

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 15 JANUARY 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:

2014/0802/BR	AC	12, Heathfield Drive, Barry	Rear extension building over public sewer
2014/0804/BR	AC	13, Althorp Drive, Penarth	Double storey side extension & single storey rear extension to create two additional bedrooms & larger kitchen/dining area
2014/0830/BR	AC	6, Badgers Brook Close, Ystradowen	Single storey extension to provide an additional bedroom and en-suite
2014/0832/BR	AC	Unit 13A, Atlantic Trading Estate, Barry	One unit -split into 4
2014/0838/BR	AC	53, Plas Taliesin, Portway Marina, Penarth	single storey front kitchen extension with balcony over. New windows and Juliette balcony
2014/0839/BN	A	Ty Berllan, St. Mary Church	Single storey extension with flat roof to extend living area by 8.3m ²
2014/0841/BR	AC	8, Elm Grove Place, Dinas Powys	Loft conversion with rear dormer
2014/0844/BN	A	47, Lougher Place, St. Athan	Remove pantries. Fit new 1/2 hour fire door
2014/0846/BN	A	21, Lougher Place, St. Athan	Take down pantries. Fit 1/2 hour fire door
2014/0847/BN	A	32, Peterswell Road, Barry	Demolish pantry. Fit fire door

2014/0848/BN	A	15A, Albert Road, Penarth	Remove pantry. Fit 1/2 hour fire door
2014/0849/BN	A	6, Byrd Crescent, Penarth	Remove pantry. Fit 1/2 hour fire door
2014/0851/BN	A	11, St. Pauls Avenue, Penarth	Remove WC to bath wall and block up original bathroom doorway to enlarge bathroom
2014/0852/BN	A	6, St. Pauls Avenue, Penarth	Install fan through window and remove pantry to accommodate WHQS kitchen design
2014/0853/BN	A	9, St. Pauls Avenue, Penarth	Remove pantry to accommodate WHQS kitchen design
2014/0854/BN	A	5, St. Pauls Avenue, Penarth	Install fan through window and remove pantry to accommodate WHQS kitchen design
2014/0855/BN	A	2, St. Pauls Avenue, Penarth	Install fan through kitchen window and remove pantry to accommodate WHQS kitchen design
2014/0857/BN	A	The Croft, Higher End, St. Athan	Orangery extension
2014/0860/BN	A	Great House, Llanquian Road, Aberthin	Installation of 2 x multifuel stoves & flexible chimney liners
2014/0861/BN	A	75, Queen Street, Barry	Convert 2 No. flats back into a dwelling house. New roof
2014/0866/BN	A	19, Wood Street, Penarth	Removal of internal wall between kitchen & dining room

(b) Building Regulation Applications - Reject

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

Nil.

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

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

2014/0242/AI	A	12, Paget Place, Penarth	Single storey rear extension
2014/0243/AI	A	75, Arlington Road, Sully	Velux loft conversion & associated works
2014/0244/AI	A	3, St. Augustines Road, Penarth	Reconstruction of single storey rear annex internal alts replacement windows & associated works
2014/0245/AI	A	9, Parklands, Corntown, Bridgend	Proposed single storey and two storey rear extension and first floor side extension (works to include material alterations to structure, controlled services
2014/0246/AI	A	9, Merevale, Dinas Powys	Proposed installation of velux window to existing loft, works to include material alterations to structure, controlled services, fittings and thermal elements
2014/0247/AI	A	Tolzey Cottage, Penmark	Remove conservatory roof and replace with Guardian warm roof and associated works at ground floor level
2014/0248/AI	A	Great House, Bridge Road, Llanblethian	Proposed upgrade of thermal element (roof) and structured alterations (works to include material alterations to structure, controlled services, fittings and thermal elements)
2014/0249/AI	A	21, Meliden Road, Penarth	Proposed single storey rear extension, internal alterations and second floor flat roof dormer loft conversion, works to include material alterations to structure, controlled services, fittings and thermal elements

