrate that the building will undoubtedly become a visible structure within the immediate vicinity as it would exceed all but the Dock Office in the immediate area, while its 40m stack would clearly exceed all but the stacks on the chemical works to the east. This in itself, however, does not make the development unacceptable.

It is considered that, while some 23 metres tall, the buildings would still nevertheless relate to the character of nearby use and buildings, and are not considered to have a detrimental impact upon the surrounding area. The height of the new buildings and the proposed stack will of course have a marked impact upon the immediate landscape and would be visible from prominent locations around the site, but they will appear as modern designed industrial buildings relating to the existing use and character than surrounds them.

While it is appreciated that the Docks are overlooked by houses from an elevated height in and around Dock View Road – with the visual impact of the proposal on residential amenity having been raised in local representations, including matters relating to the impact on or loss of view, value of properties, regeneration of the docks for retail - the area is indisputably industrialised in character and the addition of a new industrial building would, within this context, not appear out of place. It could also be considered that the retail sector of the waterfront, in particular, the Asda waterfront store, as well as the those adjoining Morrisons, have taken account of its historical siting within the docks and has been designed in a very similar and utilitarian manner, resulting in a simple grey cubed building. As such, while it could be said to be at odds with the appearance of some of the near by residential buildings, the utilitarian box design is not too dissimilar to the existing industrial buildings and the newly constructed retail developments.

Indeed, the main element of the proposal which distinguishes it from any other large industrial building is the proposed 40m high stack. While the stack height does appear large, this height is to mitigate environmental impacts of the process and it must also be considered that the stack is not a building and will only measure 2m in diameter. Furthermore, within the industrial backdrop of the docks and Dow Corning Chemical works there are several large tower and stacks that can be viewed in this landscape, some taller, some shorter than proposal in this instance. Within its industrial context, therefore, this would similarly have no adverse impact.

Furthermore, views of the building will be softened by the proposed landscaping and the proposed finishes to the buildings and stack. Conditions would be required on matters including materials, landscaping, no open storage, and external lighting (of site and building).

For those reasons discussed in greater detail above, it is thus considered that the physical impact of the use and building would neither appear out of character or unacceptably overbearing to the extent that it would cause demonstrable harm to the amenities of those residential properties living near the area. Accordingly, it is concluded that the proposal would not have any unacceptable visual impact, and would accord with the objectives of the policies listed in the policy section above, including WAST2, ENV27, COMM8, EMP2 and EMP3.

### Conclusions on Impact on Residential amenity

While it is acknowledged that there is a considerable degree of unrest over the nature of these proposals and the impact on the local community, for the reasons given above it is concluded that there are no overriding objections to the development which could be substantiated on grounds relating to local residential amenity.

In addition, the location of the site, and the heavy support for such sustainable proposals from national, regional and local policy, is such that the planning balance is considered to be in favour of approving such facilities where no such harm is identified.

### Highways and Access

A traffic statement was submitted with the application that highlighted that there are no significant changes to the assessment since the 2010 approval. As such, the proposal will continue to operate continuously in order to generate electricity with the exception of routine maintenance check. However, time limits will remain to receive fuel and general access, i.e.

The site will only receive deliveries of fuel and visits from third parties and the public during the following hours: (planning statement refers)

- Monday to Friday 07:00 - 19:00
- Saturday 07:00 - 19:00
- Sunday / Bank / Public Holidays 07:00 - 16:00

Output calculations/projection are based on

- Delivery of waste wood at a frequency to enable to plant to operate with a processing capacity of 72, 0000 dry tonnes of wood biomass.
- 52 weeks operation at a 24 hour process.
- Feedstock is expected to be delivered to site by road and or sea according to source.



In addition, it should be noted that the developers scheme proposes off site pre processing of wood waste by the feedstock supplier for delivery in a chipped state ready for processing. As such, there is no need for the storage or removal of processed ferrous, non ferrous and other materials. There will be the need to deliver any output waste material (bottom ash and Fly ash) to either landfill or recycling operations (bottom ash only)

From inspecting the documents it is evident that vehicle and pedestrian access will be provided from David Davies Road into the site. Parking will be provided within the site for 12 cars (including one disabled) and four cycle bays for employees and visitors. There will be a total of 10 staff at the site at any one time. While the above proposals do closely remain the same as the previous 2010 consent, the statement does make reference to the applicants considering the delivery periods associated with the development (excluding weekends). I.e. same number of trips but over a five day week rather than a seven day week.

In considering this proposed change, the Highways Authority determined that the HGV trips to and from the site would be increased from 22(two way) to 30(two way) trips per day, giving a net increase of 8 trips (two way) between the operating times outlined from Monday to Friday. When considering the additional trips, the Highways Officer was satisfied that there would be no material impact over and above the existing planning consent. As such, no objection is held by the Councils Highways Officer subject to conditions on visibility splays, the material used for access to the site, parking layout plan, access gates and details of the cycle spaces.

Furthermore, a green travel plan was submitted with the previous application approved at appeal and a condition was attached to the permission required the developer to incorporate the measures set out within the Green Travel Plan submitted.

The overall target of the GTP was “to promote, encourage and facilitate alternative travel where possible”, with the GTP “designed to reflect the company’s awareness of its need to promote sustainable travel, and its responsibility in reducing the impact on the local and wider environment The GTP included measures aimed at encouraging use of public transport, cycling, walking, and car sharing, including provision of information through induction packs, provision of free equipment, an assigned GTP co-ordinator; and regular monitoring and review;

The applicant outlines that they are satisfied that these conditions can be reapplied to the revised development, however, the travel plan was not submitted with this application. As such, a condition will have to be applied that requires the resubmission of an updated Travel Plan and to implement its measures once agreed by the Local Planning Authority.

## Ecology

An updated Ecology assessment was prepared by Power Consulting Midlands Ltd to review the ecological considerations pertaining to the site. As such, the statement outlines that two fundamental issues were addressed: -

- 1) Have conditions at the site changed materially in a way that would alter the ecology and consequently invalidate the conclusions in the 2009 report?
- 2) Is there currently any evidence of the presence of *Althaea Hirsuta* (rough Marsh Mallow) at the site?

The updated survey undertaken shows that no *Althaea* or superficially similar species of the Malvaceae were recorded in this survey, and concludes that there is no significant change to the topography of the site or the species found at this location since the previous appeal consent.

NRW have considered this report, and advised that the presence of the plant nearby and that Rough Marsh Mallow is a locally important plant in the Vale of Glamorgan. NRW therefore recommend this is considered by the Authorities Ecologist. However, no objections have been received from the Councils Ecologist and from a consideration of the previous appeal decision and consent conditions it is considered that there is no justified reason to introduce a condition for the marsh if none was found on site.

Accordingly there are no ecological objections to the proposals, which satisfy Policy ENV16 of the adopted UDP.

## Other Matters

### Handling of Waste Outputs

As a result of the process, the main waste emission (requiring disposal/ handling) would be ash ('bottom ash' and 'fly ash').

### Bottom Ash

The applicants advise that Bottom Ash is one of the bi products of gasification process and it can be used for building products such as block manufacture. It will be stored in sealed silo and then removed from the site in separate contained loads by the feedstock supplier for recycling. As such, it will be removed from the site in 22-tonne vehicles, and it is intended that it will be either landfilled or used for block making). There is a significant reduction from the waste tonnage to the ash bi product, as such, the total amount of ash from the site per annum will not exceed 220 tonnes.

A condition will be attached to require the applicants to submit details of the how the bottom ash can be disposed of sustainably (recycled). A condition requiring submission of such matters is recommended below.

### Fly Ash

The submissions advise that the European Waste Catalogue Fly Ash is termed an absolute hazardous waste. The submissions assume that 1500 tonnes per annum of fly ash will be generated by the proposal. However, it does qualify that the exact tonnage will depend on the abatement technology, which will be determined by NRW, but it is unlikely to exceed that calculated amount

In order to control the disposal of such waste from the site, a methodology statement condition is recommended which would cover any required storage and subsequent disposal, and also cover matters (if deemed necessary) such as the use of sealed transport, dust sheeting on lorries etc.

However the fly ash will be stored on site in a sealed silo and removed using sealed powder trucks to a regulated land fill location.

### Proximity Principle -Source of Waste Wood

It should be noted that the issue of the proximity principle was considered in the previous appeal, with specific regard to the applicant's non-committal stance on the supply of the chipped waste wood. As such, the Council applied conditions that were attached to the planning consent requiring the source of the waste wood to be local or within the South East Wales Region. This matter was considered at the inquiry in 2010 and the inspector outlined the following in para 29: -

*The appellant proposes that the operation would utilise waste wood sourced locally but, in order to avoid problems regarding supply, does not wish to be tied to using waste wood from the SE Wales region only. The Council propose a condition that would allow fuel to come from farther afield provided it comes in by sea. However it arrives, importing waste wood from outside the region would not accord with the proximity principle and this seems to me to be an acceptance by the Council that it is important to ensure a reliable supply of fuel. I am persuaded by the appellant's argument that the cost of transportation will weigh towards the use of local material but acknowledge that, without a condition, it cannot be guaranteed.*

*The Assembly's Energy Policy Statement of March 2010 promotes renewable energy and the use of waste wood in the generation of electricity to prevent negative impacts on the environment and food security. The Statement also recognises that by 2020, 50% of the biomass used to generate electricity will be imported, an acknowledgement, in my view, that waste used to generate electricity may need to come from outside the region and outside Wales.*

As such, it would appear that planning cannot enforce the proximity principle by virtue of requiring the applicant to source the wood locally as this should occur logically. For instance, the cost of transporting material would be costly from further away, as such, the market should dictate that the source of the waste wood is local. Accordingly, having a condition requiring this is too onerous and could affect the viability of the business.

## Archaeology

GGAT (Glamorgan & Gwent Archaeological Trust) were notified of the proposals. They noted that the site would have been constructed between 1894 and 1898 and would have previously been marshland.

However, within the dock site there are areas where items of medieval periods of history may be found, however, it is considered that in this instance it is high unlikely and there is no reason to condition the consent requiring any archaeological watching brief.

## Contaminated Land

The application has been accompanied by a standard environmental report, the submitted report includes a recommendation for further gas monitoring. A detailed ground investigation will be required to ensure that any contamination does not impact upon the end use.

A condition requiring a contaminated land assessment and associated remedial strategy to be submitted to and approved by the Local Planning Authority.

## Cumulative Impacts with Other Development

As advised above, during the assessment of the previous application the Council were aware that an application was being considered on land accessed off of Atlantic Way within Barry Docks, Barry for the "Change of use from B2 - General Industrial Use to Sui Generis - Waste Use which would include operational development in the form of the construction of a gasification waste to energy plant for non-hazardous waste (app. Ref 2009/00021/FUL)". In addition, another separate application was submitted by Dow Corning that proposed Planning to develop a Biomass Energy Facility (BEF) including associated works

As such, Public Health Wales and the EHO comments note that the Council should ensure that the developer has considered the cumulative impacts of the developments on the surrounding residential amenity.

However, it is noted that the two applications cannot be implemented at this stage as one was withdrawn and was not determined while the application at Atlantic Way was approved but not implemented within the 5 year time limit and expired in December 2014.

## Flood Risk / Water Resources

The site lies entirely within Zone B, as defined by the Development Advice Maps (DAM) referred to by TAN 15 Flood Risk, but NRW have no comments to make.

It is understood that from looking at the previous application that the controlled waters at this site are considered to be of low environmental sensitivity, and therefore the NRW have not provided any site-specific advice with regards to land contamination, while Welsh Water has provided no comments.

Accordingly, there are no matters of concern with respect to flood risk / water resources (Policy ENV7 refers). However, conditions will be attached to any permission requiring the submission of surface water and foul drainage details associated with the development

### Employment

The applicants advise that the installation of the new Biomass plant will result in the generation of a minimum of 12 to 14 local jobs based at the site, with other spin offs in the supply / delivery chain.

Although this is not a considerable employment generating use (as identified by some representations), it is still considered to be a use appropriate to its location within an existing employment area/ dockland, with an opportunity for local jobs during construction and operation, as well as in the supply chain.

### CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to National and Regional Policies on Waste and Renewable Energy, and Policies 13, WAST1 – Provision of Waste Management Facilities, WAST2 – Criteria for Assessing Waste Management Facilities, COMM8 – Other Renewable Energy Scheme, ENV6 – East Vale Coast, ENV7 – Water Resources, ENV16 – Protected Species, ENV18 – Archaeological Field Evaluation, ENV26 – Contaminated Land and Unstable Land, ENV27 – Design of New Developments, ENV29 – Protection of Environmental Quality, EMP2 – New Business and Industrial Development, EMP3 – General Industry, TRAN10 - Parking and TRAN11 – Road Freight of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is concluded that the proposal would represent a sustainable, renewable energy proposal, which meets the above policies, while also satisfactorily protecting the interests of local residential and visual amenity, and highway safety, while not compromising other material considerations detailed in the accompanying report.

### RECOMMENDATION

APPROVE subject to the following conditions(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the plans registered on 5 February 2015 other than where amended by plans reference E1627- 2101 Rev A, E1627- 2102 Rev A, E1627- 2103 Rev A, E1627- 2104 Rev A, E1627- 2105 Rev A, E1627- 2116 Rev A dated 16 April 2015, E1627- 2116 Rev B, E1627- 2117 Rev B, E1627- 2118 Rev B, E1627- 2119 Rev B, E1627- 2120 Rev B received on 22 July 2015 as well as the updated Air Quality Assessment submitted on 12 June 2015 the Waste Planning Assessment received on 17 June 2015

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. No development shall take place until details of a scheme for the management of waste emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The disposal of waste shall be carried in accordance with the approved scheme.

Reason:

In order to ensure the disposal of waste from the site without harm to local amenity, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

4. No development shall take place until full details, inc samples of the external facing materials to be used in the development, to include colour of the building and stack and shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out and retained in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of local visual and residential amenity, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

5. No development approved by this permission shall be commenced until a contaminated land assessment and associated remedial strategy have been submitted to and approved by the Local Planning Authority. The assessment shall contain the following elements and follow the guidance contained in 'Contaminated Land: A Guide for Developers' available from the Local Planning Authority:

a) A Phase I Preliminary Risk Assessment (Desk Study) to be submitted to the Local Planning Authority for approval. The desk study shall detail the history of the site uses and identify and evaluate all potential sources and impacts of land and/or groundwater contamination.

b) Where the preliminary risk assessment identifies potentially unacceptable risks at the site, a suitably qualified and accredited person shall carry out a site investigation, including relevant soil, soil-gas, surface and groundwater sampling in accordance with a quality assured sampling and analysis methodology. The requirements of the Local Planning Authority shall be fully established before any site surveys are commenced.

c) A site investigation report detailing all investigative works and sampling on site, together with the results of any analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. The Local Planning Authority shall approve any such remedial works as required, prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

d) The approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

e) Upon completion of the works, this condition shall not be discharged until a verification report has been submitted to and approved by the Local Planning Authority. The verification report shall include details of the completed remediation works and include quality assurance certificates to show that the works have been carried out in full and in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason:

In the interests of public safety, and to ensure compliance with Policy ENV7 of the Unitary Development Plan.

6. Should contamination not previously identified be found through the course of development it must be reported immediately in writing to the Local Planning Authority. An investigation shall be carried out to assess the nature and extent of any contamination and the contamination shall be dealt with in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before the building hereby permitted is occupied.

Reason:

In the interests of public safety, and to ensure compliance with Policy ENV7 of the Unitary Development Plan.

7. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

8. Prior to the facility being brought into beneficial use, details of a scheme to control dust within the site and locality shall be submitted to and approved in writing by the Local Planning Authority. The operation of the plant shall thereafter be in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of local amenity, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. Prior to their construction / installation / use on site, details of all external lighting of the building and site, to include specification, means of operation (whether permanent or sensor/security lights, and hours of operation), and lux plots to prevent / minimise light spillage outside of the site (including atmospheric light pollution) shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be implemented in accordance with such approved scheme and thereafter retained as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of residential and visual amenity, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

10. The building hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;



ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason:

To ensure that the development is serviced by an appropriate Sustainable Urban Drainage Scheme, and to ensure compliance with the terms of Policies ENV7 and ENV27 of the Unitary Development Plan.

11. The building hereby permitted shall not be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason:

To ensure that the development is serviced by an appropriate Sustainable Urban Drainage Scheme, and to ensure compliance with the terms of Policies ENV7 and ENV27 of the Unitary Development Plan.

12. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason:

To provide effective landscaping and to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

13. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

14. The access and visibility splays (4.5m x 48m ) to the site are approved in accordance with the amended site layout plan draw ref E1627-2104 Rev A received on 16 April 2015 and shall be constructed from a bound material for a minimum distance of 20.0m from the carriageway boundary. The development should be carried out in accordance with these details unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interest of Highway Safety and in accordance with WAST2, COMM8 of the Unitary Development Plan.

15. Notwithstanding the approved access and site layout plan, an amended plan with full details of the means of enclosure to the front boundary with Woodham Road, and forecourt area, shall be submitted to satisfy the following highway requirements: -
- i) The boundary fence shall be set back a minimum of 4.0m from the carriageway edge to allow for adequate visibility splays from the proposed access and to maintain visibility from the existing Woodham Road junction.
  - ii) Visibility splays of 4.5m x 48m in both directions, measured from the centre line of the proposed access shall be provided.
  - iii) Provision of a hard surface of concrete or bituminous material for a minimum distance of 6.0m from the highway boundary.
  - v) A manoeuvring area, to enable all vehicles to enter and leave in a forward gear at all times, which shall be kept free of obstruction at all times.
  - vi) Gates, if provided, that shall not open outwards and shall be set back a minimum of 6.0m from the carriageway edge.

The development shall be undertaken and thereafter retained in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

Reasons

In the interest of highway safety

16. The proposed energy recovery plant shall not be brought into beneficial use until the approved access has been constructed in accordance with the approved plans and the access shall thereafter be so retained to serve the development hereby approved.

Reason:

In the interest of highway safety and to ensure a satisfactory form of access to serve the development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

17. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas, have been laid out in full accordance with the details to be submitted and approved by the Local Planning Authority and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

18. Details of secure parking on site for cycles shall be submitted to and approved in writing by the Local Planning Authority and the approved scheme of cycle parking shall be fully implemented on site prior to the first beneficial occupation of the development hereby approved and shall thereafter be so retained at all times.

Reason:

To ensure that satisfactory parking for cycles is provided on site to serve the development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

19. A noise survey post installation at the nearest residential premises, 57 Dock View Road, Cory Way and Estrella House, Cei Dafydd, shall be undertaken when the plant is initially commissioned and again after six months. The noise survey is to be provided in the same format as in the developer's submitted noise statement. The results of the first noise assessments shall be submitted to the Local Planning Authority, within two months of the date of commissioning the plant and, should either of the surveys indicate that the noise levels exceed those stated in the application documents, the use of the plant shall cease until such time as a scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority, and those measures implemented. The development shall at all times be carried out in accordance with any mitigation measures that are identified as being necessary.

Reason:

In the interests of residential amenity and to ensure compliance with Policies ENV27 and COMM7 of the Unitary Development Plan.

20. The total tonnage of wood waste treated at the plant hereby approved shall not exceed 72,000 tonnes per annum, unless otherwise agreed in writing with the Local Planning Authority beforehand, and records of the amount of fuel processed shall be retained and made available to the Local Planning Authority on request.

Reason:

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

21. The plant hereby permitted shall only process waste wood.

Reason:

In the interests of local amenity, given that the technical equipment is capable of processing alternative fuels, the impact of which has not been considered through the environmental submission accompanying this application, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

22. Deliveries to the site, and all other external operations, shall be restricted to the following hours: - Monday to Saturday : 07:00 - 19:00; and Sunday /Bank/Public holidays 08:00 - 16:00.

Reason:

In the interests of local residential amenity, and to ensure compliance with Policies WAST2, EMP2, EMP3, ENV27 and ENV29 of the Unitary Development Plan.

23. The internal plant noise shall be restricted to a maximum of 85 dBA to include a 5 dBa tonal penalty (with every opportunity to reduce this level explored and demonstrated prior to final construction) and a noise survey, post installation, shall be undertaken when the plant is initially commissioned and again after six months. The noise survey is to be provided in the same format as in the developer's submitted noise statement. The results of the first noise assessments shall be submitted to the Local Planning Authority, within two months of the date of commissioning the plant and, should either of the surveys indicate that the noise levels exceed those stated in the application documents, the use of the plant shall cease until such time as a scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority, and those measures implemented. The development shall at all times be carried out in accordance with any mitigation measures that are identified as being necessary.

Reason:

In the interests of local residential amenity, and to ensure compliance with Policies ENV27 and COMM7 of the Unitary Development Plan.