2014/0250/AI	A	2, Brittern Road, Penarth	Proposed 2 storey side extension, works to include material alterations to structure, controlled services, fittings and thermal elements
2014/0251/AI	A	Stoneleigh House, Llandcadle	Proposed single storey rear extension, works to include material alterations to structure, controlled services, fittings and thermal elements
2014/0252/AI	A	3, Elm Grove Lane, Dinas Powys	Formation of an internal structural opening and renewal of three windows, works to include material alterations to structure, controlled services and thermal elements

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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 |

2014/00006/FUL	A	Units 5 and 6, Llandow Business Park, Sutton Road, Llandow	Proposed office building and associated works, including car parking, access, landscaping and variation of condition 9 of planning permission ref. 2011/00673/FUL to allow development within existing retained grassland
2014/00946/FUL	R	Erwr Delyn Stud Farm, Sully Road, Penarth	Construction of new rural enterprise dwelling
2014/01060/OUT	R	Spinney Lodge, Beach Road, Swanbridge	Construction of dormer style detached dwelling, with integral carport and garden areas

2014/01113/FUL	A	Pant Wilkin Stables, Aberthin, Cowbridge	Renewal of temporary permission for log cabin and associated works for two years
2014/01151/FUL	A	St. Athan Pharmacy, The Square, St. Athan	Change of use from private flat on first floor to treatment rooms for ground floor pharmacy
2014/01154/LBC	A	Lloyds TSB Bank, 1, Windsor Road, Penarth	2 No. new roller shutters to be installed within the branch to create an internal out of hours ATM lobby
2014/01162/FUL	A	Middle Hill, LLancarfan	20m x 40m manege for private use only
2014/01177/FUL	A	Spar Stores, 57, High Street, Cowbridge	New plant and AC installations, louvre infill, new autodoor and redecorations
2014/01187/LBC	A	Porthkerry Road Methodist Church, Porthkerry Road, Barry	The addition of a new French window doorset in unit 4B of the Church to create a new opening
2014/01200/FUL	A	39, Teifi Drive, Barry	Converting garage into a room and putting a window in the place of the garage door. Wall between garage and utility to be taken out and support lintel inserted
2014/01203/FUL	A	22, Port Road East, Barry	Proposed 1st floor flat roof rear extension (variation to planning permission 2014/00134/FUL)
2014/01216/FUL	R	Coach House conversion, The Old Rectory, Leckwith Road, Llandough, Penarth	Proposed alterations and extension
2014/01222/FUL	A	Penyrheol Farm, Llysworney	Small extension to existing garage to take car for disabled family member
2014/01230/FUL	A	The Amelia Trust Farm, Five Mile Lane, Barry	Erection of a stable block and surface servicing area

2014/01236/FUL	A	18, Bramble Avenue, Barry	Construction of first floor extension over a single storey existing structure
2014/01241/FUL	A	Tynewydd Farm, Clemenstone, Cowbridge	Car port on land to west of existing house and chimney to rear
2014/01246/FUL	A	The Gymnasium, 8, Paget Road, Barry	Extension to rear of top floor flat upon roof to first floor level below
2014/01249/FUL	A	Forge Cottage, St. Mary Church, Cowbridge	Two storey and single storey extensions at the rear
2014/01252/FUL	A	18, Park Crescent, Barry	Retrospective change of use from letting agent office to tanning salon (sui generis)
2014/01262/PNA	R	Hillside, Pendoylan	Agricultural barn
2014/01296/PNA	A	Great House Farm, Penllyn, Cowbridge	New building
2014/01305/LAW	A	Pennant Farm, Llanccarfan	Construction of two storey side and rear extensions
2014/01338/NMA	A	Land adjacent to Vale Forge, North Road, Cowbridge	To remove Conditions 2, 3 and 4 being the conditions relating to Code of Sustainable Homes
2014/01349/OBS	P	Old Coal Yard, Gileston, St. Athan	Divert part of the overhead network and lay an underground cable, as per the Electricity Act, 1989
2014/01372/OBS	P	Ortho Clinical Diagnostics, Unit 2, Felindre Meadows, Llanharan, Pencoed	Extension to the current facility to accommodate additional business capacity
2014/01093/LBC	A	United World College of the Atlantic Ltd, St. Donats Castle, St. Donats, Llantwit Major	The replacement of existing defective heating pipework running within a stone clad riser that can only be accessed externally

2014/01188/FUL	A	Llanerch Vineyard, Hensol	Temporary kitchen, toilets, table and chair storage, bar and cellar to be used with existing marquee
2014/01202/FUL	A	11, Hayes Road, Barry	Demolition of small single storey side annex and erection of single storey extension to side and rear
2014/01212/FUL	A	28, St. Andrews Road, Barry	Double extension to existing property
2014/01219/FUL	A	47, Arcot Street, Penarth	Retention of single storey rear extension
2014/01231/ADV	A	Natwest, 117, Holton Road, Barry	Retention of installation of one internally illuminated fascia sign
2014/01234/FUL	A	6, Britway Road, Dinas Powys	To take down existing conservatory and build two storey extension to rear of dwelling
2014/01240/FUL	A	19, Plymouth Road, Penarth	New single storey garden room in rear garden and fitting new windows throughout
2014/01260/ADV	A	Premier Inn, Triangle Site, Hood Road, Barry	One (1) double advertising unit fully integrated into bus shelter
2014/01267/FUL	A	29, Plymouth Road, Barry Island	Change of use of property from Guesthouse back into dwellinghouse
2014/01270/FUL	A	28, Cog Road, Sully	Alterations to previously approved planning application 2014/00416/FUL, including new single storey pool room
2014/01278/FUL	A	Dunraven Bay, Southerndown	Refurbish and reinstate the slipway for onshore/offshore activities such as kite surfing and kayaking. Slipway will not be used for activities that require boats with engines

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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

2014/01211/TPO	A	6, Little Orchard, Dinas Powys	Reduce right hand side of Ash tree
2014/01275/TCA	A	31, Clive Place, Penarth	Fell T1 Cherry; Crown lift to 4m and shape T2 Bay; Fell T3 Ash and Fell G1 Ash and Horse Chestnut
2014/01229/TPO	A	St. Aubins Nursery, Old Hall Medical Centre, Cowbridge	T1 crown reduce by 1.5m Juglans Regia (Walnut) and T2 reduce crown by 50% Populus Nigra (Poplar)
2014/01256/TPO	A	Northcliffe Apartments, Paget Place, Penarth	Crown raise Beech and Lime, fell Holm Oak and Ash
2014/01308/TCA	A	Church House Farm, Llandow	Remove 6 no. pine trees

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7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT THE YARD, 28, STATION ROAD, PENARTH

Background

1. A complaint was received by the Local Planning Authority on 26 September 2014, regarding the use of the Yard to the rear, 28A, Station Road, Penarth being operated as a Tyre Fitting shop.
2. The site forms a broadly rectangular shaped yard, which contains one garage commercial building. The yard adjoins the rear garden of the residential property at 28, Station Road, Penarth and also adjoins an access road to a larger commercial complex to the north of the site. The yard is accessed via a road which runs alongside the residential property of 28 Station Road. It would appear that the yard once formed the curtilage of the residential property but has at some point been subdivided.
3. On the eastern side of Station road are residential properties, which front the highway, to the western side of the road are predominately garages, which relate to the rear boundary of properties located along Westbourne Road. As such, Station road itself is a predominately residential in character; however, there are a collection of industrial buildings located inbetween the rear of the residential properties (nos. 1-27 station road) and the railway line. The site subject of this report does not form part of this industrial site but does adjoin the southern access road to the complex of industrial buildings.

Details of the Breach

4. Following an initial site inspection it was noted that a tyre fitting business, which would amount to a B2 class use (General Industry) as defined under The Town and Country Planning (Use Classes) Order 1987 was being operated from the site. Penarth Tyres is a newly opened tyre garage specialising in the supply and fitting of new and part-worn tyres. It also provides services such as Puncture Repairs, Wheel Balancing, Bulbs, Batteries & Wiper Blades, Brakes & Servicing.