24. There shall be no open storage of materials of any kind outside any approved buildings on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of local visual amenity, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

25. Foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

26. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

27. Prior to the first beneficial use of the development hereby approved, a Green Travel Plan (which will include details relating to proposals for minimising the use of staff car journeys to and from the site and measures to control the plan shall be submitted to and agreed in writing by the Local Planning Authority.

Reason:

In the interest of minimising vehicular movements and sustainability in compliance with Policy ENV27 'Design of New Developments' of the Unitary Development Plan.

28. The roller shutter doors in the feedstock building shall be kept closed at all times other than when deliveries are being received.

Reason

To protect residential amenity, complying with the requirements of ENV27 and COMM 8 of the Adopted UDP 1996-2011

29. Within nine months of the energy plant hereby approved being fully operational, the applicant shall carry out a further Air Quality Assessment through monitoring at the nearest residential property locations, 57 Dock View Road, Cory Way and Estrella House, Cei Dafydd . The new assessment should be completed and submitted to the Local Planning Authority within 3 months of being commenced and, should the assessment indicate that the air quality levels fail to comply with predicted process concentrations as set out in the updated Air Quality Assessment document submitted on 12 June 2015, the use of the plant shall cease until such time as a scheme of mitigation has been submitted to and approved in writing by the Local Planning Authority, and those measures identified in the scheme, implemented. The development shall at all times be carried out in accordance with any mitigation measures that are identified as being necessary.

Reason:

In the interests of residential amenity and to ensure compliance with Policies ENV27 and COMM7 of the Unitary Development Plan.

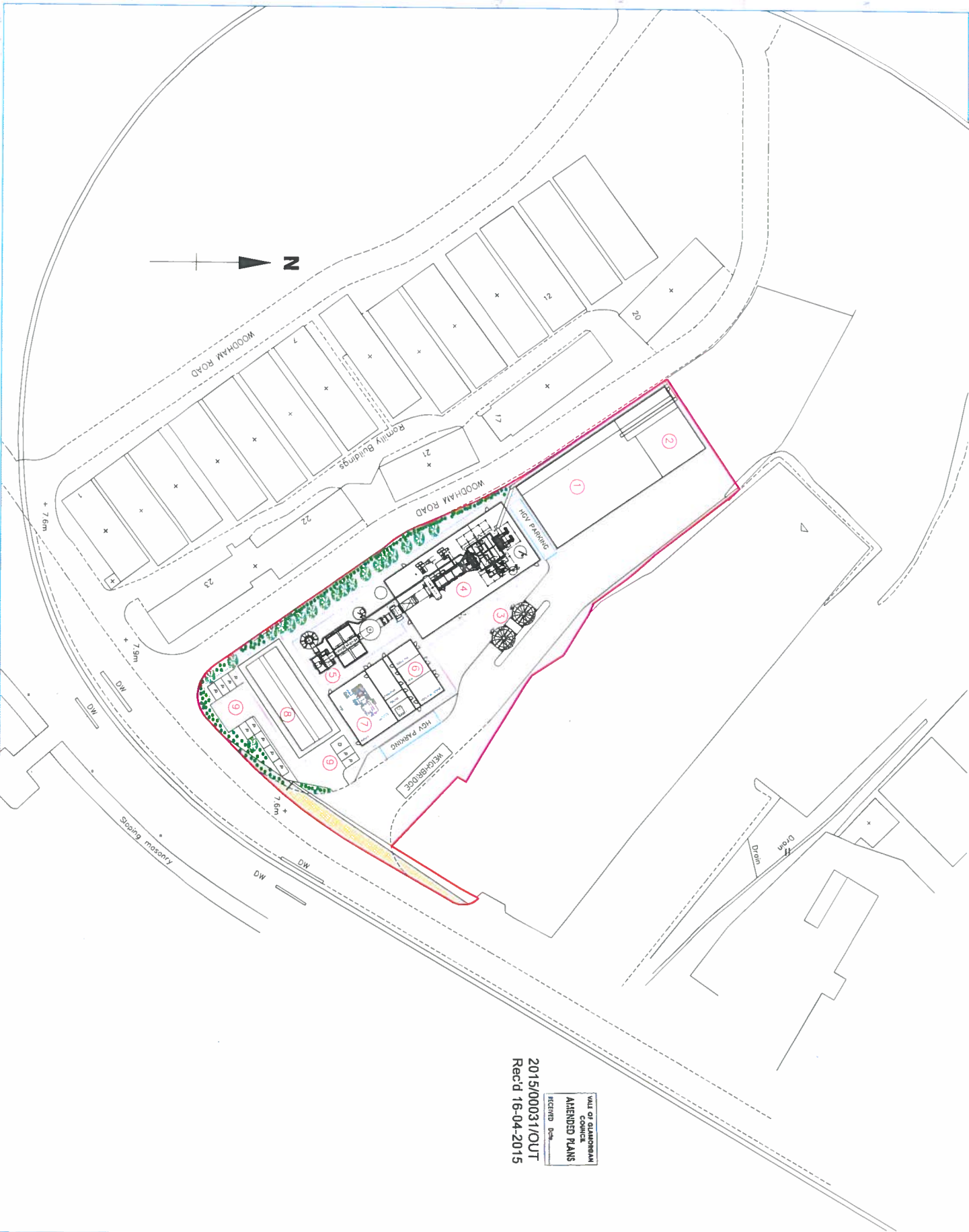
**NOTE:**

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



2015/00031/OUT  
Rec'd 16-04-2015

VAL OF GLAMORGAN  
COUNCIL  
AMENDED PLANS  
RECEIVED Date

**Legend**

- ① FEEDSTOCK RECEPTION
- ② FEEDSTOCK FEED SYSTEM
- ③ ASH SILOS
- ④ MAIN PROCESS BUILDING
- ⑤ FGTA AND EXHAUST (EXTERNAL)
- ⑥ WELFARE & ANCILLARIES
- ⑦ TURBINE
- ⑧ ACC
- ⑨ CAR PARKING

15m  
SITE ENTRANCE/EXIT VISIBILITY SPLAY



Rev	Description	By	App'd	Date
A	ISSUED FOR DISCUSSION	JW	WVC	20.03.15
B	Revised details	DM	CM	19.04.15
C				
D				



Imtech  
5th Floor, 100, The Quadrant, London, E1 1BB  
Tel: 020 7323 2000  
Fax: 020 7323 2001

Customer: SUNRISE RENEWABLES  
Project: BARRY ACT

Site: SITE LAYOUT

Drawn by	Checked by	Scale
JW	JW	AS SHOWN
Designed	Approved	Date
DM	JW	20.03.15

Drawing Number: E1627-2105  
Revision: A

**DISCUSSION/COMMENT**



Waterstone Homes,  
Asbri Planning Ltd., Unit 9, Oak Tree Court,, Mulberry Drive,, Cardiff Gate  
Business Park,, Cardiff,, Glamorgan., CF23 8RS

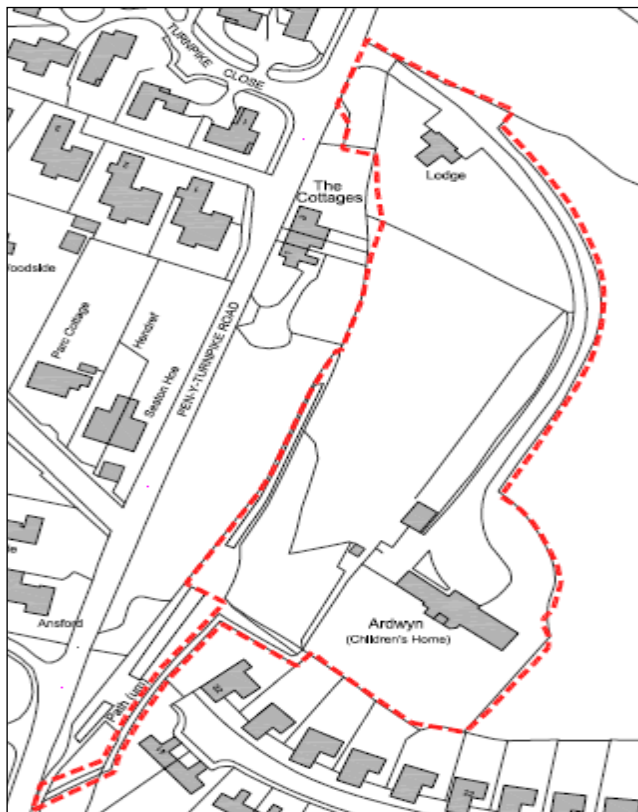
**Ardwyn, Pen Y Turnpike Road, Dinas Powys**

Construction of eighteen dwellings and associated works

**SITE AND CONTEXT**

The site was until recently a vacant former children’s home on the edge of Dinas Powys. The site included a large house and a detached ‘lodge’ building with extensive garden areas with mature trees, many of which are protected under Tree Preservation Orders. Following approval of application 2014/00167/FUL construction has commenced on the residential development with the previous buildings demolished.

The site is to the east of Pen-Y-Turnpike Road and north of Millbrook Heights. Ardwyn is to the edge of Dinas Powys, within the designated Green Wedge area (defined under Policy ENV 3 of the Unitary Development Plan) and outside, though immediately adjacent to, the Settlement Boundary of Dinas Powys. Open countryside and agricultural land is predominantly to the east and north of the site. Access is via Pen-Y-Turnpike Road.



## DESCRIPTION OF DEVELOPMENT

The proposed development is for 18 dwellings, 12 of which would be detached private houses and 6 would be affordable units, including 2 x 1 bed flats. This is essentially 1 additional private dwelling above that approved under application 2014/00167/FUL, which would be positioned centrally within the site (other part of the development are very similar to that previously approved). The central area of the site as previously approved in 2014 was as follows:



**Figure 1 - Section of layout of approved application 2014/00167/FUL**

This section seen in Figure 1 has been reconfigured to accommodate 1 additional dwelling with the inclusion of House Type B. The new proposed layout is as follows:



**Figure 2 – Revised layout of the proposed development central section to include additional dwelling**

All other aspects of the development are the same or very similar or the same to that approved with the previous approved application 2014/00167/FUL but includes setting back the garage to plot 14 and accommodation in the attics of plots 13, 14 and 15. This also includes the affordable housing provision, internal access road, open space areas, access into the site and the design of the proposed houses.

### PLANNING HISTORY

2014/00167/FUL: Ardwyn, Pen Y Turnpike Road, Dinas Powys - Demolition of existing buildings, construction of 17 dwellings and associated works. - Approved 11 November 2014.

2000/00636/FUL: Ardwyn Lodge, Penyturnpike Road, Dinas Powys - Renewal of application 95/00983/FUL for change of use - Approved 21 July 2000.

1995/00983/FUL: The Lodge, Ardwyn, Penyturnpike Road, Dinas Powys - Lodge F/F/ Flat - Retained for residential (Caretaker) Lodge G/F Garage and workroom - To be converted into school classroom and staff room resultant 'Change of use'. - Approved 15 December 1995.

1984/00381/FUL: The Lodge, 'Ardwyn', Pen-y-Turnpike Road, Dinas Powys - Multiple occupancy accommodation for 2 or 3 young people to give independent living facilities with overnight by existing staff in 'Ardwyn' - Approved 17 May 1984.

## CONSULTATIONS

**Dinas Powys Community Council** – Objection – Overdevelopment of the site;

**Michaelston le Pit with Leckwith Community Council** – Requests that in order to improve safety the new pathways “are open for all people to use and not just Ardwyn residents.”

**Highway Development** – No objections raised to the addition of an additional dwelling in terms of highway impacts;

**Highways and Engineering (Drainage)** – No comments received

**Environmental Health (Pollution)** – No comments received

**Dinas Powys Ward Members** – No comments received

**Dwr Cymru/Welsh Water** – No objection subject to standard drainage conditions;

**The Council’s Ecology Officer** – No objection subject to conditions to safeguard protected species

**Natural Resources Wales** - Highlighted the potential impact to bats as a result of the proposed development. Stated the need for a licence from NRW as a result. Also required the submission of a bat mitigation strategy via condition.

**Housing Strategy** – Stated the need for an additional 2 bedroom social rented affordable unit, or an off-site payment of £101,790 as an equivalent. This would be additional to the 6 affordable housing units shown on the submitted plans;

**Glamorgan Gwent Archaeology Trust** – The trust has received a record of the now demolished Ardwyn building that was requested via condition with the previous approval. No further requests are made.

## REPRESENTATIONS

The neighbouring properties were consulted on 18 February 2015. A site notice was also displayed on the 27 February 2015. The application was also advertised in the press on the 3 March 2015, at the time of the last meeting eleven letters/emails received had been with comments including the following:

- Concern that the houses being built are closer to the boundary than shown on the plans submitted.
- Concerns relating to potential overlooking impact and loss of privacy, due to the height of the houses being built and the existence of a “balcony”.
- Water running into neighbouring gardens as a result of the development currently being built.
- Lack of pedestrian links along Pen-Y-Turnpike Road.
- Questions relating to improvements to the existing footpath from Ardwyn to Pen-Y-Turnpike Road.
- A neighbour has raised the issue of a dispute over ownership with the site land owner.
- Concern relating to increase traffic to the local highway network as a result of the proposed development.
- Loss of trees and shrubs
- Development of a greenfield site
- Lack of full 35% affordable housing on site (supplemented by off-site contribution)
- Reduction in amount of on-site open space
- Over-reliance of vegetation for screening of development

Please see **Appendix A** for copies of three of the representations received being generally representative of the views expressed.

Since the meeting further emails have been received from a neighbour continuing to express doubts about the location of the house and raising concerns about possible damage to their property.

## REPORT

Members will recall that this application was deferred for a site visit when considered at the 2 July Planning Committee. It will therefore return to Planning Committee on the 30 July Planning Committee following a site visit.

## Planning Policies and Guidance

### *Strategic Policies:*

POLICIES 1&2 - THE ENVIRONMENT  
POLICY 3 - HOUSING  
POLICY 8 - TRANSPORTATION  
POLICY 11 - SPORT & RECREATION

### *Policy:*

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE  
ENV3 - GREEN WEDGES  
ENV10 - CONSERVATION OF THE COUNTRYSIDE  
ENV11 - PROTECTION OF LANDSCAPE FEATURES  
ENV16 - PROTECTED SPECIES  
ENV27 - DESIGN OF NEW DEVELOPMENTS  
ENV28 - ACCESS FOR DISABLED PEOPLE  
ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY  
HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT  
HOUS3 - DWELLINGS IN THE COUNTRYSIDE  
HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA  
HOUS11 - RESIDENTIAL PRIVACY AND SPACE  
HOUS12 - AFFORDABLE HOUSING  
REC3 - PROVISION OF PUBLIC OPEN SPACE  
REC6 - CHILDREN'S PLAY FACILITIES  
TRAN10 - PARKING

## **Supplementary Planning Guidance**

In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:

- Affordable Housing (Partly superseded by the Vale of Glamorgan Housing Delivery Statement 2009)
- Amenity Standards
- Design in the Landscape
- Model Design Guide for Wales
- Planning Obligations
- Sustainable Development –A developers Guide
- Trees and Development
- Biodiversity and development

## **The Local Development Plan**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Deposit Plan Stage having undertaken the public consultation from 8th November – 20th December 2013 on the Deposit Local Development Plan and the 'Alternative Sites' public consultation on the Site Allocation Representations from 20 March – 1 May 2014. The Council is in the process of considering all representations received and is timetabled to submit the Local Development Plan to the Welsh Government for Examination in April / May 2015.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.6.2 of Planning Policy Wales (edition 7 July, 2014) is noted. It states as follows:

*'2.6.2 In development management decisions the weight to be attached to an emerging draft LDP will in general depend on the stage it has reached, but does not simply increase as the plan progresses towards adoption. When conducting the examination, the appointed Inspector is required to consider the soundness of the whole plan in the context of national policy and all other matters which are material to it. Consequently, policies could ultimately be amended or deleted from the plan even though they may not have been the subject of a representation at deposit stage (or be retained despite generating substantial objection). Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).'*

The background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application is as follows:

- Affordable Housing Background Paper 2013
- Affordable Housing Viability Study 2013 Update
- Housing Supply Background Paper 2013
- Local Housing Market Assessment 2013 Update
- Open Space Background Paper 2013
- Sustainable Settlements Appraisal Review 2013
- Joint Housing Land Availability Study 2014 (July 2014)
- Green Wedge Background Paper 2013
- Findings of the site assessment 2013
- Population and Housing Projection Background Paper 2013
- Transport Assessment of LDP Proposals 2013
- Educational Facilities Assessment 2013

## **National Planning Policy**

National planning guidance in the form of Planning Policy Wales (Edition 5, 2012) (PPW) is of relevance to the determination of this application.

### *Chapter 2:*

In addition to the advice mentioned above with regard to weight to be attached to emerging draft LDP, chapter 2 of PPW provides advice in cases where development plan policies are considered to be outdated or superseded. The following advice is given:

*'2.7.1 Where development plan **policies** are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development (see 1.1.4 and section 4.2).'*

*2.7.2 It is for the decision-maker, in the first instance, to determine through review of the development plan (see 2.1.6) whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development (see section 4.2).'*

#### Chapter 4:

Chapter 4 of PPW deals with planning for sustainability. Paragraph 4.2.2 states that ***'The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision-taker when:***

- *preparing a development plan (see Chapter 2); and*
- *in taking decisions on individual planning applications (see Chapter 3).'*

Paragraph 4.2.4 states that *'A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan (see 2.6) or*
- *relevant development plan policies are considered outdated or superseded (see 2.7) or*
- *where there are no relevant policies (see 2.7)*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes (see Figure 4.1).'*

Part 4.3 of chapter 4 sets out the principles that underpin the Welsh Governments approach to planning policy for sustainable development, whilst part 4.4 sets out the sustainability objectives that derive from the principles; it states that planning policies, decisions and proposals should accord with the objectives.

Paragraph 4.7.8 of Chapter 4 relates specifically to development in the countryside and states that such development should *'be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design'*.



PPW advice on brownfield or previously developed land is of relevance in this case. Paragraph 4.9.1 states:

*'4.9.1 Previously developed (or Brownfield) land (see Figure 4.3) should, wherever possible, be used in preference to Greenfield sites, particularly those of high agricultural or ecological value. The Welsh Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health.'*

#### CHAPTER 9 – Housing:

Finally the advice on housing in chapter 9 of PPW is of relevance, particularly the following extracts:

*'9.1.1 The Welsh Government will seek to ensure that:*

- previously developed land is used in preference to Greenfield sites;*
- new housing and residential environments are well designed, meeting national standards for the sustainability of new homes and making a significant contribution to promoting community regeneration and improving the quality of life; and that*
- the overall result of new housing development in villages, towns or edge of settlement is a mix of affordable and market housing that retains and, where practical, enhances important landscape and wildlife features in the development.*

*9.1.2 Local planning authorities should promote sustainable residential environments, avoid large housing areas of monotonous character and make appropriate provision for affordable housing. Local planning authorities should promote:*

- mixed tenure communities;*
- development that is easily accessible by public transport, cycling and walking, although in rural areas required development might not be able to achieve all accessibility criteria in all circumstances;*
- mixed use development so communities have good access to employment, retail and other services;*
- attractive landscapes around dwellings, with usable open space and regard for biodiversity, nature conservation and flood risk;*
- greater emphasis on quality, good design and the creation of places to live that are safe and attractive;*
- the most efficient use of land;*

- *well-designed living environments, where appropriate at increased densities;*
- *construction of housing with low environmental impact by using nationally prescribed sustainable building standards; reducing the carbon emissions generated by maximising energy efficiency and minimising the use of energy from fossil fuel sources, using local renewable and low carbon energy sources where appropriate; and*
- *'barrier free' housing developments, for example built to Lifetime Homes standards.*

*9.2.3 Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live. There must be sufficient sites suitable for the full range of housing types. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study.*

*9.3.2 Sensitive **infilling** of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.*

*9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.*

*9.3.4 In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas. Details of the procedure to be followed in dealing with housing applications identified as **significant residential development** under the notification direction are given in paragraph 3.12.2.*

*9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.'*

## **Technical Advice Notes**

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 1 – Joint Housing Land Availability Study (2006)

*'2.2 Local planning authorities must ensure that sufficient land is genuinely available to provide a **5 year supply** of land for housing. This land supply must inform the strategy contained in the development plan. Local planning authorities should also have regard to the requirement to prepare and provide timely housing land supply figures to satisfy the requirements of the Wales Programme for Improvement Core Planning Indicators and Local Development Plans Annual Monitoring Reports (AMR).'*

- Technical Advice Note 2 – Planning and affordable housing (2006)

*'10.4 When setting site-capacity thresholds and site specific targets local planning authorities should balance the need for affordable housing against site viability. This may involve making informed assumptions about the levels of finance available for affordable housing and the type of affordable housing to be provided. Local planning authorities should also take into account the impact on the delivery of the affordable housing target and the objective of creating sustainable communities across the plan area and in the individual parts of the plan area.'*

- Technical Advice Note 5 – Nature Conservation and Planning (2009)

- Technical Advice Note 12 – Design (2009)

- Technical Advice Note 18 – Transport (2007)

## Issues

The primary issues to be considered with this amended proposal for a site with an extant consent for 17 dwellings are considered to be the following:

- Visual impact of the development, which is within the designated Green Wedge within the countryside;
- Considerations of the proposed access;
- Issues related to the highways impact as a result of the additional unit and amended layout;
- Consideration of the potential impact to neighbour amenities;
- Consideration of whether the proposals constitute an efficient use of land;
- Resultant loss of protected trees should the proposed development be approved;

- Other issues that will be considered include drainage; ecological and environmental impacts.
- S106 Planning Obligations to mitigate the impact of development;

Members should be aware that this application follows approved application reference 2014/00167/FUL and as such, the principle of residential development of the site has already been agreed.

A full assessment of residential development on the site was made in respect of application 2014/00167/FUL including assessment of the principle of development taking into account all material planning considerations. A copy of the report in respect of the extant consent is attached as **Appendix B** for information.

Whilst the principle of the development is accepted, this is a full planning application and issues such as layout, design, neighbour impact and access will all need to be considered. These remaining issues are considered in the sections below.

### **Members Update**

Following comments received from neighbours to the site, received prior to the 2 July Committee, this report has been updated to respond to some of the issues raised. To clarify, the most significant differences between the approved 2014/00167/FUL application and this latest amended application include the following changes:

- Additional dwelling in the centre of the site.
- Confirmation that plot numbers now remain as the approved scheme with plots 13, 14 and 15 backing on to Millbrook Heights.
- The setting back of the attached side garage of Plot 15 (Plot 14 of the previous application) by approximately 3m.
- The inclusion of an additional bedroom within the attic space of house types A and C, (including on plots 13, 14 and 15 backing onto Millbrook Heights), though with no significant changes to the external appearance or dimensions. The previously proposed single additional rooflight to the rear elevation of House Type A (serving a non-habitable dressing room) has now been omitted from the scheme.

The primary difference between that approved with application 2014/00167/FUL and this new application is the additional dwelling positioned centrally within the development. However, as this is a new full planning application all the proposed development has been considered with this application based on the plans submitted with the extant consent being a material consideration.

## Ownership Issue

An objection has been received from a neighbour claiming that a small area of land to the south of the access, which is included within the site area and where the realigned access is proposed to be positioned, is within their ownership. This was a matter raised in respect of the earlier application, was disputed by the applicant's solicitor then and noted they would contest any effort by the neighbour to register this land in their name through the Land Registry. On this basis the Council has no evidence to dispute the applicant's claim to this land and no planning objection was raised then nor is raised now with regard to this matter.

## Layout Proposals

The layout plan submitted for the proposals is for 18 dwellings, which is one more than the 17 dwellings previously approved. This additional house is to be located within the centre of the site, off the private drive that will serve units 6,7, 20, 21, 22 and 23). It is considered that there is sufficient space within the site for the additional dwelling, without resulting in the overall development being considered a cramped layout. The house types have altered to include house type B, for units 20 and 22, which appears as follows:



FRONT ELEVATION

It is only this central area of the site that has been significantly changed to accommodate the additional dwelling. Plot 12 has been slightly repositioned to allow for access to the water pumping station adjacent to this plot. All other plots are in a very similar position to that previously approved, with any slight alteration shown on the submitted revised plans. This revised layout is considered acceptable and the additional house would lead to an increased efficient use of the land for residential development.



*Central area of the site, as part of this revised proposal;*

The number of dwellings now proposed does not result in overdevelopment of the site. The layout safeguards the majority of the existing trees to be retained on the site thus preserving its semi-rural character.

The proposed dwellings are laid out in such a way to avoid significant loss of existing trees though some will still need to be removed, including some with Tree Preservation Orders attached (although it should be noted that this has changed since the previous approval). The layout also makes use of existing native hedgerows within the site to enclose groups of houses. As previously considered the nature of the site and its shape and size means that the most practical layout is a single main access road with small clusters of dwellings accessing onto this road. This layout was and remains to be considered as a suitable arrangement of dwellings that responds to the constraints of the site and works to minimise tree loss. The dwellings are well spaced with generally large rear gardens with parking provision. The layout appears suitably spacious, even though several of the houses proposed are large with double garages.

The amenity space for each dwelling varies depending on their position within this irregular shaped site. However, the amenity space to be provided is considered acceptable and generally in accordance with the requirements of the Supplementary Planning Guidance 'Amenity Standards'. It is noted that the rear gardens to Plots 20 and 21 include a portion of wooded area, but there would still remain open garden space for general garden activities. The dwellings will also be served by the informal amenity space provided within the site as part of the development. The garden space for the flats at Plot 4-5 should be conditioned to remain shared for all occupants of these dwellings.

Much of the development would be obscured from view from the highway due to mature woodland along this boundary. The most visible aspect of the proposed development would be Plot 1, which is side-on to the main site access, in much the same position as The Lodge, prior to its recent demolition. Trees on the boundary of the site and within the site would also screen the development from views from the north (the approach to Dinas Powys from Pen Y Turnpike Road) and from the countryside to the east. The proposed development is not anticipated to have a significant visual impact to the Green Wedge, countryside setting, subject to landscape and boundary treatment.

The layout includes two areas of open space. One being the area around the cluster of protected trees adjacent to Plots 4-5 (0.087ha) and a smaller area to the front of Plots 12 and 13 (0.023ha). However, the applicant does not wish to provide this as a form of formal open space provision, it will remain available for use. Again the applicant has agreed to an off-site contribution towards open space provision in the locality, together with the 'informal' open space that is shown on the plan as within the site.

Overall, the layout and proposed density of development is considered acceptable, with no significant adverse impacts to the character of this semi-rural location.

### Scale and Design

There are four types of houses proposed for the site (Type A, B, C and D). House types A, C and D remain similar to that approved in the earlier application, with some minor differences, such as the inclusion of loft level bedrooms for house types A and C. However, it is considered that the house types A, C and D as proposed with the submitted plans are very similar to those already approved with the 2014 application, with only minor alterations, and are of a suitable design and scale for this site. As previously advised, had the houses been built under the previous approval and occupied the conversion of the attic space to habitable accommodation would not be classed as development subject to no dormer windows being used.

House type B is the new inclusion and is detailed to reflect the character, form, detailing and material finish generally of the other house types previously approved. House type B has a connected double garage to the front of the house, forming an 'L' shaped building. This dwelling will also have a traditional style appearance, with 5 bedrooms to the first floor.

The affordable housing units also maintain the traditional approach, with use of render and clay tiles for the dwellings. These are arranged with one semi-detached pair and a terrace that includes two houses and a unit split into two one-bedroom flats.

This design approach was considered acceptable, with the dwellings and materials proposed being in keeping with the nearby older properties in the vicinity of Pen-Y-Turnpike Road. In addition, the provision of affordable housing provides a suitable housing mix within the site. As described above, with the retention of much of the existing trees and hedgerows the proposed dwellings would blend sufficiently into the landscape and not be overly prominent.

### Drainage Proposals

The proposals indicate that the surface water will discharge to the stream in the woodland to the western edge of the site, though some form of storm flow attenuation is required. Soakaways are also indicated where possible. Discussions have been ongoing between the developer, the Council's Drainage Engineer and Welsh Water over the drainage of the site towards discharge of the drainage condition attached to the 2014 approval. This has led to the inclusion of a foul water pumping station included in the southwest corner of the site, which is now shown on the revised layout plan. The discussions are ongoing and as such it is considered reasonable to condition the need for full drainage details via condition, as was required with the previous consent.

### Neighbour Impact

The proposed development would be mainly screened from 1-3 The Cottages on Pen Y Turnpike Road by the thick and mature tree belt. However, the separation distance between the proposed houses and these cottages is such that there should be no significant impact to amenities, notwithstanding any screening. With regard to the dwelling at Plot 1, it is considered that there will be some views between the side of 1 The Cottage and the rear of this new house. However, there would be a separation distance of approximately 32m, which is sufficient to mitigate any potential overlooking impact to a reasonable and acceptable level and would comply with the Council's adopted Supplementary Planning Guidance. It is also considered that further landscaping to the boundary between Plot 1 and these neighbouring dwellings would further mitigate any overlooking impact.

The rear of proposed plots 13-15 would have views back towards the existing houses of Millbrook Heights, which are also on a lower level. As with the previous application, the proposed layout would result in a separation distance of approximately 30m between the rear of the proposed houses and the rear of the nearest houses on Millbrook Heights.



It is recognised that the dwellings proposed at plots 13-15, having an approximate ridge height of 10m, are large dwellings. However, it is considered that the separation distance is sufficient to mitigate any impact to an acceptable level, whether that be overlooking or overbearing impact. It is acknowledged that the dwelling at No. 24 Millbrook Heights has a conservatory which projects to the rear by approximately 2.5m, though the separation distance of approximately 27.5m between conservatory and proposed house remains a sufficient separation distance to mitigate any adverse impacts.

Members should be aware that although this conservatory is attached to the dwelling it should not be considered as a habitable room given that no Building Regulations application was ever submitted to use it as such and accordingly it should not be heated or cooled, and shall be separated from the habitable parts of the dwelling by an external door.

It is also considered that a landscaping condition, which makes specific reference to the need for substantial landscaping to the boundary with the dwellings at Millbrook Heights, using heavy standard planting would further mitigate the impact of the new houses to these neighbouring dwellings.

Furthermore, as the new dwellings are to the north of the houses at Millbrook Heights there should be no significant overshadowing impact.

Overall, whilst the comments of the neighbours to the site have been considered in detail and multiple site visits made (including to the objectors residence of No. 24 Millbrook Heights) it is considered that the proposed development should not have any significant impact to the amenities of neighbouring dwellings, including those at Millbrook Heights.

Members should note that there has been concern from members of the public that some of the houses being built are in a different location to that approved under the 2014 permission. This matter has been investigated by the Enforcement section. A survey has shown that the dwellings being built only deviate approximately 50mm from the approved position in relation to the boundary with Millbrook Heights and the same with Plot 1 in relation to the distance to the boundary with 1 The Cottages. Though the change in position is considered very minor, this has been reflected on an amended layout plan (2024/101 Revision T). Consideration of the impact to neighbouring properties has been assessed on the basis of this amended plan and it remains the assessment that the proposals are acceptable and would not result in undue levels of neighbour impact. The applicant has also undertaken a survey and supplied the information which indicates the distance of the new houses being built to the boundaries of the site (please see **Appendix C** for a copy of the Survey Plan submitted to accompany the application). The survey indicated that the distance, for example, between the rear of Plot 16 and the boundary with 24 Millbrook Heights is approximately 14.5m at its shortest distance, which is reflected on layout plan revision T.

### Addition of second storey loft level accommodation

The inclusion of habitable rooms in the roof void of some of the proposed houses does not result in any significant external alterations to the appearance or size of the house types from that previously approved. House Type A includes a rooflight window to the rear elevation, which is to serve a dressing room (considered a non-habitable room). This has now been omitted from Plots 13 and 15, following the additional rear elevation plan for House Type A submitted (2014/300/12 H). This would result in no windows at second floor level looking back towards the existing dwellings at Millbrook Heights from Plots 13 or 15. It is also important to note that the glazing up to the ridge of the rear projection gable would not serve any second floor accommodation as there would be an atrium void formed above 'Bedroom 2'. A condition should be attached to any approval to ensure the deletion of the rooflight window in Plots 13 and 15 rear elevations and also ensure against any internal second floor window from the accommodation through into the atrium.

As such, though there is loft level accommodation included at Plots 13 and 15, there would be no windows at this level that would have views towards Millbrook Heights, thereby safeguarding the amenities of neighbouring properties.

The inclusions of habitable rooms within the roof void of the dwellings adjacent to Millbrook Heights is not considered to result in any significant increase in impact to neighbouring dwellings over and above that previously approved with application 2014/00167/FUL in terms of overbearing impact or loss of privacy for adjacent occupiers.

### Highways Matters

The application is accompanied by an updated Transport Statement (February 2015) by Asbri Transport. The findings conclude that the development would likely result in 13 two-way peak time vehicles in the AM peak time period and 12 movements in the PM peak time periods of the day, and would have "minimal impact on the surrounding highway network". It is considered that whilst Pen-Y-Turnpike Road is a busy route between Dinas Powys and the Cardiff area the proposals for 18 dwellings would not cause a significant amount of additional traffic over and above existing levels that could result in any detrimental impact to the highway network.

The access onto the highway was approved under the previous application proposals and include reconfiguration and repositioning of an access point approximately 4.5m to the south of existing. This would link with the existing access road within the site. The access is repositioned to allow for enhanced visibility and to form a new 'priority junction' with the site access as the minor arm. The new section of road would be built to adoptable standards, with a 5.5m width and a 2m wide footpath to both sides.

The visibility splays would effectively be provided by 'pushing' the access out into the existing carriageway, therefore realigning the carriageway route. This is achievable due to the existing wide carriageway at Pen-Y-Turnpike Road. This would enhance visibility, to a degree that it would allow for 2.4m x 90m for the splays in either direction. These works were approved under the previous application and highway improvement and access works have been commenced. Based on one additional house, there would be no need to modify the improvements currently being undertaken.

As regards parking provision, each dwelling would include dedicated parking spaces. For the market housing this would include a double garage with further spaces in front of each garage. As such, 4 parking spaces would be provided for each of these dwelling which is considered sufficient. The affordable units would each have two spaces, except for the one bedroom apartments, which would have one space each. Overall, it is considered that the parking provision for the site is sufficient and should avoid any overspill parking outside of the site.

As with the previous application, it is noted that there is a lack of pedestrian access to the village along Pen-Y-Turnpike Road. However, amended plans have been submitted to include an established footpath to the south of the site, linking with Pen-Y-Turnpike Road, near the junction with Millbrook Road. The provision of a footpath link is important as otherwise there would be no safe pedestrian route connecting with the village. The footpath enhances the sustainability of the development by allowing for a safe pedestrian links to local services, without the need for the use of private vehicles. The proposed houses would be within walking distance of the village centre and the public transport links as a result of the incorporation of the footpath (this is enhanced by avoiding a length of Pen Y Turnpike Road where there is no pavement or scope for one to be provided).

It is recognised that the path will need significant maintenance works to make the footpath usable and safe, along with the provision of lighting, which would be required by planning condition with any approval. The footpath should be widened to 1.5m with a solid appropriate surface. Levelling works would be required with additional steps required. Full details of the works to enhance the footpath and bring it up to suitable standards should be required via condition if approved.

Given the above, the path would not be suitable for use by all, due to the incorporation of steps along the path route due to the incline, which could pose an issue for those with mobility problems and wheelchair users. However, this cannot be resolved due to the incline and the length of path. Nevertheless, it is considered to be of significant benefit to the proposals and will allow for a link where otherwise there would be none. This would benefit future occupants of the development and also existing occupants of the area, such as those in the residential properties further along Pen Y Turnpike Road.

Where the path connects with Pen Y Turnpike Road, there is no footpath, with the existing footpath starting approximately 14m to the south. A footpath cannot be formed along this area of grass verge due to ownership issues and the narrowness of the highway. However, as there is only a short distance between the footpath to Ardwyn and the highway footpath this was previously considered acceptable and this remains the stance with the current application and would be the same arrangement established over the years when Ardwyn was active as a children's home.

It is noted that the land to which the existing path is located is of unknown ownership. The applicant has tried to establish the ownership and Certificate D has been submitted, with a press advertisement displayed. At the time of writing there is no owner identified. Nevertheless the site is within the red line of the application site it is considered reasonable to condition the path is upgraded and maintained in perpetuity for residents to use, as was done with the previous application.

### Trees and Hedgerows

The site contains many trees and hedges within its boundary. Many of these trees are protected under Tree Preservation Orders 1973 - No 14 and 2011 - No 4. A Tree Constraints Plan and Arboricultural Method Statement have been submitted (TDA February 2014).

Previously the cluster of protected trees towards the northern edge of the site was to see several trees felled. Concern was expressed regarding this. However, the amended proposal for 18 dwellings retains almost the entire cluster of these trees. It is also noted that the trees identified in the survey as 'High Quality and Value' are to be maintained. New tree planting is also indicated on the submitted plan.

It is considered that the proposals suitably maintain the majority of the existing trees within the site, with planting indicated to compensate for tree loss. Some internal hedgerows are to be removed however those which are retained will provide screening between proposed dwellings.

It is noted that the most recent amended plan includes the foul water pumping station, which would result in some additional tree loss over that indicated with the 2014 application. It is noted that this is a small area of trees and the majority of the woodland area is set to remain.

### Ecological Issues

An 'Ecological Assessment and Survey for Bats' by David Clements Ecology Ltd (July 2014) has been resubmitted with this application.

Following the conditions attached to the previous consent a document entitled "Wildlife Protection Plan for the Clearance and Construction Stages and Biodiversity Management Plan for the Completed Development" has been submitted and was agreed to discharge the relevant conditions of that consent. It is also noted the developer has obtained a European Protected Species Licence. It is, however, considered that a condition should be attached to require an Ecological Design Strategy to incorporate into the constructed development.

## Planning Obligation (Section 106) Matters

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to all relevant material circumstances.

The Community Infrastructure Levy Regulations 2010 came into force on 6 April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6 April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the application relates to the development of up to 18 dwellings on a site adjoining the settlement boundary of Dinas Powys. Officers have considered the need for planning obligations based on the type of development proposed, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

## Affordable Housing

TAN 2 defines Affordable Housing as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households. This includes two sub-categories: social rented housing where rent levels have regard to benchmark rents; and, intermediate housing where prices or rents are above social rented housing but below market housing prices or rents.

As previously assessed, there is a requirement for affordable housing provision. The layout has shown that on a development of 18 dwellings, four two bedroom dwellings and two one bedroom flats will be affordable. However, this does not comply with the 35% needed for 18 dwellings now proposed. It was an acceptable amount of affordable housing for the 17 dwellings previously approved, but with the increase of a single dwelling now proposed this would result in the need for a total of seven affordable units. The applicant has stated that they would not be able to provide an additional affordable unit within the confines of the site as they have just enough space for an additional private dwelling. Following negotiations with the Affordable Housing Enabling Officer it has been decided that this shortfall could be addressed with an off-site contribution towards an affordable unit. This would be an equivalent contribution to the cost of providing a 2 bedroom social rented unit, which is calculated to be £101,790. The applicant has agreed to this contribution, together with the 6 on-site affordable units as proposed. This would be resolved as part of the S106 Legal Agreement.

## Education

UDP Policy HOUS8 permits new residential development within settlements, provided that, amongst other things, adequate community and utility services exist, are reasonably accessible or can be readily and economically provided. Education facilities are clearly essential community facilities required to meet the needs of future occupiers, under the terms of this policy. Planning Policy Wales emphasises that adequate and efficient services like education are crucial for the economic, social and environmental sustainability of all parts of Wales. It makes it clear that development control decisions should take account of social considerations relevant to land use issues, of which education provision is one.

The Council's formula for calculating pupil demand is contained in the Planning Obligations SPG and identifies that the development of this site for 18 houses would generate demand for two nursery, five primary and four secondary pupil places. This is one additional primary space over that calculated for the previously approved 17 dwelling scheme. These are split proportionally between English, Welsh and denominational provision.

At nursery level there is no spare capacity to accommodate the development (current and projected) within all types of provision.

Of the five spaces required for primary age children generated, four would be allocated to English medium and one to Church in Wales provision. In terms of the English medium and Church in Wales sector there is limited surplus capacity overall, current and forecast, with some year groups operating to their maximum capacity. The local authority would therefore seek contributions where specific year groups are full.

At secondary level, based on the percentage split above in terms of the four secondary children generated, three would be allocated to English medium and one to Welsh medium. However, there is surplus capacity in the English and Welsh medium sector over the next five year period and the authority would not be seeking contributions.

Considering the above, based on the anticipated additional pupil numbers and based on the cost of a school place as outlined in the Supplementary Planning Guidance plus other costs need to be factored in, such as professional and legal fees, and would total as follows:

- Nursery - two children at £14,463.26 per child = £28,926.52
- Primary - five children at £14,463.26 per child = £72,316.30
- Total contribution required : £101,242.82

The applicant has agreed to this planning obligation requirement.

## Sustainable Transport

UDP Policies 2 and 8 favour proposals which are located to minimise the need to travel, especially by car and which help to reduce vehicle movements or which encourage cycling, walking and the use of public transport. UDP Policy ENV27 states that new development will be permitted where it provides a high level of accessibility, particularly for public transport, cyclists, pedestrians and people with impaired mobility. These policies are supported by the Council's approved Sustainable Development SPG and Planning Obligations SPG and the advice in Planning Policy Wales, TAN 18: Transport, and Manual for Streets, which emphasise the important relationship between land use planning and sustainability in terms of transport.