5. Having checked the planning history to the site there is no record of an approved B2 use being granted at this site. Furthermore, the Council has information to suggest the site was established as a builder's storage yard in 2005 and was last used as scaffolding business office and yard in 2010. These uses would be considered to be B8 (Storage and distribution) uses as defined under The Town and Country Planning (Use Classes) Order 1987.
6. In view of the above, even if a B use were established as the lawful use of the site, the use of the site as a tyre fitting business is considered to be a material change of use a B8 use to a B2 use as defined under The Town and Country Planning (Use Classes) Order 1987). As no such permission has been granted, the use is unauthorised and in breach of planning control.

Action Pursued to Date

7. A request has been made of the owner and tenant to remedy the breach of planning control by either ceasing the unauthorised use or submitting a planning application. It has been outlined that, while the owner has a right to submit a planning application, the Council do have major concerns regarding a B2 use at this location, due to its proximity to the nearby residential properties and the potential impact upon the private amenity of the residents.
8. The owner has outlined in a number of emails that a mix of B2, B1 (Business) and B8 uses have occurred over the years and that the tyre fitting business is not a material change of use of the land. It has been explained that, if this is the case, an application should be submitted for a lawful development certificate accompanied by the necessary evidence in an attempt to prove that the B2 use is lawful. The owner has, however, been advised that it would be difficult to prove a continuous 10 year B8 use, without a break, given the information held by the Council that a B8 use was operating on the land in 2005 and 2010. The owner has admitted that these uses were occurring at these times by email.

Planning & Enforcement History

9. The site benefits from the following planning history:
 - **2005/01733/FUL** : Yard of 28A, Station Road, Penarth - Renewal of 01/00338/FUL - To demolish existing two storey office/workshop and single storey garage/workshop and build new two storey office/workshop/store - Approved 21/12/2005
 - **2001/00338/FUL** : Yard, 28A, Station Road, Penarth - Demolish existing 2 storey office/workshop & single storey garage/workshop and build new 2 storey office/workshop/store - Approved 18/05/2001

The most relevant enforcement case on the matter relates to the following:

- **ENF/2010/0247/PC**- 28A, Station Road, Penarth- Use of site for scaffolding business.
10. From the planning history it is understood that a B8- Builder's store (a use identified on the application forms by the owner) was the existing use. An office, workshop and garage was approved in 2005, a consent that could have implemented up until 2010. If the implementation had occurred then the office, workshop and garage (mixed B1 and B8 use) would have been established as the approved use. On the understanding that the use was never implemented, by virtue of no works being carried out to demolish and rebuild the garage on site, the builders store would remain the lawful use.
 11. An enforcement complaint 2010/0247/PC, identified that a scaffolding storage use was being carried out, the same use as the builders store that was occurring in 2005. The case was concluded as it was determined that there had been no material change of use from the builder's storage use identified on the 2005 application, formal permission was not required for the scaffolding storage use.
 12. It should be noted that if the office, workshop and garage (mixed B1 and B8 use) approved under the 2005/01733/FUL permission had been implemented then planning permission would still be required for the material change of use from an approved B1/B8 use to a B2 use. A condition was also attached to the 2005 consent restricting the site to a B1 and B8 use.

Policy

13. 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 18th April 2005, and within which the following policies are of relevance:

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

EMP2 - NEW BUSINESS AND INDUSTRIAL DEVELOPMENT

EMP3 - GENERAL INDUSTRY

14. In addition to the adopted Unitary Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The Following SPG is of relevance to this appeal:

- Amenity Standards
- Penarth Conservation Area

15. The following government guidance is also considered to be of relevance to this report:
- Technical Advice Note 9: Enforcement of Planning Control (1997)
 - Technical Advice Note 11: Noise (1997)