As previously assessed there is a requirement for sustainable transport contributions and the additional dwelling would require a further £2,000 in addition to that previously sought to be used to improve access to the site, local employment opportunities and other facilities and services likely to be required by the future occupiers, by more sustainable transport modes. In this case, this would equate to up to £36,000.

The agent, on behalf of the applicant has agreed to this planning obligation requirement.

## Public Open Space

UDP Policies HOUS8, REC3 and REC6 require new residential developments to make provision for public open space and the Planning Obligations SPG provides further advice about how these standards should operate in practice. TAN 16: Sport, Recreation and Open Space (2009) states "Planning conditions and obligations (Section 106 Agreements) can be used to provide open space, sport and recreational facilities, to safeguard and enhance existing provisions, and to provide for their management. PPW indicates that planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Local planning authorities will usually be justified in seeking planning obligations where the quantity or quality of provision for recreation is inadequate or under threat, or where new development increases local needs. An assessment of need and an audit of existing facilities, will enable local planning authorities to use planning obligations to provide a benefit for the land and/or the locality by providing open space and suitable facilities, particularly in relation to housing, retail and employment developments" (paragraph 4.15 refers).

The Supplementary Planning Guidance 'Planning Obligations' requires an overall on site provision of 55.4 sq. m. public open space per dwelling. The site lies within Dinas Powys ward. The LDP Open Space Background Paper (2013) indicates the ward has an under provision of children's play space of 1.58ha but an overprovision of 88.52ha of outdoor sport space.

As stated in the 'layout' section, the proposals include two areas of open space within the proposed development site, including the area around the cluster of protected trees adjacent to Plots 4-5 (0.087ha) and a smaller area to the front of Plot 13 (0.023ha). The total area to be provided is 0.11ha. However, as with the previous application the applicant does not wish to provide this as formal open space in the form of a Local Area of Plan (LAP). Instead, an off-site contribution would be required to provide for formal open space provision. If an off-site contribution would be made to meet all the requirements for public open space, this would equate to a requirement for £1000 per person or £2280 per dwelling. On this basis, the total amount required for public open space provision for the development as proposed would be £41,040. This could be invested into open space for public use within the locality and for the benefit of the community.

### Public Art

The Council introduced a 'percent for art' policy in July 2003, which is supported by the Council's adopted supplementary planning guidance (SPG) on Public Art. It states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, as a rule, public art should be provided on site integral to the development proposal. The public art scheme must incorporate sufficient measures for the appropriate future maintenance of the works.

This is considered to be an essential element of high quality design and one that is considered necessary on major housing developments to provide local distinctiveness and character in accordance with the good design principles required under UDP policy ENV27 and TAN 12: Design, which states at paragraph 5.15.1 "Public art plays an important part in creating or enhancing individuality and distinctiveness, and in raising the profile of our towns, villages, cities and urban and rural landscape." This provision needs to be secured through condition or planning obligation.

The agent, on behalf of the applicant has agreed to 1% of build cost for public art.

### S106 Administration

From 1 January 2007 the Council introduced a separate fee system for progressing and the subsequent monitoring of planning agreements or obligations. The fee is calculated on the basis of 20% of the application fee (£1188) or 2% of the total level of contributions sought whichever is the higher.

### CONCLUSION

The decision to recommend approval of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.



Having regard to Policies ENV3 Green Wedge, ENV10 Conservation of the Countryside, ENV11 Protection of Landscape Features, ENV27 Design of New Developments, ENV28 Access for Disabled People), ENV29 Protection of Environmental Quality, HOUS2 Additional Residential Development, HOUS3 Dwellings in the Countryside, HOUS8 Residential Development Criteria, HOUS12 Affordable Housing, ENV16 Protected Species, REC3 Provision of Public Open Space for New Developments, REC 6 Children's Play Facilities and TRAN10 Parking of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the Supplementary Planning Guidance 'Amenity Standards' and 'Planning Obligations', Planning Policy Wales (Edition 7, 2014) and Technical Advice Notes 1- Joint Housing Land Availability Studies, 2-Planning and Affordable Housing, 5- Nature Conservation and Planning, 12-Design, 16-Sport, Recreation and Open Space, 18-Transport, and 22-Sustainable Buildings; it is considered that the proposals are acceptable, based on the material considerations set out within the report, by reason of its sustainable location and the requirement to address the need for new residential development and affordable housing within the Vale of Glamorgan.

The proposals are also acceptable by virtue of a suitable means of access with no significant adverse impacts on highways, ecology or neighbouring amenity. The proposal therefore complies with the relevant national planning policies and supplementary planning guidance.

### RECOMMENDATION

Subject to the interested person(s) first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- Procure that six of the dwellings built on the site pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity, of which at least 80% would be social rented properties, and the remaining 20% would be intermediate properties. Furthermore, a contribution of £101,790 will be required towards affordable housing provision to ensure 35% affordable housing contribution for the development as proposed.
- Pay a contribution of £101,242.82 for the provision or enhancement of education facilities and school transport
- Pay a contribution of £41,040 for the provision or enhancement of public open space.
- Provide public art on the site to the value of 1% of build costs, in accordance with details to be submitted for approval at reserved matters stage.
- Pay a contribution of £36,000 to provide or enhance sustainable transport facilities in the vicinity of the site.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the legal agreement.

APPROVE subject to the following condition(s):

1. The development shall be carried out in accordance with the following approved plans and documents: 2024/101 Revision U received 17 July 2015, 2024-200-01 Rev E, 2024-201-01 Rev A, 2024-202-01 Rev D, 2024-206-01, 2024-203-01 Rev D, 2024-204-01 Rev B and 2024-205-01 Rev B, Plan Description Sheet, 2024-300, 2024-301, 2024/300/12 Revision H received 17 July 2015, Detailed Soft Landscaping Proposals 2, Tree Constraints Plan - Layout 2, Arboricultural Method Statement - Layout 2 and Transport Statement (February 2015), Plan Description Form (Received 23 June 2015);

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

2. Notwithstanding the submitted details, further details of a scheme for foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority, which shall ensure that foul water and surface water discharges shall be drained separately from the site, with no surface water or land drainage run-off allowed to connect (either directly or indirectly) into the public sewerage system. The approved scheme shall be fully implemented in accordance with the approved details prior to first beneficial occupation of any of the dwellings hereby approved.

Reason:

To protect the integrity, and prevent hydraulic overloading, of the Public Sewerage System, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

3. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas, have been laid out in full accordance with the details shown on 2024/101 Revision T and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

4. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. A scheme providing for the fencing of the trees to be retained and showing details of any excavations, site works, trenches, channels, pipes, services and areas of deposit of soil or waste or areas for storage shall be submitted to and agreed in writing with the Local Planning Authority prior to any further development of the site. The scheme should also include details of any trees to be removed (and identify those trees adjacent to the foul water pumping station). No further development shall be undertaken on site until the approved protection scheme has been implemented and the scheme of tree protection shall be so retained on site for the duration of development works.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

6. Notwithstanding the submitted details, a landscaping scheme (to include significant additional landscaping with heavy standard varieties to the rear boundaries of Plots 14, 15 and 16 and to the rear boundary of Plot 1) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development which shall include indications of all existing trees and hedgerows on the land and details of any to be retained.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

7. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

8. The development shall be constructed in full accordance with the submitted Construction Environmental Management Plan (CEMP), by Waterstone Homes, submitted 15th December 2014 and approved on the 20th February 2015.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

10. Notwithstanding the submitted Illustrative Master Plan and associated access/ highway improvements, within three weeks of the date of this permission full engineering details of the proposed access, internal roads, associated works, turning areas, new footway, plus any new street lighting, signage and any structures, drainage systems, water culverts abutting or within close proximity to the existing/proposed highway shall have been submitted to the Local Planning Authority for approval, and following the written consent of the Local Planning Authority the development shall thereafter be completed in full accordance with the agreed details and maintained as such thereafter.

Reason:

To ensure the provision on safe access into site, in the interests of Highway / Public Safety and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. Notwithstanding the submitted drawings and within three months of the date of this consent, full engineering drawings/details of the proposed footpath link and associated works (from the site adjacent to Plot 13 and 14 and its connection with the highway just north of No 1 Millbrook Road), including levels works and steps to be incorporated, fencing, surfacing and a safety barrier adjacent to the highway, plus new lighting and drainage details shall be submitted to and approved in writing by the Local Planning Authority for their approval in writing. The footpath as approved shall be implemented and ready for use prior to the first occupation of any of the dwellings hereby approved and shall be in accordance with the agreed details and maintained as such thereafter.

Reason:

To ensure the provision of safe and appropriate pedestrian access into site to serve the development in the interests of sustainable connections, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. The proposed footpath linking the development (adjacent to Plot 13 and 14) and Pen Y Turnpike Road shall be open to public use from the time of the first occupation of any of the dwellings hereby approved and shall remain open to public use in perpetuity.

Reason:

To allow for a pedestrian link to Dinas Powys to ensure the sustainability of the development, in accordance with Policy ENV27 of the Unitary Development Plan.

13. The development hereby approved shall not be brought into beneficial use until the approved access has been constructed in full accordance with the submitted plans, including additional plan T14.105.CAD.101 as approved with application 2014/00167/FUL, incorporating the vision splays and the engineering details as required by Condition 10 and the access shall thereafter be so retained to serve the development hereby approved.

Reason:

In the interest of highway safety and to ensure a satisfactory form of access to serve the development, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

14. The visibility splays as indicated on plan Figure 3.3 of the Transport Statement (February 2015) shall be kept clear of obstructions, or planting exceeding 0.9m in height and shall be constructed in accordance with the engineering details as required under Condition 10. The vision splays as agreed shall be implemented before the first beneficial occupation of any of the dwellings hereby permitted and maintained thereafter.

Reason:

In the interests of highway safety and to ensure compliance with Policies ENV27 and ENV8 of the Unitary Development Plan.

15. Notwithstanding the submitted plans, and prior to the commencement of development on the units Nos. 6-11 inclusive, further details (including sections across and through the site) of the finished floor levels of the dwellings, in relation to existing and proposed ground levels, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

In the interests of visual amenity, in order to protect the amenities of neighbouring properties and to ensure the development accords with Policies ENV27 of the Unitary Development Plan.

16. The development hereby approved shall be in accordance with the recommendations of the submitted 'Ecological Assessment and Survey for bats' (David Clements Ecology Ltd - July 2014) and the 'Wildlife Protection Plan for the Clearance and Construction Stages and Biodiversity Management Plan for the Completed Development' (David Clements Ecology Ltd - December 2014) unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure protection for protected species, in accordance with Policy ENV16 of the Unitary Development Plan.

17. The full rear garden area for the flats at Plots 4 and 5 on the approved drawings Ref: 2024/101 Revision K shall be made available for use by occupants of both flats at first beneficial occupation, shall not be enclosed or partitioned in any way and shall be so available at all times for the occupants of the flats thereafter unless the Local Planning Authority gives prior written consent to any variation.

Reason:

To ensure adequate amenity space for occupiers of both flats, in accordance with Policies HOUS8 and ENV27 of the adopted Unitary Development Plan.

18. All heavy commercial vehicles and any mobile plant which has an operating weight exceeding three tonnes associated with the construction of the Development leaving the Site, other than those vehicles exclusively using tarmac or concrete roads, shall on each occasion, prior to leaving, pass through the wheel cleansing facilities.

Reason:

To ensure highway safety and that the amenities of the area are not adversely affected and in order to ensure compliance with Policy ENV27 of the Unitary Development Plan (CON3).

19. No construction work associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours:

Monday to Friday 0730 – 1900  
Saturday 0730 – 1300  
and not at all on Sundays or Bank Holidays

Unless such work –

(a) is associated with an emergency (relating to health and safety or environmental issues);

(b) is carried out with the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan (CON2).

20. No further development shall commence until a Construction Traffic Management Plan, to include a construction/haulage traffic route plan, is submitted to and agreed in writing by the Local Planning Authority and this plan shall include confirmation that no deliveries will be made to the site during the peak hours of 8:00am until 9:30am and 4:00pm until 6:00pm on any working day. Construction traffic shall thereafter be arranged in full accordance with the agreed plan.

Reason:

To minimize the congestion to the surrounding highway network and conflicts between site traffic and in the interests of Highway / Public Safety and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, or any Order revoking or re-enacting that Order, no windows or roof lights other than those expressly authorised by this permission shall be inserted in the rear elevations of Plots 13 and 15 (House Type A) at second floor level, of the development hereby permitted without the prior written consent of the Local Planning Authority.

Reason:

To safeguard the privacy of adjoining occupiers, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

22. Notwithstanding the submitted details, this permission does not relate to the second floor rooflight window in the rear elevation of plots 13 and 15 (serving a dressing room) or any window from the master bedroom at second floor in plots 13 and 15 opening onto the atrium above bedroom 2. Therefore these windows/rooflights are not approved as part of this consent.

Reason:

In the interests of protecting neighbour amenities and to meet the requirements of Policy ENV27 of the Unitary Development Plan.

23. No deliveries of any kind shall be made to the site during the peak hours of 8:00am until 9:30am and 4:00pm and 6:00pm on any working day.

Reason:

To minimize the congestion to the surrounding highway network and conflicts between site traffic and in the interests of Highway/Public Safety and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

**NOTE:**

1. **This consent does not convey any authorisation that may be required to gain access onto land not within your ownership or control.**
2. **You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
3. **Please note that the site is subject to a Tree Preservation Order and therefore if at any time you wish to undertake development which constitutes Permitted Development under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) you should contact the Directorate of Environmental and Economic Regeneration. Works constituting Permitted Development affecting trees covered by a Tree Preservation Order, whether branches, roots or its trunk require consent under Tree Preservation Order legislation. Similarly consent is required for works to Tree Preservation Order trees in general including lopping, topping and felling.**
4. **This development is on adopted highway and therefore a Highway Extinguishment under the Highways Act 1980 will be required before work can commence. For further details please contact the Highways Department, The Vale of Glamorgan Council, The Alps, Wenvoe, Cardiff; CF5 6AA. Telephone No. 02920 673051.**



- 5. Bats must not be disturbed or destroyed during tree work. A full visual inspection of the trees to be worked on must be carried out prior to intended work to check for the presence of bats. Advice on bats and trees may be obtained from the Natural Resources Wales (Countryside Council for Wales as was). Bats may be present in cracks, cavities, under flaps of bark, in dense Ivy and so forth. Should bats be identified, please contact either Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**
- 6. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 7. You should note that the building / site may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**
- 8. Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
- 9. The applicants are advised that all necessary consents / licences must be obtained from Natural Resources Wales (formerly Environment Agency Wales) prior to commencing any site works. The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**

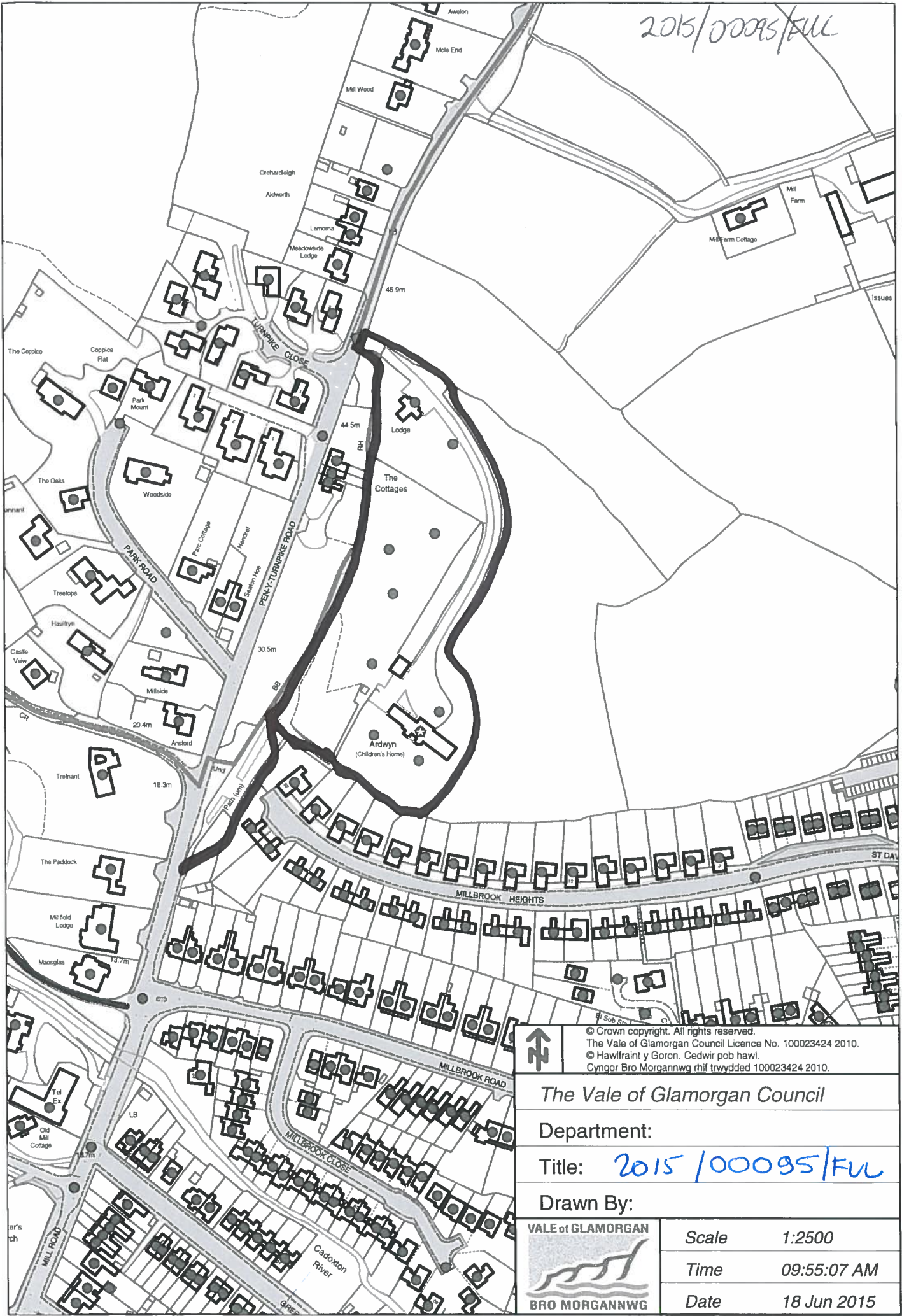
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**

2015/00095/FULL



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The Vale of Glamorgan Council

Department:

Title: 2015/00095/FULL

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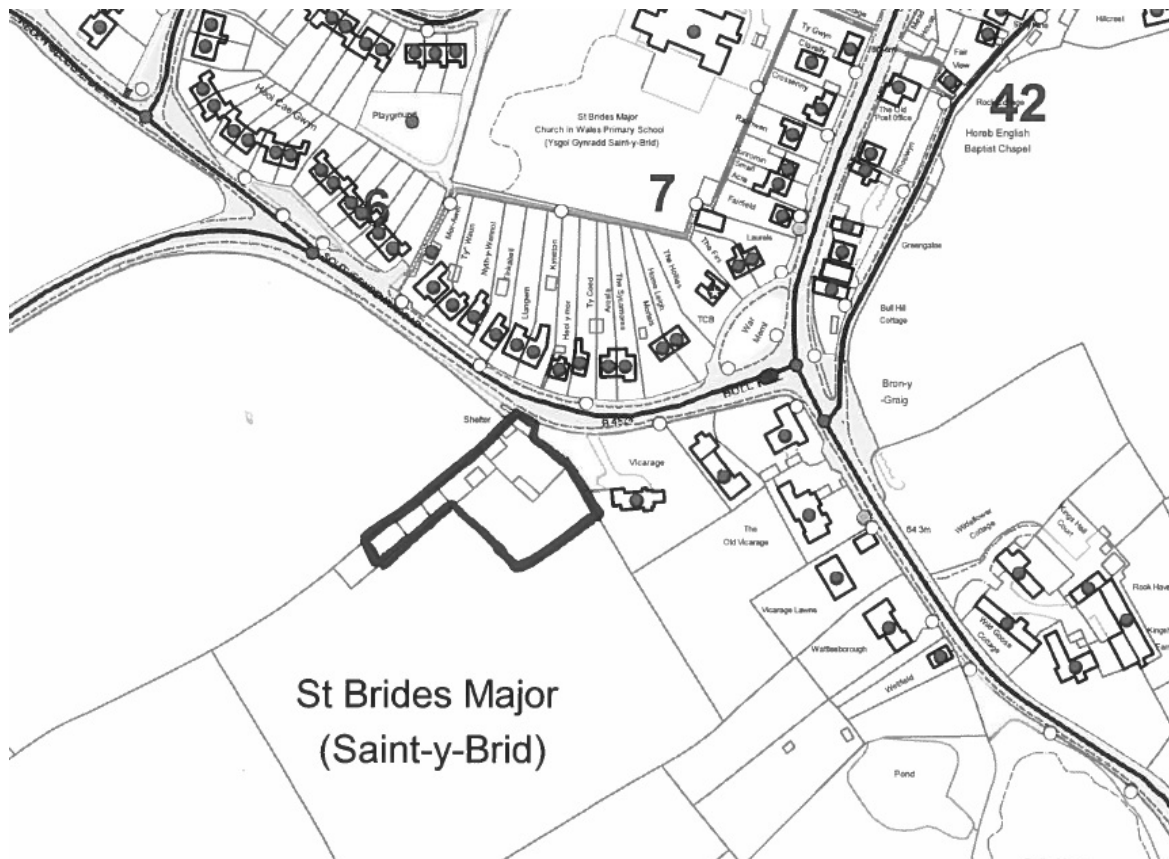
Mr. & Mrs. C. Davies, Old Paddock Cottage, Penylan Road, St. Brides Major, Vale of Glamorgan, CF32 0SB  
Reading Agricultural Consultants, Gate House, Beechwood Court, Long Toll, Woodcote, Oxfordshire, RG8 0RR

**Land adjacent to the Vicarage Field, Southerndown Road, St. Brides Major**

Rural Enterprise Dwelling incorporating Bed and Breakfast accommodation and the change of use of land to enable siting of two Shepherds' huts as associated accommodation

**SITE AND CONTEXT**

The application site lies to the south of the B4524 Southerndown Road in St. Brides Major, and forms the boundary of the edge of the settlement on its western side (adjacent to the Vicarage which is just within the settlement boundary). The map below is an extract from the Vale of Glamorgan Unitary Development Plan to show the context of the site. The red line marks the extent of the site boundary in the context of the settlement.



The site rises gently from the highway towards the south and includes an existing yard with barns and wooden style fencing forming the enclosures. The western boundary of the site is formed by three rural agricultural buildings constructed of stone, timber and corrugated iron. Directly adjacent to the site to the east is a residential property known as the 'Vicarage', to the north is the highway with residential dwellings directly opposite which front the B4524 (Southerndown Road), to the west and south are agricultural fields, all within the Glamorgan Heritage Coast. There is an existing gated access direct from the B4524 into the yard area and the site entrance is adjacent to a bus stop.

## DESCRIPTION OF DEVELOPMENT

This is a full planning application for a 'proposed rural enterprise dwelling incorporating bed and breakfast in connection with horse stabling accommodation with Vale Carriages, St. Brides riding and trekking school as well as change of use of land for two shepherd's huts for visitors'. The proposal includes the following elements:

- Proposed rural enterprise dwelling incorporating Bed and Breakfast accommodation. The proposal is for a two-storey roughly L-shaped building, the main elevation fronting the site entrance and the rear/side elevation fronting the neighbouring property known as the Vicarage.
- The ground floor includes an accessible disabled bedroom/bathroom and guest lounge towards the front either side of the main entrance and hall. Towards the rear are a guest dining room, harness and tack room as well as a private kitchen, pantry and utility room. Accessible from the outside, and also within the ground floor accommodation is an external toilet and shower, harness and tack room and a covered patio and log store.
- The first floor includes two guest bedrooms, one with en-suite and another with access to a bathroom towards the front. Towards the rear are a private bedroom, private lounge, bathroom plus boiler room, linen room and office. There is a rear external staircase from the private bedroom. The proposed plans and elevations are included in the report below for ease of reference.
- It is also proposed to use a portion of the western corner of the field to the rear of the yard for part time use (Easter or April 1 whichever is the earlier to September) for the location of two tourist 'shepherd huts'.

The application has been accompanied by the following supporting information

- Arboricultural report and plan identifying existing trees on site
- Design & Access Statement
- Planning Statement- inc. Business Plan
- Elevations and floor plans of proposed dwelling and Shepard huts

## PLANNING HISTORY

**2013/01217/FUL** : Yard adj Vicarage Field, Southerndown Road, St. Brides Major  
- Proposed new rural enterprise dwelling incorporating bed and breakfast in connection with Vale Carriages and change of use of land for two shepherds huts for visitors - Refused 11 April 2014

1. The proposed dwelling and bed and breakfast accommodation are not supported by sufficient justification that a countryside location is essential and a functional need for a dwelling in association with the proposed bed and breakfast and Vale Carriages has not been adequately demonstrated. The proposal is therefore contrary to Policies ENV1 - Development in the Countryside, ENV10 - Conservation of the Countryside, TOUR1 - New Hotels in the Countryside and TOUR3 - Conversion of Buildings to Guest Houses and Bed and Breakfast Accommodation with Settlement Boundaries of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, Paragraph 9.4.3 of Planning Policy Wales (Edition 5 November 2012), Section 4.8 of TAN 6 - Sustainable Rural Communities (July 2010) and Section 4 of Practice Guidance - Rural Enterprise Dwellings – Technical Advice Note 6 (December 2011).
2. Notwithstanding the absence of a demonstrated functional need, the proposed dwelling, by reason of its scale and form, is considered to be excessive for the needs of the rural enterprise in question, and demonstrably harmful on the character and appearance of the wider countryside and the designated Heritage Coast, contrary to Policies ENV1 - Development in the Countryside, ENV5 - Heritage Coast, ENV27 - Design of New Developments, and HOUS2 - Dwellings in the Countryside of the UDP and the advice contained within Planning Policy Wales and Technical Advice Note 6: Planning for Sustainable Rural Communities.
3. The application has failed to provide sufficient information on which to assess the proposal with regard the potential impact on trees on the site and adjacent boundary and is therefore considered that the applicant has failed to demonstrate that trees would not be unacceptably impacted, contrary to policies ENV11 and ENV27 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011

**2012/00139/LAW** : Yard adjacent to The Vicarage, St. Brides Major. Pole Barn for use in agriculture. Approved 28 August 2012.

**2003/01125/FUL** : Cae George, Southerndown Road, St. Brides Major. Box section pole barn. Refused 3 October 2003.

**1995/00954/OGWR** : New dwelling, Refused (history record missing).

**1991/00121/OGWR** : Three bedroom dwelling, Refused 04/04/1991. Application refused for two reasons:

- 1) The proposal is contrary to established national, regional and local planning policies that contain a presumption against new development in the countryside except where it is necessary in the interests of agriculture, forestry or countryside recreation.
- 2) The proposal represents an undesirable extension of residential development in ribbon form to the detriment of the character and appearance of the countryside surrounding the village of St Brides Major.

## CONSULTATIONS

**The Highways Authority** have no objection subject to conditions on the access widening, visibility splays, parking spaces, gate enclosures and run off.

**Glamorgan Heritage Coast** were consulted on 6 March 2015. No objection

**Economic Development Section** were consulted on 6 March 2015. No comments

**Glamorgan Gwent Archaeological Trust** were consulted on 6 March 2015. No objection to the proposed development.

**St. Brides Major Community Council** were consulted on 6 March 2015. They had no objections but noted that this could be considered ribbon development.

**Local ward members** were consulted on 6 March 2015. No comments

**Dwr Cymru Welsh Water** were consulted on 6 March 2015. no objection subject to conditions and advisory notes being attached to any permission. Conditions relate to foul and surface water being drained separately from the site and surface water/land drainage not being connected directly or indirectly to public sewage system.

**The Council's Tourism Section** were consulted on 6 March 2015. They are generally supportive of the proposal, subject to them complying with the relevant planning requirements.

## REPRESENTATIONS

The neighbouring properties were consulted on 6 March 2015.

A site notice was also displayed on 1 April 2015

Two letters of objection have been received in respect of the application. These outline the following: -

- Development in Glamorgan Heritage Coast should be strictly controlled
- There are no properties built on this side of the B4524
- The land and yard in question is already used for the sale/storage of hay/wood as well as a landscaping gardening business and parking of tractors, trailers, cars and vans
- Yard located near to the Coastal Conservation area

Six letters of support have been submitted for the application from the British Horse Society, Wales Trekking and Riding Association and Graham Associates (International) Ltd., Independent Moving Pictures Ltd and a local resident representative. These letters outline being in favour of the development due to the need for rural B & B accommodation being within the locality and one that also comprises of horse stabling facilities.

## REPORT

### Planning Policies

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005, and within which the following policies are of relevance:

ENV1	– DEVELOPMENT IN THE COUNTRYSIDE
ENV2	– AGRICULTURAL LAND
ENV5	– GLAMORGAN HERITAGE COAST
ENV10	– CONSERVATION OF THE COUNTRYSIDE
ENV11	– PROTECTION OF LANDSCAPE FEATURES
ENV27	– DESIGN OF NEW DEVELOPMENTS
ENV29	– PROTECTION OF ENVIRONMENTAL QUALITY
HOUS2	– ADDITIONAL RESIDENTIAL DEVELOPMENT
HOUS3	– DWELLINGS IN THE COUNTRYSIDE
HOUS5	– AGRICULTURE OR FORESTRY DWELLINGS
HOUS8	– RESIDENTIAL DEVELOPMENT CRITERIA
HOUS11	– RESIDENTIAL PRIVACY AND SPACE
TOUR1	– NEW HOTELS IN THE COUNTRYSIDE
TOUR3	–CONVERSION OF BUILDINGS TO GUEST HOUSES/B&B WITHIN SETTLEMENTS
TOUR4	– CARAVAN, CHALET AND TENT SITES
TRAN10	- PARKING

Planning Policy Wales (Edition 7, 2014) advises that where development plan policies are out dated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. It is for the decision-maker to determine whether policies in the adopted Development Plan are out of date or have been superseded by other material considerations and this should be done in light of the presumption in favour of sustainable development.

In this case, the relevant material considerations are considered to be as follows:

#### *National Planning Policy:*

Planning Policy Wales (Edition 7, 2014) –

Chapter 4 – Planning for Sustainability; Chapter 5 – Conserving and Improving Natural Heritage and the Coast; Chapter 7 – Economic Development; Chapter 9 – Housing; Chapter 11 – Tourism, Sport and Recreation



In terms of sustainability, it is of note that Government policy through Planning Policy Wales now seeks to:

- Mitigate the causes of climate change by minimising carbon and other greenhouse gas emissions associated with their design, construction, use and eventual demolition, with the overall aspiration being to secure zero carbon buildings while continuing to promote a range of low and zero carbon (LZC) technologies as a means to achieve this. (4.11.2).
- Ensure development proposals include features that provide effective adaptation to and resilience against the current and predicted future effects of climate change, for example by incorporating green space to provide shading, sustainable drainage systems to reduce run-off, and are designed to prevent overheating and to avoid the need for artificial cooling of buildings (4.11.3).

Paragraph 7.3.2 of PPW states while some employment can be created in rural locations by the re-use of existing buildings, new development will be required in many areas. New development sites are likely to be small and, with the exception of farm diversification and agricultural development to which separate criteria apply, should generally be located within or adjacent to defined settlement boundaries, preferably where public transport provision is established. However, some industries may have specific land requirements which cannot be accommodated within settlements. The absence of allocated employment sites should not prevent authorities from accommodating appropriate small-scale rural enterprises in or adjoining small rural settlements. The expansion of existing businesses located in the open countryside should be supported provided there are no unacceptable impacts on local amenity.

Paragraph 9.3.6 of PPW states new house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. Isolated new houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time. New rural enterprise dwellings should be located within or adjoining the existing farm / business complex or access. Local planning authorities should follow the guidance in TAN 6 with regard to the requirements for rural enterprise dwelling appraisals.

*Technical Advice Notes:*

TAN 6 – Planning for Sustainable Rural Communities (July 2010)

The purpose of this TAN is to provide practical guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

Paragraph 4.3 refers specifically to Rural Enterprise Dwellings stating at 4.3.1 that one of the few circumstances in which new isolated residential development in the open countryside may be justified where accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. Applications for planning permission for new rural enterprise dwellings should be carefully assessed by the planning authority to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.

Paragraph 4.6 makes specific reference to new dwellings on new enterprises and at paragraph 4.6.1 states that if it is considered that a new dwelling will be essential to support a new rural enterprise, it should satisfy the following criteria:

- a. Clear evidence of a firm intention and ability to develop the rural enterprise concerned (*significant* investment in new buildings and equipment is often a good indication of intentions).
- b. Clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available.
- c. Clear evidence that the proposed enterprise has been planned on a sound financial basis.
- d. There is a clearly established functional need relates to a *full-time* worker, and does not relate to a part-time requirement.
- e. The functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned; and
- f. Other normal planning requirements, for example siting and access, are satisfied.

Paragraph 4.7 refers to Rural Enterprise Dwelling Appraisals and 4.7.1 states that planning applications for new permanent and temporary rural enterprise dwellings in the open countryside need to be supported by robust evidence. A Rural Enterprise Dwelling Appraisal must accompany planning applications for this type of development and include information sufficient to enable the planning authority to make a full and effective assessment.

Practice Guidance – Rural Enterprise Dwellings – Technical Advice Note 6  
Planning for Sustainable Rural Communities (December 2011).

The practice guidance at paragraph 1.6 states that the underlying objective of limiting sporadic development in the countryside remains unchanged, but the Welsh Government has recognised that there is a wider concern in respect of access to appropriate and affordable housing on the part of the rural community. Shortage of affordable housing to buy or rent is recognised as one of the greatest challenges facing many communities in Wales. Consequently a range of policy measures has been introduced to improve access to housing in rural areas.

At paragraph 1.7 the guidance explains that as part of the package of measures the Welsh Government has reviewed the scope of the exception to policy which enables individual dwellings to be located in the countryside where there is an essential need. As a consequence of the review, the exception which has been available to agricultural and forestry workers has been extended to a wider range of workers in rural enterprises. This extension applies primarily to land-related businesses, which directly or indirectly, need to be located in the countryside rather than in existing settlements.

#### TAN 22 – Planning for Sustainable Buildings (June 2010)

This TAN sets out the Assembly Government's land use planning policies in respect of planning for sustainable buildings. This includes a national development management policy on planning for sustainable buildings that expects minimum sustainable building standards to be achieved for most new planning applications for residential and non-residential development.

#### TAN23 – Economic Development (February 2014)

Paragraph 1.1.6 recognises that the whole-economy contribution to economic growth is important; however, the traditional land use classes B1-B8 must continue to be planned for in a sustainable way as these will form the cornerstone of many development plan employment policies and site allocations. This TAN therefore deals principally with the B-classes.

Section 3 refers to Economic Development and the Rural Economy recognising at paragraph 3.1.3 that there are two kinds of special contribution that are particularly relevant to rural development. Firstly, an economic development could make communities more sustainable, by improving the alignment of housing and jobs, and encourage people to work close to home. Secondly, the needs of established businesses or clusters may be very specific. When businesses expand or modernise, they may need to do so in situ; it may be highly inefficient or impracticable for them to relate to a sequentially preferable site. Similarly new businesses aiming to join existing clusters may need to be close to existing businesses if they are to derive the benefits.

Paragraph 3.1.6 states that development on land not allocated in the development plan should, however, only be permitted in exceptional circumstances and must be fully justified.

## *Supplementary Planning Guidance:*

Amenity Standards for Residential Development  
Design in the Landscape  
Sustainable Development  
Trees and Development

### Issues

In assessing the proposal against the above policies and guidance it is considered that the main issues include principle of development, compliance with rural enterprise dwelling requirements and whether the changes made have alleviated the previous reasons for refusal.

### Principle of Development

The site is located in the countryside, just outside the defined residential settlement boundary for St Brides Major. It also lies within the identified Glamorgan Heritage Coast.

Policy ENV1 of the UDP seeks to protect the countryside from inappropriate development stating that within the delineated countryside permission will only be granted for development which is essential for agriculture, forestry or other development for which a rural location is essential, appropriate recreational use, re-use or adaptation of existing buildings or development approved under other policies.

Policy HOUS2 restricts new dwellings in the countryside to those that can be justified in the interest of agriculture or forestry, which are subsequently allowed by policy HOUS5 subject to certain criteria including criterion (i) that there is an essential need, based on a functional and where appropriate the financial necessity is clearly demonstrated.

Policy ENV5 refers to the Glamorgan Heritage Coast where the special environmental qualities will be conserved and enhanced ... with priority being given to agriculture, landscape and nature conservation.

Policy TOUR1 refers to new hotels in the countryside which it states will not be permitted outside the boundaries of the towns and villages defined by HOUS2. Similarly TOUR3 refers to the conversion of buildings to ... bed and breakfast accommodation specifically within settlement boundaries being acceptable subject to certain criteria.

It is clear therefore, that the current proposal does not meet the requirements of the current adopted UDP policies since the dwelling and bed and breakfast are outside the defined settlement boundary and cannot be justified in the interest of agriculture or forestry. Although in principle the proposal would therefore be considered contrary to adopted policy, Section 38 of The Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, TAN 6: Planning for Sustainable Rural Communities (July 2010) is a material consideration since it now broadens the scope of exception to policy which enables individual dwellings to be located in the countryside where there is an essential need.

The requirements for a Rural enterprise property are set out in TAN6 and outline that any application for a rural enterprise dwelling is to be accompanied by a Rural Enterprise Dwelling Appraisal. The appraisal should address the following tests:

- The **functional test** to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise.
- The **time test** to provide evidence of the labour requirement for the worker who is working on the justifying enterprise.
- The **financial test** to provide evidence of the economic sustainability of the justifying enterprise and identify the size of the dwelling that the enterprise can sustain, ensuring that the size of the dwelling is commensurate with its functional need and financial justification.
- The **other dwellings test** to identify whether there is an existing dwelling or building suitable for conversion on the enterprise or dwelling in the locality that could meet the identified functional need.
- **Other normal planning requirements test** to demonstrate that the dwelling is suitably located to fulfil its identified need and to minimise impact on the wider environment.

Accordingly, we can consider the essential need in the following paragraphs while considering the changes that the agent has set out in his statement have addressed those reasons for refusal.

#### Background and Recent Refusal (2013/01217/FUL)

The application site is used for the storage of hay and machinery in connection with the applicant's management of their wider agricultural land holdings of 80 acres, St. Brides Riding and Trekking Centre which they own and manage along with the owner's landscape maintenance company. The site is also understood to be used in connection with the applicant's Vale Carriages Business. Essentially, the site consists of barn structures and a small yard area with some grazing land beyond. It should be noted that the riding and trekking centre is located around 1km east of the application site and is not based on this land.

The application that was submitted and determined within the last year, planning ref 2013/010217/FUL, proposed a very similar development to the application that is the subject of this report. The 2013 application was refused on 11 April 2015 and the reasons for its refusal are outlined in the planning history section above. However, in brief, the main reasons for refusal were with regard to the functional test for the rural enterprise dwelling, the design and scale of the proposed dwelling and the insufficient information submitted regarding the impact on trees.

Accordingly, in order to overcome the previous refusal the application submitted here has been amended to include additional information which seeks to overcome the issues outlined in the above proposal. In particular, the agent outlines that the changes from the refused application to this application are as follows: -

- Reduced Private accommodation for applicants and increased B & B and horse related accommodation within the dwelling- It is important to note that no changes have been made to the design and appearance of the proposed B & B accommodation and the scale of the building has not altered.
- Updated information on financial- showing 5 years rather 3 projected years for the business and updated figures on the vale carriages business.
- Amalgamation of the two businesses owned by the applicants. i.e. the Vale Carriages and the St. Brides Riding and Trekking Centre providing a synergistic proposal with the B & B as well as additional information or justification on the functional need of the horse B & B.
- An arboriculture report and plan assessing the impact of the proposal on the existing trees.

Accordingly, it is important to consider the reasons for refusal and whether the proposed changes made are sufficient to overcome the reasons set out in the previous application 2013/010217/FUL.

This report will consider the rural enterprise dwelling matters in turn along with the changes from the previous refusal to assess whether the test have now been addressed in this amended proposal.

### Justification of dwelling

#### Functional Test

The Appraisal argues that the proper functioning of the enterprise in line with the tourism vision requires one of the owners to be working full time (in this case Mrs. Davies) and to live on site and be readily available at most times of the day. This is due to the fact that a consistent on site presence is required to:

- Manage and operate St Bridget's B & B as a tourism business and be 'on site' to meet the needs of those using the accommodation.

- To provide care and attention to the horses being stabled on site as well as any emergency.
- Due to the requirements of those using the accommodation and the requirements of being near to horses (who could have health issues following exercise and possible conflicts with other unfamiliar horses) there is a functional need for a manager to be on site.

It is identified that the size of the residential element of the property will comprise of 1 bedroom occupying approximately 30 percent of the total build space to be used for tourism purposes. The remainder will comprise of four bedrooms for letting and lounge and dining facilities. The private accommodation will comprise of 125.48 square metres of the 393.89 squares metres of the entire building.

The main differences between the refused application and this submission is that the agent has outlined that the requirement to be close to the site relates to the horse stabling requirements and the Bed & Breakfast responsibilities rather than just the be Bed & Breakfast requirements and security for the Vale Carriages and Horses.