Reasons for serving an enforcement notice

16. The principal issues to consider in this report is the impact the current use of the premises has on the amenity of the adjoining residential occupiers and what impact the use could have in the future if left uncontrolled.
17. Policy ENV29 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 environment, by releasing pollutants into water, soil or air (on or off site) or from smoke, fumes, gases, dust, smell, noise, vibration or light pollution emissions. Policy EMP2 and EMP3 states that proposals for new business and industrial development will be permitted if they do not have an unacceptable effect on residential amenity by virtue of traffic congestion, noise, smell, safety, health impacts and emissions, etc (amongst other criteria). These policies are supported by the general development criteria set out in Policy ENV27 – Design of New Developments.
18. The yard adjoins the rear of an existing residential property, accessed by an access road off Station Road. The building lies within 10m of the rear garden of 28 and 29 Station Road, while the yard adjoins the private gardens of these properties. The area surrounding the site is mainly residential, insofar as it comprises of the rear residential properties at Westbourne Road and the station road properties. Any use of this premises is, therefore, likely to have an impact upon the occupiers of these nearby residential units.
19. While it was identified that a lawful B8 use already exists on the site, which in some cases could result in a problematic level of noise, this does not imply that a further increase in noise, by virtue of an uncontrolled B2 use should be acceptable. Rather it is considered that any changes to on site activities that worsen the impact should be resisted, in order to protect residential amenity as far as possible. In this case, the lawful use of a builder store may result in vehicles visiting the site and occasional movement of materials. However, the day to day running of a B2- car servicing and tyre fitting shop is a clear change and intensification of the use that would result in continuous activity and noise that would undoubtedly produce noise issues at the site that would harmfully impact upon the nearest residential properties. As such, it is considered that the adverse impacts on residential amenity would be more significant than those that exist as a B8 builder's storage use.

20. With regard to highway matters, the previous use of the premises would have resulted in vehicle movements to and from the site. As such, the existing access and yard area for parking may be considered acceptable for the tyre fitting use. However, it is considered that the B2 use is likely to increase the level of vehicle movements to and from the site on a day to day basis. Such a level of activity would not have occurred with the previous storage use and the increase in use and noise is evident from the recent complaint from a nearby resident. The complaint demonstrates the impact the use already has; the continuation and possible intensification of the current use will only result in further harm to the amenity of the local residents.
21. Accordingly, it is considered that the current uncontrolled use of the site is considered to be an inappropriate use that has an adverse impact upon the amenities of the occupiers of the adjoining residential properties by virtue of noise and disturbance. The use is therefore, considered to be contrary to the policies mentioned above, Policies ENV27, ENV29 EMP2 and EMP3, which are generally supported by national guidance in the form of Planning policy Wales.
22. If a formal application for planning permission is submitted to retain the unauthorised use it would be possible to properly assess the impact of the use and, if considered acceptable, the Council could impose conditions to control the way the use is operated. However, the owner/occupiers have not submitted a formal application and the use remains unauthorised and beyond the control of the Council. As such, the only avenue open to control this development is considering the expediency of taking formal action in the form of a formal enforcement notice.
23. National Policy and Government advice found in regard of the enforcement of planning control, Technical Advice Note (Wales) 9 states that *'enforcement action should be commensurate with the breach of planning control to which it relates; it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to public amenity'*
24. With the above guidance in mind, it is clear that the principle of a mixed B1, B8 use at this site was previously considered as acceptable. However, this previous consent (Decision notice, Appendix A) was a light industry use (builders office and storage use), which was also controlled through conditions on the specific use, the hours of operation and any machinery use throughout the week. These conditions would go some way to mitigate any harm being caused by the use to residential amenity. Whereas, the level of harm of an uncontrolled B2 use could have on the nearby residential amenity is significantly greater, particular when an unfettered B2 use could become immune from enforcement action following a 10 year period of continued use. This in turn could result in heavy industry uses, such as scrap processing, spraying/fixing of cars etc, with even more harmful industrial processes than the existing tyre fitting use being permitted. Ultimately, resulting in a greater impact upon the amenity and living conditions of nearby residential occupiers.

25. Notwithstanding the above, even if it was the case that the current unauthorised B2 use was found to be acceptable, it would only be so with the imposition of restrictions on the specific B2 use and the implementation of measures to mitigate any nuisance that may be caused. As this cannot be achieved through an Enforcement Notice, and as the offender refuses to submit a formal application for planning permission, the only method by which the Council can ensure that there is no unacceptable degree of harm caused by this change of use is to require that the use cease entirely.
26. As such, the purpose of the enforcement action sought in this case is to seek the cessation of the unauthorised use of the site for B2 purposes to protect any harm the uncontrolled tyre fitting shop has and could have upon the surrounding area in terms of residential amenity and highway safety.