In addition, there is a section in the appraisal that sets out that the business will be amalgamated with the vale carriage business and the riding centre, suggesting that the riding centre facilities and services will be utilised for persons wanting horse related activities and coming to see family members take part in riding sessions. However, it should be noted that the existing riding centre is not located on the site but around 1km away and the appraisal does not stipulate how this is an essential requirement for the dwelling or outline how this part of the business will be involved with day to day labour requirements. It is suggested that it is a 'synergistic' adaptation of the existing businesses working together with the proposed new enterprise.

In this case, while there may be a market for Bed and Breakfast accommodation in the wider area, a rural location outside of a settlement, does not appear to be essential to meet that need. In addition, while there is a growing demand for accommodation for horses on holidays, it is considered that the need to be close to the horses is not a full time requirement. The applicant's existing property is no more than 100m from the site and it is considered that any requirements set out in the statement could be carried out by staying with the horses for longer periods following exercising, either by the applicant or those using the accommodation, before leaving the horse in the stables at the site and seeking accommodation in an existing B & B, or by the applicant using their existing property or a larger property within the vicinity.

It is considered that the above view is supported by the 'British Horse Society- Horses Welcome document submitted with the application. It sets out the needs and requirements as it sees it for those wishing to accommodate persons staying overnight with their horses. There is no specific requirement for the owners to be near the horses and clearly sets out under the heading 'human needs' that *'If you are unable to provide suitable human accommodation on site, you will need to link up with a nearby B & B, Hotel, guesthouse, bunkhouse or someone willing to provide suitable accommodation.* No where in the document does it suggest that it is essential for the owners to be on site where the horses are being stabled or for those providing the horse facilities.

As such, while it could be outlined that the applicant would want to be near to those staying in the accommodation to ensure the business is successful, this does not essentially require a rural location. As such, the business does not require a dwelling to be functional, as the B & B can be sited anywhere within the existing settlement and its location on this land would appear to be personal preference rather than essential need to be in a rural location.

Given the basic provision being proposed on the site for horse stabling, it has not been demonstrated that this is an essential requirement of this business as it would still operate without the stables and without any rural dwelling condition, which could quite easily become obsolete. If the Council were to consider the B & B residential accommodation essential, this case could be put forward for a significant number of persons with a field and horse stables and no other provision.

### The Time Test

Paragraph 4.9.1 of TAN6 refers to the ***Time Test*** and states 'If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant. Where there is currently no dwelling associated with the rural enterprise the worker for whom there is a functional need for new accommodation must be a full-time worker'.

Unlike the previous refusal, this appraisal does set out labour requirements for the proposed B & B accommodation use. The Appraisal sets out the labour requirements, where it is set out that the horse stabling only takes up 2 hours of the labour requirements a day while the B & B requires the additional 10.5 hours a day of work from 07:00 to 21:00.

As such, while it has already been outlined that the functional requirements have not been addressed, it is considered that the labour requirements set out support the lack of functional need for the business in the countryside location. It is considered that the functional requirements with respect to the existing business (vale carriages and horse and trekking centre) is not taken into account while the horse stabling associated with the accommodation only accounts for 2 hours of daily work. As such, the majority of the working requirements are based on a Bed & Breakfast dwelling requirements, where a rural location is not an essential requirement for it to operate.



## Financial test

Paragraph 4.10.1 of TAN6 refers to the **Financial Test** and states 'The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time, usually at least 5 years.'

The Appraisal states the previous application supplied a three year business plan and it was noted in the officer's report that at least a 5 year plan was required under TAN6. As such, the new application does show predicted or projected sales and costs for a five year period. In addition, more up to date information was submitted on the existing vale carriages business recently set up by the owners.

It is suggested in the applicant's appraisal that the previous estimations of sales were 'conservative' at an average occupancy of 49%. In addition, the previous forecasts were in relation to the standard B & B and the shepards huts and ignored the likely revenue streams that would be generated by the carriage rides or the horse B & B, both of which are 'synergistic attractions. It is judged that 40% occupancy of the horse stabling would accumulate to £7,300 per year, while the forecast income for the vale carriages is some £20,200.

When combining these forecast figures the statement outlines that an income between £94,000 (year 1) to £113,100 (year five) would be predicted and a profit of £41,350 (year 1) to £45,452 (year 5). It is stated that the figures are realistic for the given occupancy rates, especially when the figures provides a full time wage for a worker in the business. (approx. 14,000 to 18,000 over the five years)

It is acknowledged that the justification of the new dwelling is derived from both the existing Vale Carriages business and the horse B & B, but in the main, the projected income is based on the St Bridget's Bed and Breakfast Business. The figures do show 5 year projected figures as required and have linked further services that could be derived from the horse related accommodation being at the site. However, it does appear that an assumption is made that all the business generated from the Vale carriages would be as a result of the B & B accommodation and the new horse stabling enterprise. But this is debatable as the Vale carriages business already exists and the income and profit derived from the existing business has no requirement for the dwelling to be profitable or sustainable. In addition, there are missing elements of the business plan, i.e. the business plan does not specifically detail the breakdown of the sales costs (although they were provided in the previous application) and there does not appear to be any accounting for the cost of the proposed dwelling and its impact upon the forecasted profit.

Notwithstanding these elements, it is considered that the financial figures do show that there is a reasonable prospect of providing a market return, including the income for a job for which the dwelling is being sought, over a 5 year period. However, despite healthy projected figures, the business plan does not prove that there is an essential need to be in this rural location along the Glamorgan Heritage Coast.

### The Other Dwelling Test

Paragraph 4.11.1 refers to the ***Other dwelling test*** and states 'evidence must be provided to demonstrate that there is no other dwelling(s) or buildings suitable for conversion, which are available to meet the need.'

The Appraisal does have a section outlining suitable or existing dwellings where it is identified that a search of [www.rightmove.co.uk](http://www.rightmove.co.uk) was carried out on 23<sup>rd</sup> December 2014 that showed that there were seven properties available within 0.5 miles of the site. These ranged from 795,000 to £210,000. The nearest property was some 250m distant and priced at 299,950. The appraisal goes on to state that this property is well beyond the wages of a rural enterprise worker and the property would not be capable of meeting the functional need of the B & B and associated Horse related stabling.

In addition, the applicants dwelling is some 500m and would also fail to meet the proposal needs. No further detail is outlined why the applicants dwelling would not meet the need.

Notwithstanding the fact that the functional need for a rural enterprise dwelling has not been demonstrated, were there a functional need it is considered that the *other dwelling test* could be met with the applicants existing dwelling in St Brides Major or a slightly larger dwelling within the wider proximity of the limited 0.5 miles searched for in the property search. Given that the applicants currently manage their local businesses whilst residing nearby, it is considered that there is no reason why they could not also manage a Bed and Breakfast from their existing dwelling or that a larger dwelling could be used for the 'human' accommodation for the B and B (within or near to the village of the St. Brides) and utilise the stabling facilities on the application site, especially given that only two hours is required for work to the stables.

Accordingly, while it is outlined that the horses can be unpredictable within unfamiliar surroundings and horses, it is considered that this could not be compensated for by ensuring the horses are appropriately cooled down after the exercise and stabling them to ensure no hostile behaviour occurs between the two animals before returning to the B & B accommodation. This would not alter from the normal stabling of horses, which typically does not require and on site functional presence.

### The Other Planning Requirements Test

Paragraph 4.12.1 of TAN6 refers to ***Other planning requirements test*** and states that rural enterprise dwellings should satisfy the usual planning requirements in terms of design, sustainability and access.

### Siting, Design and Size/Scale

The roughly L-shaped building will replace an existing storage shed on the site. The proposed appearance of dwelling is no different to the previous refusal, while some alterations have been made internally in respect to the private accommodation and the guest accommodation; the physical appearance of the dwelling has not been altered in scale, height, character or appearance.

The exception to the normal policy of restraint on housing in the countryside afforded to rural enterprise dwellings does not set aside the normal planning requirements which development generally is required to meet. This includes the sites location within the designated Glamorgan Heritage Coast and the general considerations of siting, design and size/scale. However, these issues have particular relevance in relation to rural enterprise dwellings, especially where the functional need for the dwelling has been established – the siting, design and size/scale will then be heavily influenced by the functional need. However, as discussed earlier in the report, the functional need for a dwelling is not accepted.

The proposed dwelling is large in its own right and while there are concerns in respect of whether a dwelling of this size would be necessary to support the business proposed, in terms of nearby residential properties, it is not considered that the building would appear as unduly over scaled.

As noted above, given the concerns with the functional test in the first instance, it is considered that an application is unjustified in principle and no financial figures have been put forward for the cost of building the dwelling or maintaining the dwelling in the financial test. However, should the functional test and all of the other tests have been satisfied, it is nevertheless considered that the dwelling is of a size and scale that is excessive given the needs of the enterprise that the applicant is seeking to create. Similarly to a dwelling for an agricultural or rural enterprise worker, the proposed dwelling should be of a size that is commensurate to the needs of the holding and it is considered that the proposed dwelling, which measures approximately 393 square metres in size, is excessive for the asserted need.

While the applicant's agent does set out that the dwelling accommodation for the worker is only 125 square metres, which could be considered appropriate for an agricultural worker, the actual size of the dwelling is nearly 400 square metres. As such, should the B & B business fail, the dwelling would be far too great a size to be used as an agricultural workers dwelling and the Council would have little prospect of it being used by a future agricultural worker or even as those eligible for affordable housing.

### Landscape impact

Notwithstanding the above, the site lies outside the settlement boundary on the southern side of the road in the Glamorgan Heritage Coast. While it lies adjacent to the settlement, it would not appear as rounding off and it does not constitute infilling of a gap in the settlement.

While adjacent to the Vicarage, it is considered that the dwelling would appear as divorced, by the road, from the principal part of the settlement and it would fundamentally alter the character and openness of the site. The proposal would introduce a substantially scaled dwelling into the parcel of the countryside and it is considered that this would fundamentally alter the appearance of the site and erode the openness of this part of the Heritage Coast.

It is considered that the proposed dwelling would appear as an incremental and relatively substantial incursion into the countryside that forms the rural setting to the village. It is considered, therefore, that in this rural context the new dwelling would fundamentally and adversely impact upon the character of the land and would represent an unjustified and visually harmful incursion into the countryside. While it would continue the form of an existing row of dwellings, the settlement boundary draws a clear end point to the built form of the village (where there is a clear change from residential to countryside) and it is considered that an incremental and arbitrary extension of the settlement is unacceptable both in principle and in terms of the visual impact. Moreover, it is considered that there are no material considerations that outweigh the harm identified, such that there is no overriding justification for the Council to deviate from adopted policy and the guidance contained within PPW.

The development would therefore, be contrary to policies ENV 27 and ENV 5 of the UDP in this respect.

#### Neighbouring and General Residential Amenity

Due to the proposed location of the new dwelling and Bed and Breakfast on the edge of the settlement of St Brides Major, the site is directly adjacent to only one residential dwelling, The Vicarage. There are also nearby residential properties to the north of the site, on the opposite side of Southerndown Road.

With regards existing neighbouring properties, the main considerations are the impact that the proposed dwelling and Bed and Breakfast will have on the existing levels of amenity and whether there are concerns for a loss of privacy or overlooking. Whilst the proposed dwelling and Bed and Breakfast is close to the boundary with The Vicarage, given that the Vicarage is set off the boundary, its orientation (facing Southerndown Road) and the nearest part of the Vicarage is a single storey double garage, it is not considered that there will be any adverse impact on the Vicarage from the proposed dwelling or use of the site for a Bed and Breakfast. Furthermore, the distance of the proposed dwelling and Bed and Breakfast from other neighbouring properties fronting the opposite side of Southerndown Road is considered to be sufficient to ensure no adverse impact from the development. Whilst it is acknowledged that a dwelling and Bed and Breakfast will generate additional traffic, it is not considered that it would be to such an extent that there would be a detrimental impact on neighbouring amenity given there is an existing access from the main road, which is already used in connection with the applicants existing businesses.

### Sustainability

In respect of its location, the site is located adjoining to the existing settlement boundary of St. Brides Major and therefore it is within close proximity to general amenities such as a pub and local shop as well as bus routes to larger settlements such as Cowbridge.

Accordingly, it is considered that if the functional need could be proven, it is unlikely that the Council would object to the proposal on grounds of being sited within a completely unsustainable location.

### Highways & Parking

The development is for the construction of a guest house that will provide three bedrooms, accommodation for operating staff (including one bedroom) and the provision of two Shepherds huts. Under the proposals, seven car parking spaces will be provided within the site, with access via an existing vehicle crossover located along Bull Hill.

The proposals are considered acceptable in highway related terms subject to conditions on the parking and visibility.

### Trees

An arboricultural report was submitted with the application and an accompanying plan from Cardiff Treescapes. The report sets out that subject to the development being carried out in the position set out on the plan and all methods and construction being carried out in accordance with the assessment and method statement then there would be negligible detrimental impact upon the existing trees on site.

As such, the previous reason for refusal for the impact of the development on the trees can be mitigated and is no longer considered a reason for refusal.

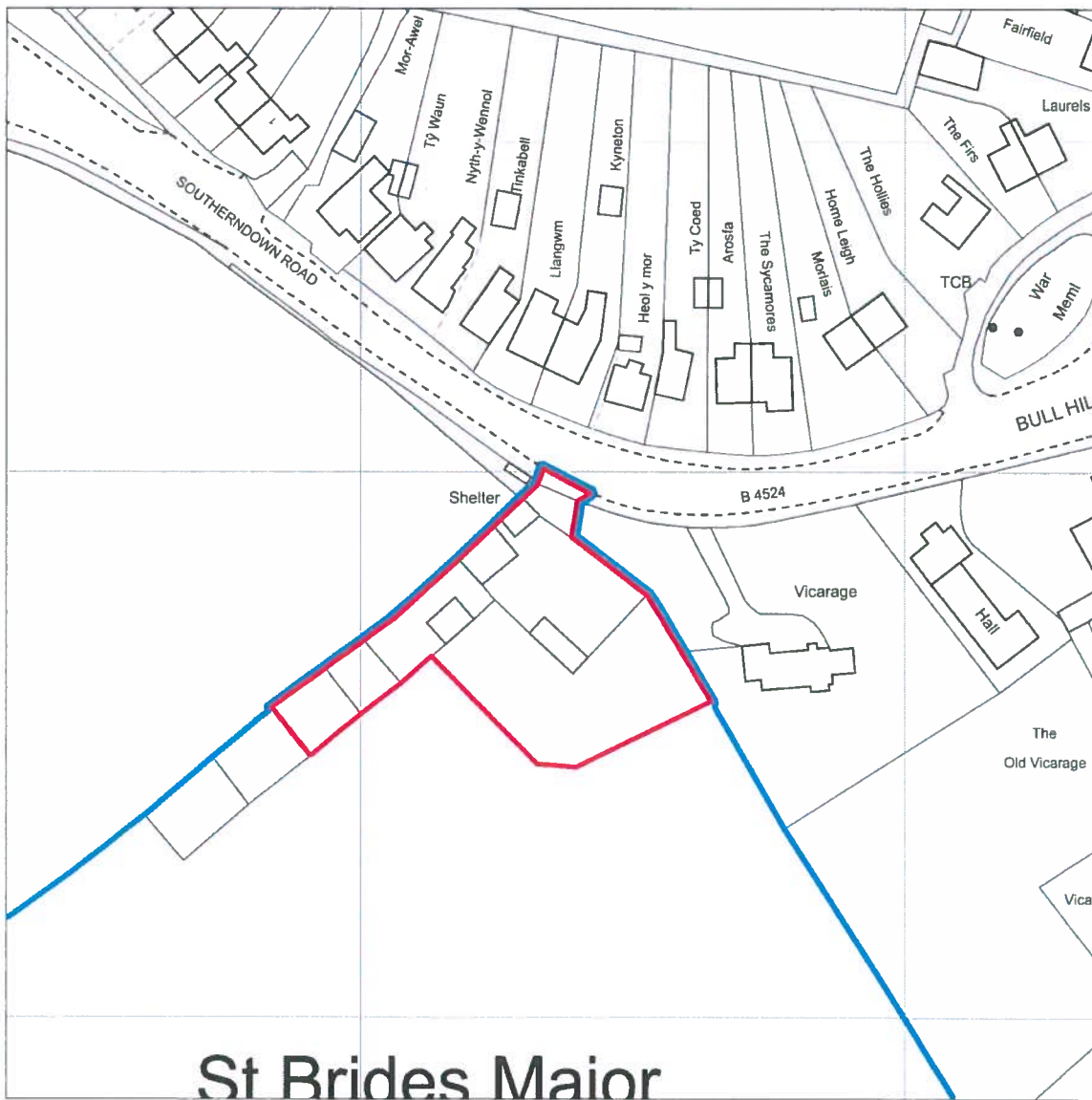
### CONCLUSION

The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

## RECOMMENDATION

### REFUSE (W.R.)

1. The proposed dwelling with bed and breakfast accommodation is not supported by sufficient justification that a countryside location is essential and sufficient functional need for a dwelling in association with the proposed bed and breakfast with horse stabling and Vale Carriages has not been adequately demonstrated. The proposal is therefore contrary to Policies ENV1 - Development in the Countryside, ENV10 - Conservation of the Countryside, TOUR1 - New Hotels in the Countryside and TOUR3 - Conversion of Buildings to Guest Houses and Bed and Breakfast Accommodation with Settlement Boundaries of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, Paragraph 9.4.3 of Planning Policy Wales (Edition 7 2014), Section 4.8 of TAN 6 - Sustainable Rural Communities (July 2010) and Section 4 of Practice Guidance - Rural Enterprise Dwellings – Technical Advice Note 6 (December 2011).
2. Notwithstanding the absence of a demonstrated functional need, the proposed dwelling, by reason of its scale and form, is considered to be excessive for the needs of the rural enterprise in question, and demonstrably harmful on the character and appearance of the wider countryside and the designated Heritage Coast, contrary to Policies ENV1 - Development in the Countryside, ENV5 - Heritage Coast, ENV27 - Design of New Developments, and HOUS2 - Dwellings in the Countryside of the Unitary Development Plan and the advice contained within Planning Policy Wales and Technical Advice Note 6: Planning for Sustainable Rural Communities.

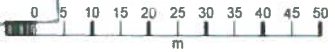


# St Brides Major

**RECEIVED**  
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DRAWING TITLE

LOCATION PLAN

15 00 21 7 FUL

CONTRACT

MR C DAVIES  
VICARAGE FIELD  
SOUTHERN DOWN ROAD  
ST BRIDGES MAJOR  
VALE OF GLAMORGAN

Reading Agricultural Consultants Ltd

Gate House  
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www.readingagricultural.co.uk



MK	REVISION	DATE	Drawn	Ch'kd.	Date	Rev.
			HTD	IWD	Feb 2015	
			Scales		1:1,250@A4	
						RAC/6332/4

D. R. and E. G. Davies Ltd. c/o Agent.  
Asbri Planning Ltd., Unit 9, Oak Tree Court, Mulberry Drive, Cardiff Gate Business  
Park, Cardiff, CF23 8RS

**Land at Rosedew Farm, Beach Road, Llantwit Major**

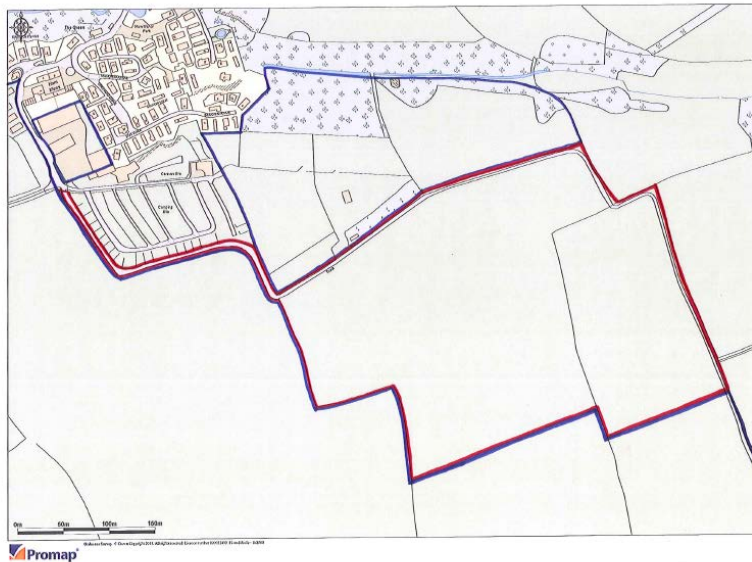
Construction of a ground mounted solar PV project and associated development

**SITE AND CONTEXT**

The application relates to a 10.7 hectare parcel of land which is currently used for agriculture. The land relates to the northern part of two fields and illustrated below for members. The site has no buildings on the site and the land is relatively flat, but rises towards the coast. The boundaries to the site are a mixture of simple wire and fence post enclosures and indigenous hedgerow.