Conclusions

27. By reason of the nature of activities associated with tyre fitting, and the proximity to residential properties the uncontrolled B2 gives rise to a level of noise and disturbance that unacceptably impacts upon residential amenity.
28. In view of the issues identified in the paragraphs above, it is considered expedient to pursue action to require the cessation of the unauthorised use at the site. This will require the cessation of the B2 uses (tyre fitting).

Resource Implications (Financial and Employment)

29. 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)

30. 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).
31. 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)

32. None.

RECOMMENDATIONS

- (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 cessation of the use of the premises for the purposes tyre fitting, a use falling within use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended)).

- (ii) The removal of all machinery and equipment associated with the unauthorised use.
- (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 Recommendations

- (1) By reason of the location of the building, proximity to neighbouring dwellings and the nature of activities associated with the unauthorised use, the use of the site for tyre fitting falling within use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), gives rise to a level of noise and disturbance that unacceptably impacts upon residential amenity. The unauthorised use is, therefore, contrary to Policies ENV 27- Design of New Developments, ENV 29- Protection of Environmental Quality, EMP 2- New Business and Industrial Development and EMP3- General Industry of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 which are supported by national guidance in the form of Planning policy Wales (July 2014).

Background Papers

Enforcement File Ref: ENF/2011/0484/PC

Contact Officer - Mr. Morgan P. Howell, Tel: 01446 704743

Officers Consulted:

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

ROB THOMAS
DIRECTOR OF DEVELOPMENT SERVICES

THE VALE OF GLAMORGAN COUNCIL

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8. GENERAL PLANNING MATTERS

WELSH GOVERNMENT CONSULTATION

1. Consultation on Design in the Planning Process
2. Frontloading the Development Management System
3. Planning Committees, Delegation and Joint Planning Boards
4. Review of Planning Application Fees

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. Issues such as introducing a national design policy, making pre-application submission mandatory, reviewing the size and makeup of planning committees and the powers of delegation available to Councils and reviewing the fees for the submission of planning applications to a Council are all considered in these consultations.
3. The consultation papers (Appendix A) include a set of specific questions to which the Welsh Government is requesting views. The closing date for replies is 16 January 2015.

Relevant Issues and Options

4. The proposed responses to the consultation papers point out concerns with issues such as:
 - requiring the refund of planning fees if a decision is not made within a specified timescale;
 - requiring a mandatory pre-application submission process for major applications (possibly without any new fee);
 - new limits on the size and make up of planning committees;
 - a proposed national scheme of delegation.

5. The issues raised are addressed individually in the consultation responses attached at Appendix B.

Resource Implications (Financial and Employment)

6. 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

7. 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)
8. 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

9. None specific to this report.

Equal Opportunities Implications (to include Welsh Language issues)

10. 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

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

Policy Framework and Budget

12. This is a matter within the policy framework.

Consultation (including Ward Member Consultation)

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

Relevant Scrutiny Committee

14. Economy and Environment.

RECOMMENDATIONS

- (1) That the content of the report be noted and the response to the consultation be agreed.
- (2) That the matter be referred to Cabinet for information.

Reasons for the Recommendations

- (1) To allow the Council to respond to the consultation.
- (2) To inform Cabinet of the views of Planning when responding to the consultation.

Background Papers

Welsh Government consultation – the use of conditions in Development Management

Contact Officer – MJ Goldsworthy – Tel. 01446 704661

Officers Consulted

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

ROB THOMAS
DIRECTOR OF DEVELOPMENT SERVICES

CONSULTATION RESPONSE FORM

Design in the Planning Process

We want your views on how we can support our national planning policy on design and facilitate the delivery of good design through the planning system.

Please submit your comments by **16 January 2015**

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.

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Confidentiality

Responses to consultations may be made public on the internet or in a report.