The farming on the land is a mixture of arable and sheep grazing. As such the surrounding landscape is open and rural in nature and also falls within the area designated as the Glamorgan Heritage Coast. There is a coastal footpath to the south of the site, around 500m in distance. There is an existing access to the site via a simple agricultural track from the entrance to the north, adjoining the entrance to the acorn camping site.

The site is to the south-east of the settlement of Llantwit Major and south of Boverton approximately 400 and 500 metres distant respectively. The Ham Manor Residential Park and acorn camping site immediately neighbours the site to the north.





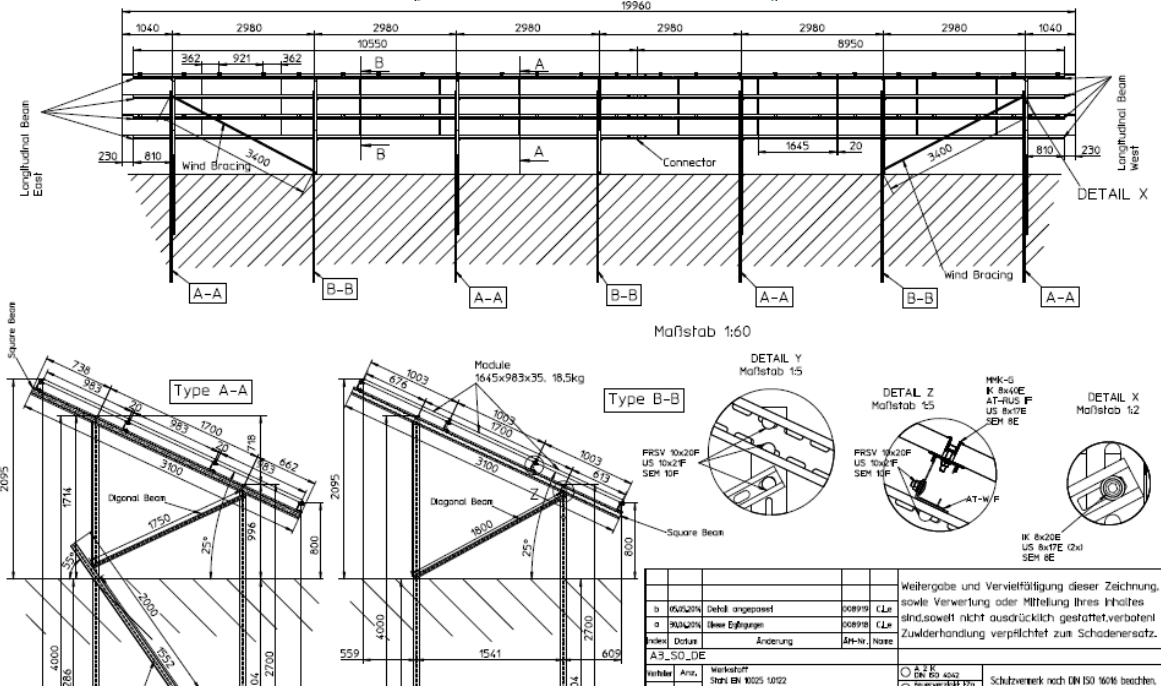
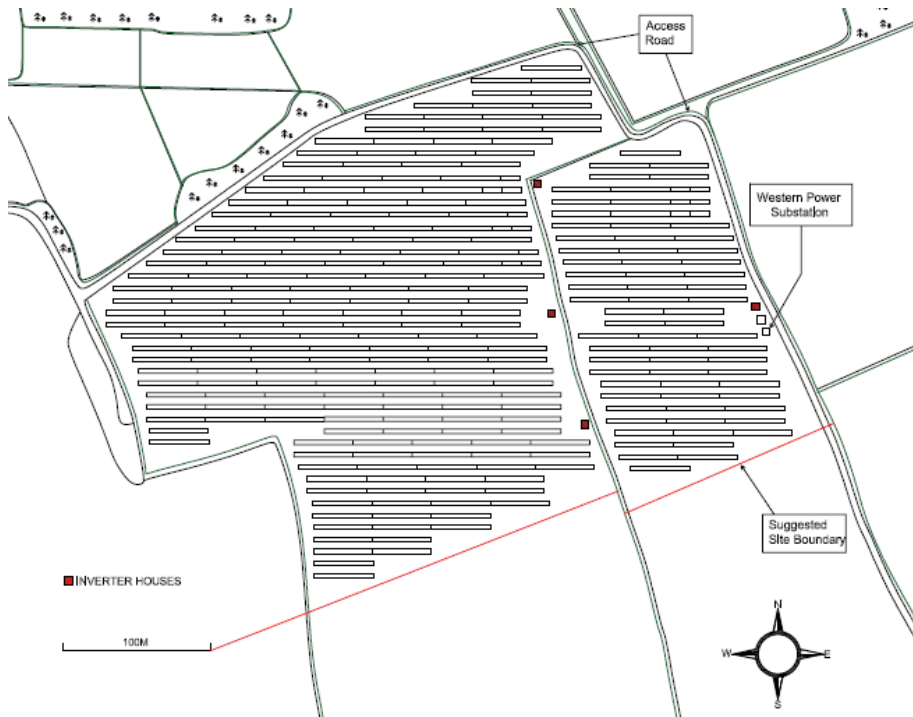


## DESCRIPTION OF DEVELOPMENT

The application proposes the provision of a solar array with a generating capacity of 5 MegaWatts. It is proposed to erect the photovoltaic solar panels to be orientated in a southern direction in order to maximise solar exposure, where the panels will not extend above a height of 2.1 metres above ground level. The arrays will be enclosed with a 2 metres high agricultural style fencing supported by timber stakes. In addition an internal clearance of 5m will be spaced between the solar arrays and the boundary fence, allowing for access around the site.

There will be four inverter houses and a substation located within the site. The inverters will measure 6 x 6m 2.9m high to ridge. The substation details submitted show a red brick building with a flat roof, measuring 4.2m x 3.4m and 2.6m high.

It is anticipated that the operational life of the array would be approximately 25 years and upon reaching its 25<sup>th</sup> year the proposals would enter its decommissioning phase, whereby the solar development will be dismantled and removed from the site.



## PLANNING HISTORY

2014/01004/SC1 : Land at Rosedew Farm, Llantwit Major - Construction of a ground mounted solar PV generation project - Environmental Impact Assessment (Screening) - Required 23/09/2014

2014/00759/FUL : Walled Garden, Rosedew Farm, Llantwit Major - Demolition of two existing agricultural buildings, part demolition and reinstatement of end elevation of one agricultural building to accommodate storage area and biomass heating system together with construction of eleven log cabins and associated works. - Withdrawn 14/10/2014

2014/00142/SC1 : Rosedew Farm, Beach Road, Llantwit Major - Proposed Solar Farm - Environmental Impact Assessment (Screening) - Required 03/03/2014

2013/00574/FUL : Rosedew Farm, Llantwit Major - Agricultural building for additional grain storage, agricultural machines and general purpose storage - extension to existing - length 40.8m x breadth 6m x height to eaves 5.5 m, height to ridge 6.1m - Approved 22/08/2013

2011/01308/FUL : Rosedew Farm, Llantwit Major - Application for Full Planning Permission for retention of buildings and to regularise the various development at Rosedew Farm- Approved 17/02/2012

2011/01161/PNA : Rosedew Farm, Llantwit Major - Extension of steel frame portal building for storage of combine harvester and other expensive machinery from Winter elements - Withdrawn 06/12/2011

2011/01091/PNA : Rosedew Farm, Llantwit Major - To extend the existing steel frame portal and to install solar panels on its roof and existing shed roofs on the south/south west facing elevations, facing away from homes, highways, footpaths - Withdrawn 16/11/2011

2011/00183/FUL : Rosedew Farm, Llantwit Major - Erection of six single storey holiday accommodation detached timber log cabins and parking bays - Approved 15/04/2011

2007/01620/FUL : Rosedew Farm, Llantwit Major - Proposed conversion of 3 No. farm buildings into 5 No holiday accommodation (self contained) let units with associated works- parking/courtyard & vehicular access, refurb existing single storey barn/store/garage - Approved 01/08/2008

2007/01134/PNT : Rosedew Farm Buildings, Rosedew Farm, Llantwit Major - Installation of a 15 metre high replica pine tree mast complete with three integral antennas, two dish antennas, two associated radio equipment cabinets, and ancillary development thereto. - Refused 19/09/2007

2006/00660/FUL : The Cottage, Rosedew Farm, Llantwit Major - Refurbishment of existing cottage - Withdrawn 08/12/2006

2006/00658/FUL : Rosedew Farm, Llantwit Major - Sub-divide existing agricultural shed into 2 no. residential properties - Withdrawn 12/12/2006

2004/01996/PNA : Rosedew Farm, Llantwit Major - Grain store - Further prior approval (PNA/PND/PNT/PNQ) 06/01/2005

2002/01607/FUL : Rosedew Farm, Llantwit Major - Covered area, house to office/garage, conservatory - Approved 03/01/2003

2001/00347/FUL : Acorn Caravan Site, Rosedew Farm, Ham Lane, Llantwit Major - Installation of 1 X antenna on a pole for the Royal National Lifeboat Institution crew call-out system - Approved 25/05/2001

2000/00364/LAW : Hamwoods, Rosedew Farm, Llantwit Major - Contractors lock-up, stables, personal garage - Refused 03/11/2000

2000/00288/FUL : Rosedew Farm, Ham Lane, Llantwit Major - Garage/farm office and outside toilet - Approved 28/04/2000

1998/00859/FUL : Acorn Caravan and Camping Parkland, Nr. Rosedew Farm, Ham Lane, Llantwit Major - Demolition and replacement of shop and additional new central leisure facilities - Approved 18/09/1998

1998/00142/FUL : Rosedew Farm, Llantwit Major - New farmhouse - Approved 09/11/1998

1996/00732/FUL : Acorn Camping Park, Rosedew Farm, Ham Lane South, Llantwit Major. - Extend site opening times from - 1st March to 31st October to 1st February to 8th December - Approved 27/09/1996

1995/01007/OUT : Rosedew Farm, Llantwit Major. - Proposed new dwelling for Mr. & Mrs. R. Davies. - Approved 18/07/1996

1985/00399/FUL : Rosedew Farm, Llantwit Major - Silage barn and cattle building - Approved 23/07/1985

1984/00927/FUL : OS 5274, part of Rosedew Farm Camping Site, Llantwit Major - Change of use from grazing to a site for 68 touring caravans - Refused 26/11/1984

1984/00407/FUL : OS 5274 - part of Rosedew Farm Camping Site, Llantwit Major - Change of use from grazing to a site for 68 touring caravans - Refused 24/07/1984

## CONSULTATIONS

**Llantwit Major Town Council** were consulted on 9 March 2015.

The town Council outlined the following: -

What will be the impact on the Heritage Coast for such a large development in relation to ENV5. It would appear to be incongruous with the ethos of the Heritage Coast. Transportation route requires clarification bearing in mind the large development of the new school off Ham Lane. Access to site requires careful consideration with busy, narrow old highways. We are unable to ascertain the agricultural grading of the land (ENV2). We note from the documentation that there are no details of how the development will eventually be connected to the National Grid.

**Highway Development** were consulted on 9 March 2015. The Highways Authority has no objection subject to conditions for a Construction Traffic Management plan and operating hours for the staff during the construction period. There are no conditions for the development during the operational phase

**Glamorgan Heritage Coast** were consulted on 9 March 2015. No comments

**Conservation (Planning)** were consulted on 9 March 2015. No comments

**Policy Section (Planning)** were consulted on 9 March 2015. Concerns are raised from the policy section on the basis of the importance of landscape issues in considering this proposal against policies COMM8 and ENV5 as well as relevant national planning policy. Furthermore, the development would be an incongruous expansion of development into the Glamorgan Heritage Coast. Not enough justification has been provided that a Solar PV farm within the Glamorgan Heritage coast as there are more appropriate areas within the Vale.

Local Ward Members were consulted on 9 March 2015. The Local Councillor, G. John outlined that he was having considerable interest and objections, in view of this he requested that this application is brought to Planning Committee for a decision.

**Ecology Officer** were consulted on 9 March 2015. The Ecology Officer broadly agrees with the findings, conclusions and recommendations made in the ecology report. She recommends that a condition requiring an ecological management plan is submitted.

**First Minister** - Welsh Assembly Government were consulted on 9 March 2015. No comments have been received.

**Natural Resources Wales** were consulted on 9 March 2015. No objections subject to the precautionary elements of the ecology appraisal, set out in section 7.0 are implemented. NRW also have no adverse impact comments to make on the visual impact of the proposal on the Glamorgan Heritage Coast.

**Landscape Section (Dock Offices)** were consulted on 9 March 2015. The landscape architect has no objection to the proposals. Having considered the visual impact assessment, giving particular attention to the Glamorgan Heritage coast location, due to the topography of the land, views of the proposed solar farm will be restricted and the mitigating measures proposed to address the limited views means the visual impact is not significant..

As such, the landscape architect was of the view that this proposal is acceptable in landscape and visual terms.

**Cardiff Airport** were consulted on 5 June 2015. No objection to the proposed development.

**Glamorgan Gwent Archaeological Trust** were consulted on 12<sup>th</sup> June 2015. No objection subject to a condition requiring a programme of archaeological work

## REPRESENTATIONS

The neighbouring properties were consulted on 9 March 2015.

A site notice was also displayed on 29 May 2015

The application was also advertised in the press on 16 March 2015.

The Council has received five letters of representation regarding the proposal. The main issues that have been raised are the following: -

- Agricultural land should not be developed on
- Access roads and route not detailed enough and concerns over the route past school with large vehicles
- Impact upon wildlife and habitats
- Unsightly
- Impact upon Glamorgan Heritage coast
- Traffic through ham manor park (retirement area). Traffic would be dangerous through the park.

## REPORT

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005, and within which the following policies are of relevance:

STRATEGIC POLICIES 1 AND 2

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE

ENV2 - AGRICULTURAL LAND

ENV5 – GLAMORGAN HERITAGE COAST

ENV10 - CONSERVATION OF THE COUNTRYSIDE

ENV11 - PROTECTION OF LANDSCAPE FEATURES

ENV17 - PROTECTION OF THE BUILT AND HISTORIC ENVIRONMENT

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

EMP7 - FARM DIVERSIFICATION

COMM8 - OTHER RENEWABLE ENERGY SCHEMES

Planning Policy Wales (Edition 5, 2012) advises that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. It is for the decision-maker to determine whether policies in the adopted Development Plan are out of date or have been superseded by other material considerations and this should be done in light of the presumption in favour of sustainable development.

In this case, the relevant material considerations are considered to be as follows:

*National Planning Policy:*

Planning Policy Wales (Edition 7, 2014) provides the following guidance in section 12 (Infrastructure and Services): -

12.8.1 The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of our approach to tackling climate change. The Welsh Government's Energy Policy Statement (2010) identifies the sustainable renewable energy potential for a variety of different technologies as well as establishing our commitment to energy efficiency.

12.8.6 The Welsh Government's aim is to secure an appropriate mix of energy provision for Wales, whilst avoiding, and where possible minimising environmental, social and economic impacts. This will be achieved through action on energy efficiency and strengthening renewable energy production. This forms part of the Welsh Government's aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.

12.8.9 Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy to help to tackle the causes of climate change. Specifically, they should make positive provision by:

- considering the contribution that their area can make towards developing and facilitating renewable and low carbon energy, and ensuring that development plan policies enable this contribution to be delivered;
- ensuring that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations;

- recognising the environmental, economic and social opportunities that the use of renewable energy resources can make to planning for sustainability; and
- ensuring that all new publicly financed or supported buildings set exemplary standards for energy conservation and renewable energy production.

12.10.1 In determining applications for renewable and low carbon energy development and associated infrastructure local planning authorities should take into account:

- the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;
- the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;
- the impact on the natural heritage, the Coast and the Historic Environment;
- the need to minimise impacts on local communities to safeguard quality of life for existing and future generations;
- ways to avoid, mitigate or compensate identified adverse impacts;
- the impacts of climate change on the location, design, build and operation of renewable and low carbon energy development. In doing so consider whether measures to adapt to climate change impacts give rise to additional impacts;
- grid connection issues where renewable (electricity) energy developments are proposed; and
- the capacity of and effects on the transportation network relating to the construction and operation of the proposal.

*Technical Advice Notes (TANs):*

TAN 6 - Planning for Sustainable Rural Communities considers farm diversification, and advises as follows:

3.7.1 When considering planning applications for farm diversification projects, planning authorities should consider the nature and scale of activity taking a proportionate approach to the availability of public transport and the need for improvements to the local highway network. While initial consideration should be given to converting existing buildings for employment use, sensitively located and designed new buildings will also often be appropriate.



3.7.2 Many economic activities can be sustainably located on farms. Small on-farm operations such as food and timber processing and food packing, together with services (e.g. offices, workshop facilities, equipment hire and maintenance), sports and recreation services, and the production of non-food crops and renewable energy, are likely to be appropriate uses.

Technical Advice Note (TAN) 8: Planning for Renewable Energy (2005):

1.6 As well as developing new sources of renewable energy which are essential to meeting the targets set by energy policy, the Assembly Government is fully committed to promoting energy efficiency and energy conservation. The land use planning system is one of a number of mechanisms which can help deliver improved energy efficiency and local planning authorities are expected to consider matters of energy efficiency when considering planning policy and applications.

3.15 Other than in circumstances where visual impact is critically damaging to a listed building, ancient monument or a conservation area vista, proposals for appropriately designed solar thermal and PV systems should be supported.

TAN5 – Nature Conservation and Planning

*Other National Guidance / Statements:*

“A Low Carbon Revolution – The Welsh Assembly Government Energy Policy Statement – March 2010”

“Energy Wales: A Low Carbon Transition - March 2012” : sets out what the Welsh Government intend to do to drive the change to a sustainable, low carbon economy for Wales. It also emphasises that Wales has significant assets in virtually every energy source, including one of the best solar resources in the UK.

Welsh Government Practice Guidance: “Planning Implications of Renewable and Low Carbon Energy - February 2011”

*Supplementary Planning Guidance (SPG):*

The following Supplementary Planning Guidance is of relevance.

- Design in the Landscape
- Sustainable Development
- Biodiversity and Development
- Trees and Development

*Background Evidence:*

LDP Background papers, including:

- Renewable Energy Study (2007)
- Renewable Energy Assessment (2012)

## Issues

The main issues to consider in this application relate to the principle of the development in this location, the visual impact of the proposal, highway safety and transport issues, ecological issues, impact on residential amenity, potential glare and impact on agricultural land quality. These matters will be considered in turn: -

### The Principle of the Development

Policy ENV1 of the UDP states that development will be permitted in the countryside if it is justified in the interests of agriculture or forestry; other development including utilities or infrastructure for which a rural location is essential; or under the terms of another policy of the plan.

In this respect, Policy COMM8 (Other Renewable Schemes) of the UDP is of primary relevance to the assessment of the application. This policy is generally permissive in principle, subject to detailed criteria relating to visual impact, residential amenity, construction traffic, ecology, archaeology, etc.

In addition, UDP Policy EMP7 states that the diversification of existing farmsteads will be permitted, subject to criteria relating to the nature of the use (employment, commercial, recreation or tourism), landscape impact, highway safety, ecology and archaeology. The policy does not prohibit a development of this nature in principle.

Furthermore, It is important to note Policy ENV5- The Glamorgan Heritage Coast seeks to the protect the heritage coast as a remote zone with priority of development being given to agriculture, landscape and nature conservation.

Planning Policy Wales and TAN 8, along with “A Low Carbon Revolution - The Welsh Assembly Government Energy Policy Statement - March 2010” are explicit in support for the principle of renewable energy schemes and they affirm the Welsh Government’s commitment to delivering an energy programme which contributes to reducing carbon emissions and tackling climate change. They also highlight the need to secure a mix of energy forms by strengthening renewable energy production.

Paragraph 12.8.9 of PPW in particular notes that local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy, which should help to tackle the causes of climate change. However this is not without qualification, as paragraph 12.8.6 states:

“The Welsh Government’s aim is to secure an appropriate mix of energy provision for Wales, whilst avoiding, and where possible minimising environmental, social and economic impacts. This will be achieved through action on energy efficiency and strengthening renewable energy production. This forms part of the Welsh Government’s aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.”

Local planning authorities are therefore encouraged to facilitate the development of all forms of renewable and low carbon energy and ensure that development management decisions are consistent with national and international climate change obligations, including contributions to renewable energy targets and aspirations.

In addition, and with specific reference to the nature of the location in the Heritage Coast, TAN 6 states that many economic activities can be sustainably located on farms. Small on-farm operations such as food and timber processing and food packing, together with services (e.g. offices, workshop facilities, equipment hire and maintenance), sports and recreation services, and the production of non-food crops and renewable energy, are likely to be appropriate uses.

Within the above Policy context, it is considered that the proposal represents an acceptable form of development in principle, and an acceptable form of agricultural farm diversification. It is also clear that rural locations will in most cases be required for solar farms of this scale and also that countryside locations are generally supported in principle, both in local and national policy and guidance. Consequently, the acceptability of the development rests upon an assessment against the criteria of Policies COMM8 and EMP7 of the UDP, notably in respect of its landscape impact.

#### Visual and Landscape Impact

Planning Policy Wales (Section 12.8-10) makes it clear that renewable energy projects should generally be supported by Local Planning Authorities provided environmental impacts are avoided or minimised, and nationally and internationally designated areas are not compromised.

The importance of renewable energy schemes in Wales, and the need for consistency in dealing with applications for such developments, is indicated by the Welsh Government Practice Guidance – “Planning Implications of Renewable and Low Carbon Energy – issued in February 2011. This advice includes guidance in respect of solar arrays, and advises (at para 8.4.9) that “designated landscapes such as National Parks and AONBS are likely to be particularly sensitive in respect of one or more of these types of visual effect. Extreme care therefore needs to be taken to ensure the siting of solar arrays does not affect the special qualities of designated landscapes”.

Nevertheless, at 19.2.4 it is generally acknowledged that designated areas and in particular protected landscapes have a vital role to play in contributing towards reducing carbon emissions. The reference to ‘protected landscapes’ relates primarily to national designations, which is pertinent insofar as, the site falls within the Glamorgan Heritage Coast, a National landscape designation within the Unitary Development Plan, wherein the supporting text in para 3.4.17 with Policy ENV5 states that:

“Farming is the major activity on the good agricultural land within the Heritage Coast. It is therefore important to recognise and support the maintenance of a viable agricultural industry a, including appropriate farm based diversification.”(Emphasis added). Accordingly, in this instance, the Council would have to take the view that it is farm diversification and considered whether it is appropriate by assessing it against the criteria set out in COMM8 and EMP7.

Policy COMM8, relating to renewable energy schemes, states that “proposals for other renewable energy schemes will be permitted if all of the following criteria are met:

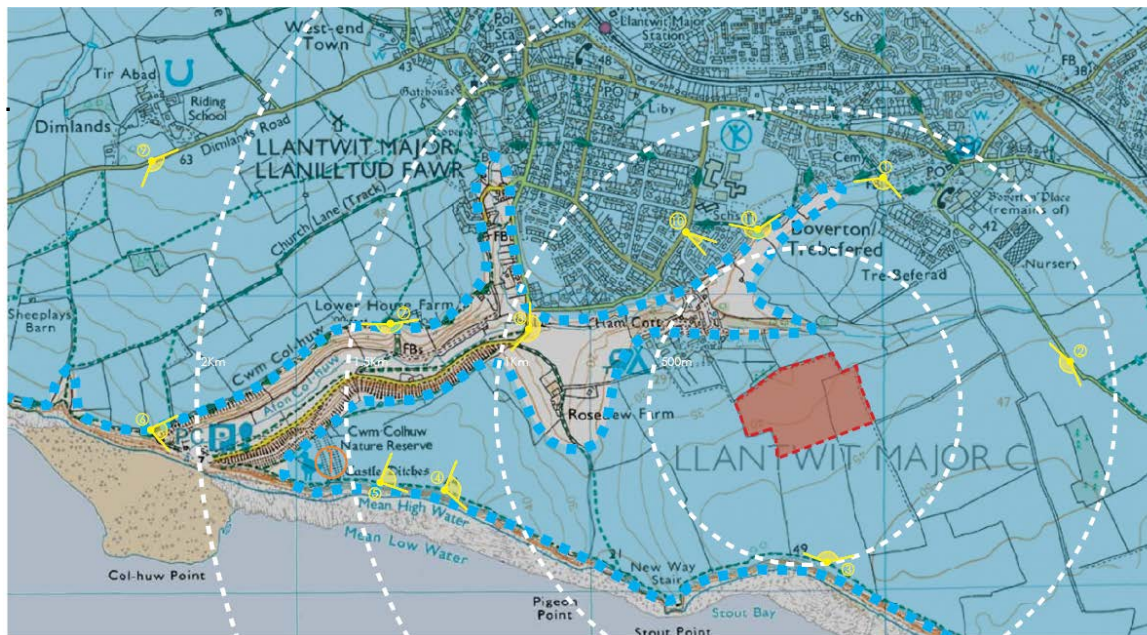
- i. The proposal has no unacceptable effect on the immediate and surrounding countryside.
- ii. The proposal has no unacceptable effect upon the sites of conservation, archaeological, historical, ecological and wildlife importance.
- iii. Adequate measures are taken, both during and after construction, to minimise the impact of the development on local land use and residential amenity.

LANDMAP provides a nationally consistent resource for landscape planning and decision making. Specialists collect information in a structured and rigorous way that is defined by five methodological chapters, the Geological Landscape, Landscape Habitats, Visual & Sensory, Historic Landscape and Cultural Landscape. The updated LANDMAP Visual and Sensory Aspect Areas for the Vale of Glamorgan comprises 57 aspect areas and area designation VLFGLVS890 – Heritage Coast Hinterland sets out the specific qualities and characteristics of this area of the Vale of Glamorgan highlighting various issues and suggesting future management regimes. The management report for the Heritage Coast Hinterland area acknowledges that the area has a strong sense of place, superb long views to the sea and historic landscape patterns and importantly, considers that due to these characteristics the principle management recommendation for the area is to manage the area as heritage coast and strongly restrict development. Furthermore the area is generally regarded as outstanding within LANDMAP assessment methodology.”

Due to the sensitive location of the proposal the application is accompanied by a Visual and Landscape Assessment, which has taken account of the updated LANDMAP resource and assessed the site in respect to the methodological chapters. The most relevant in this instance would be the visual and sensory aspect of the site and the proposal developments impact upon the character of the Glamorgan Heritage Coast characteristics. The assessment indicates a series of points in the vicinity of the site where the development would be theoretically visible from. It also includes a plan of the Zone of Theoretical Visibility (ZTV), which indicates that the development would be visible from a range of distant views, although the map does not take account of natural features (trees, hedges etc.) and the built environment, therefore the actual areas where the development would be visible are less expansive than shown on the ZTV.

The map identifies that the primary views of the development would be from the north, although the views from the locations to the north are in many places obscured by the lie of the land and the distance of the development from these locations.

Accordingly, while it does identify that the solar farm would not be visible from the these locations, more importantly, it also illustrates that the '*superb long views to the sea and historic landscape patterns*', characterised in this area and indicated on the LANDMAP assessment, would not be effected by the proposed development. In addition, the shorter views are from the south, along the coastal path, at points 3, 4 and 5 shown on the ZTV map below: -



The short views from the Wales Coastal path, are at the nearest, 500m south of the site. With the benefit of a site visit and the photographs showing views from these locations, it is considered that the views of the solar farm from viewpoint 3 are limited due to the rolling lie of the land, meaning the coastal path would offer limited views of the solar farm from these public viewpoints. These matters would be further mitigated by the proposed introduction of a new hedgerow boundary to the north of the site screening the solar arrays.

In addition, the proposed inverters have been proposed in design and finish to replicate the general character and appearance of agricultural buildings within the locality. National Resource Wales and the Councils Landscape Architect were consulted on this matter. NRW had no comments to make on the application initially and were consulted further as it was evident that they had commented on the landscape impacts of previous applications for Solar Farms. However, it was conformed that they had no observations or adverse comments on the proposals potential impact upon the designated Glamorgan Heritage Coast.

In addition, the Councils Landscape Architect formally assessed the Visual and Landscape assessment, paying particular attention to the Glamorgan Heritage Coast sensitivity and outlined that due to the topography of the land, views of the proposed solar farm will be restricted and the mitigating measures proposed to address the limited views means the visual impact is not significant.

In view of the above, it can be concluded that the scheme will not have impacts on the wider unspoilt landscape of the Glamorgan Heritage Coast and any views of the development will be limited or within very close proximity. It should also be noted that the development is proposed for a period of 25 years, therefore the impacts on the character of the land associated with the development would not be permanent, while the enhancements to the scheme through the provision of additional planting to create field boundaries that will provide benefits to the landscape.

In this respect, it is considered that it would comply with the aims of Policies ENV5, ENV10, ENV27, EMP7 and COMM8 of the UDP, and the national guidance within TAN6 and 8, and PPW.

In reaching this conclusion, it is emphasised that the solar park with a capacity of 5MW would make a significant contribution to meeting targets for renewable energy, with the resultant contribution to the reduction of greenhouse gases according with the government's aims concerning climate change, while also having energy security benefits. These are all important considerations that appeal Inspectors have recently emphasised should be given considerable weight in the overall planning balance. In this respect, they emphasise that landscape and visual impacts are only one part of the assessment, and must be considered alongside the wider environmental, economic and social benefits that arise from renewable projects.

### Alternative Sites

The policy section have made reference to the quality of the landscape and the potential for such developments to be located on alternative sites, outside of the Glamorgan Heritage Coast, which might have a lesser impact on the countryside and its qualities.

A possible need to consider alternative sites stems primarily from the requirements under EIA Regulations, which state "An outline of the main alternatives studied and an indication of the main reasons for this choice taking into account the environmental effects" should be included in an Environmental Statement. Paragraph 83 of Welsh Office Circular 11/99 which accompanies the Regulations notes that: "Although the Directive and the regulations do not expressly require the developer to study alternatives, the nature of certain developments and their location may make the consideration of alternatives a material consideration..."

While there is plenty of agricultural land within the locality, the application indicates that the applicants land holding was the area subject of an alternative site appraisal. Alternative, sites comprising of 10.7 has were available within the applicants ownership, however, the land is also located within the Glamorgan Heritage Coast. Accordingly, this site was considered the most appropriate for the reasons relating to its distance to grid connection and capacity as well as being a greater separation from the Castle Ditches Camp Scheduled Ancient Monument.

As such, it is considered that in this instance alternative sites have been considered but this location within the applicants ownership was the least harmful to the character and appearance of the wider Glamorgan Heritage Coast.

## Highway safety and Transport issues

### Construction Phase

Access to the site will be provided along the adjacent highway network via Ham Lane East and through Ham Manor Park. It is noted that Ham Lane East is a residential access road, which provides direct access to adjacent dwellings, a leisure centre and local primary, secondary and comprehensive schools.

The Environmental Statement (ES) submitted in support of the proposals informs that the construction period associated with the development will be approximately 8-weeks, with a 2-week period of intensive activity associated with the delivery of materials. The ES identifies that during this 2-week period there would be an average of 7 (two-way) daily trips associated with delivery vehicles. However, based on the information submitted, it is considered that this would be 14 (two-way) daily trips.

In addition to delivery vehicles, the ES informs that there will be between approximately 30-50 staff on site at any one time, who are expected to arrive by car or van.

When considering the impact along the adjacent highway, it is noted that there would not be a significant number of vehicle trips associated with delivery vehicles. However, due to the size and nature of the vehicles and the high demand for kerbside parking along Ham Lane East, it is likely that the proposal would lead to increased congestion during the initial construction phase. Nevertheless, it is considered that this can be controlled with appropriate mitigation measures that would be provided as part of a Construction Traffic Management Plan.

In terms of trips associated with staff that will be required to visit the site, it is noted that construction work will commence on site at 0730 and end at 1800 Monday to Friday and at 1300 on Saturdays. As a result, staff trips would not coincide with the highway peak hours or with the drop off/pick up times associated with adjacent schools.

No objection is raised in relation to the highway and transportation aspect of the proposals in this instance subject to conditions regarding a Construction Management Plan.

### Operational Phase

The traffic to and from the site during the operational phase is minimal and will have no significant bearing on the highway safety within the locality. The Council has no concerns regarding the highway safety during the operational phase. The Highways Authority have raised no objection to the development during the operational phase and have not requested any conditions.

## Ecology

The application has been accompanied by an ecological appraisal. The assessment identifies the assessment of the habitats present, the potential for protected species to be present and assessment of any potential impacts of the development on the habitats and species, both present on site and within the zone of influence.

The assessment identifies that the hedgerows on site are considered to be the areas to have any potential to hold protected species (Doormouse, Breeding birds) and no evidence of use of the site by any protected species, other than occasional foraging by birds, was observed during the course of the survey. Protected species and their potential presence on site were considered as part of this survey. Further surveys are not recommended at this time and no pre development species licencing will be required.

Natural Resources Wales (NRW) reviewed the submissions and have identified that they have reviewed the ecological appraisal prepared by Wyedean Ecology dated 20 February 2015. The appraisal outlines some precautionary recommendations for taking the work forward in Section 7.0 of the appraisal and NRW advise that these precautionary steps are implemented as part of the consent.

The Council's Ecologist broadly agrees with the findings, conclusions and recommendations made in the ecology report. It is considered that a condition requiring an Ecological Management Plan to be submitted to the Local Authority is attached to any planning consent.

On this basis and subject to conditions and the implementation of the measures/recommendations contained in the reports, it is considered that the development would not unacceptably impact upon ecology, in accordance with Policies ENV16, ENV27 and COMM8 of the UDP.

## Impact on residential amenity

### *Impact on Properties Close to Access and Site*

The dwellings sited closest to the point of access to the site will inevitably be impacted upon by the deliveries and activities associated with the construction of the development. In particular, those residents residing in the Ham Manor park In this respect, it is notable that for the duration of the works (estimated at 8 weeks) HGV's and light vehicles will be entering and leaving the site 6 days a week, in not insignificant numbers, only 50 to 100m (approx.) away from the nearest dwellings at ham manor park, acorn camping site and the dwellings along Mill lay lane, which are more than 250m from the solar farm.



The distance of the site access, and the 250m track to the area of the solar development from the nearest residents mitigates its visual impact, while the hours of construction will be controlled to between 08:00 and 18:00 Monday to Friday and 08:00 and 13:00 on Saturday to minimise the impacts during the construction period. While it is accepted that the construction of the development will have an impact on nearby residents as well as the schools and leisure centre along Ham lane east, this will only be for the duration of the works such that it is not considered reasonable to withhold permission on this basis.

In respect of ongoing operations, any such maintenance would use the existing access running next to the acorn camping site entrance but this would be minimal and would have no greater impact than its use by existing farm traffic, such that there would be no unacceptable adverse impact following the construction period.

It is also considered that nearby properties would not be unacceptably impacted upon in terms of noise or light pollution.

In these respects, the development is considered to be in accordance with Policies ENV27, ENV29 and COMM8 of the UDP.

#### Potential Glint & Glare

With reference to 'glint and glare', it is noted that WAG Practice Guidance does state that despite their non-reflective design, it is possible that intense direct reflections of the sun ('glint'/'specular reflection') or more diffuse reflections of the bright sky around the sun ('glare') by solar PV panels (and their supporting frames) may cause viewer distraction. In addition to increasing the visual impact of a development in the landscape this can potentially impact on air traffic safety.

The Civil Aviation Authority suggests that aerodromes may be affected within a 5km radius, although no objections have been received from Cardiff Airport following consultations. The proposal is therefore considered to be acceptable in these terms and it is considered that there is no evidence to suggest that the development would represent a hazard to air safety.

#### Impact on agricultural land quality

National practice guidance recognises that, in view of the national policy support for farm diversification and the relatively large area of land required for solar PV arrays that a significant proportion of proposals for solar PV arrays will be on agricultural land.

Policy ENV2 states amongst other things, that the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from irreversible development, save where overriding need can be demonstrated. The 1966 Agricultural Land Classification Maps indicate that the site is Grade 2.

However, notwithstanding the grading, the proposed development would not irreversibly affect the land, since the panels are mounted on poles that are driven into the ground and not on concrete bases or similar. The nature and height of the panels are also such that sheep could continue to graze between them, should this be proposed.

Subject to a condition controlling the de-commission of the site following a period of 25 years, or within 6 months of the cessation of electricity generation, whichever is sooner, (as suggested by PPW) the land will in any respect be restored to its former condition such that any impact would not be irreversible.

### Public Right of Way (PROW) Issues

The site is not crossed by any public rights of way, although there are a number in the vicinity. It is considered that the development would not adversely impact upon their usability. Issues relating to visual impact from nearby PROW are discussed above.

### CONCLUSION

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Policies 1, 2, ENV1 - Development in the Countryside, ENV2 - Agricultural Land, ENV5 – Glamorgan Heritage Coast, ENV 7- Water Resources, ENV10 - Conservation of the Landscape, ENV11 - Protection of Landscape Features, ENV16 - Protected Species, ENV17 - Protection of the Built and Historic Environment, ENV27 - Design of New Developments, ENV29 - Protection of Environmental Quality, EMP7 - Farm Diversification, and COMM8 - Other Renewable Energy Schemes, and the advice contained within Planning Policy Wales 7<sup>th</sup> Edition (July 2014) and Technical Advice Notes 6: Planning for Sustainable Rural Communities and 8: Planning for Renewable Energy and 11- Noise, and the Council's Supplementary Planning Guidance, it is considered that the proposal represents an acceptable form of renewable energy development, the benefits of which outweigh any visual impact the proposal will have on the character and appearance of the Glamorgan Heritage Coast, while also having no unacceptable impacts on highway safety, residential amenity, ecology, potential glare / air traffic safety and impact on agricultural land quality.

### RECOMMENDATION

APPROVE subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with the approved plans and documents received on 2 March 2015.

Reason:

For the avoidance of doubt as to the approved development and to accord with Circular 016:2014 on The Use of Planning Conditions for Development Management.

3. Within 25 years and six months following completion of construction of the development, or within six months of the cessation of electricity generation by the solar photovoltaic facility, or within six months following a permanent cessation of construction works prior to the solar photovoltaic facility coming into operational use, whichever is the sooner, the solar photovoltaic panels, frames, foundations, and all associated structures and fencing hereby approved shall have been dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted to and approved in writing by the Local Planning Authority no later than three months following the cessation of power production or within 25 years of the completion of construction, whichever is the sooner.

Reason:

In the interests of visual amenity and to ensure compliance with Policies ENV27 and COMM8 of the Unitary Development Plan.

4. Notwithstanding the submitted plans and reports, the construction phase of the development shall at all times be in accordance with a scheme of hours that shall first be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. No external artificial lighting shall be installed during the operation of the site as a solar photovoltaic facility, unless otherwise first agreed in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

6. Notwithstanding the submitted plans and prior to their use in the development hereby approved, a scheme to detail all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and to ensure compliance with Policies ENV27 and COMM8 of the Unitary Development Plan.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification), no fencing or means of enclosure other than those hereby approved in condition 6, shall be erected within the site unless details of such means of enclosure have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of the character and appearance of the Special Landscape Area and to ensure compliance with Policies ENV27 and COMM8 of the Unitary Development Plan.

8. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason:

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

9. The development shall at all times be carried out in accordance with the measures, recommendations and requirements of the Ecology Appraisal submitted with the application on 2nd March 2015.

Reason:

In the interests of ecology and to ensure compliance with Policies ENV16 and ENV27 of the Unitary Development Plan.

10. Prior to the commencement of development, an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall at all times proceed in accordance with the approved Ecological Management Plan.

Reason:

In order to ensure that the adequate ecological mitigation and enhancement is delivered and to ensure compliance with Policies ENV6, ENV11, ENV16 and ENV27 of the Unitary Development Plan.

11. The development shall be carried out in accordance with the landscaping scheme details shown on draw. TDA.2106.01 unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

13. 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.

14. The site shall be served solely by the existing gated access to the south of site, as shown on the Site Location Plan, unless otherwise agreed in writing by the Local Planning Authority .

Reason:

In the interest of Highway/Public Safety.

15. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of construction traffic route and times, wheel washing, road sweeping as well as noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

16. Notwithstanding the submitted application documents details of the colour and materials of the external finishes of the inverters and substation shall be submitted to and approved in writing by the Local Planning Authority prior to their construction and the development shall thereafter be implemented in accordance with the approved details.

Reason:

In the interests of visual amenities and to ensure compliance with Policies COMM8 and ENV27 of the Unitary Development Plan.

17. No lorries shall deliver / leave the site during the peak hours of 8:00am until 9:30am and 15:00 until 18:00 to minimize the congestion to surrounding highway network and conflicts between site traffic.

Reason:

In the interest of highway / public safety and the free flow of traffic along the adopted highway network and to ensure compliance with Policies ENV27 and COMM8 of the Unitary Development Plan.

18. Individual solar panels shall not exceed 2.1m above existing ground level and the existing levels of the ground shall not be altered unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of visual amenities and to ensure compliance with Policies ENV6, ENV27 and COMM8 of the Unitary Development Plan.

19. Any vegetation clearance/works and hedgerow removal affecting the site shall be done outside the bird nesting season, which is generally recognised to be from March to August inclusive, unless it can be first demonstrated in writing to the Local Planning Authority that nesting birds are absent or would not be adversely affected.

Reason:

In order to ensure that no protected species are adversely affected by the development and to ensure compliance with Policy ENV16 of the Unitary Development Plan.

**NOTE:**

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**



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