If you do not want your name and address to be shown on any documents we produce please indicate here

If you do not want your response to be shown in any document we produce please indicate here

CONSULTATION RESPONSE FORM

Design in the Planning Process (Consultation)

Date: 6 October 2014 - 16 January 2015

Name	Marcus Goldsworthy	
Organisation	Vale of Glamorgan Council	
Address	Docks Office Barry CF63 4RT	
E-mail address	mjgoldsworthy@valeofglamorgan.gov.uk	
Telephone		
Type <i>(please select one from the following)</i>	Business	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency / Other Public Sector	<input type="checkbox"/>
	Professional Body / Interest Group	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self-help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1	Design Quality	X
	Is the planning system effectively delivering the five key objectives of good design? Give reasons for your answer.	
	Yes	X
	Neither Yes nor No	
	No	

Q1	Further Comments
<p>In the Vale of Glamorgan design is taken very seriously and the officers all receive training on design issues. Good quality guidance and monitoring to ensure design issues are properly considered is important along with assessing results after developments are complete.</p>	

Q2	Local Development Plans	X
	Do you agree that a national development management policy on design would be beneficial?	
	Yes	X
	Neither Yes nor No	
	No	

Q2	Further Comments
<p>Strong national guidance on design specific issues is very important and would be enhanced by national guidance on this matter through an update of TAN12</p>	

Q3	Supplementary Planning Guidance	X
	Are area and site specific plans, such as masterplans, being used to positively plan for key development? Can you highlight areas of good practice?	
	Yes	X
	Neither Yes nor No	
	No	

Q3	Further Comments
<p>SPG and master plans are important especially in regard of larger developments and sites although the Council's ability to undertake the work is being severely reduced by funding cut backs and the amount of time taken to produce the LDP.</p>	

Q4	Supplementary Planning Guidance	X
	Do you agree that the Welsh Government should produce practice guidance on the process of site analysis to inform the development of well designed proposals?	
	Yes	
	Neither Yes nor No	X
	No	

Q4	Further Comments
<p>Most authorities are fully aware of how to produce such guidance and mast plans and there are other important issues WG should be focusing on.</p>	

Q5

Front Loading / Pre-applications

How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?

Pre-application/Font Loading only works where developers are willing to take on board the advice given to them by Council planners. The Vale of Glamorgan can point to both good and bad examples where developers have completely ignored the advice given to them.

Q6

Planning Applications

Other than further training or additional practice guidance what additional tools would assist you in assessing the quality of design in planning proposals?

Update and review of Manual for streets

Q7

Access

Do you agree that the amendments to the 1APP form will ensure inclusive access issues are considered in development proposals?

X

Yes

Neither Yes nor No

No

X

Q7

Further Comments

This is extremely unlikely as Councils previously used their own forms and in the Vale of Glamorgan poor quality applicants and agents always circumvented such an approach.

Q8

Access

What information or other measure would assist local planning authorities assess planning proposals in terms of inclusive access?

Design and access statements which deal with such issues?

Q9

Design Commission for Wales and Planning Advisory and Improvement Service

How can the PAIS and DCfW mainstream good design and inclusive access in the planning process?

Provide up to date training materials for officers and Councillors

Q10

Design Skills and Good Practice

How can we continue to raise the design skills of local authority officers and members and what further specific training is required?

This will be a continually on-going process

Q11	Design Skills and Good Practice	X
	Is there scope for local planning authorities to work differently or more collaboratively on design issues? Do you know of any existing activity in this area?	
	Yes	
	Neither Yes nor No	X
	No	

Q11	Further Comments
Wales wide guidance provides this and it is unlikely that specific design issues will cross council boundaries. In respect of training it would be possible to hold joint Council training events – although this has already happened in the Vale of Glamorgan and Bridgend.	

Q12	Design Skills and Good Practice	
	Can you highlight areas of good practice, from Wales or elsewhere, relating to any of the above, which promote and/or lead to the achievement of good design and inclusive access?	
Visiting completed schemes and getting Members/officers to objectively assess developments		

Q13	Design and Access Statements	X
	Are there any benefits in retaining the requirement for Design and Access Statements for particular applications?	
	Yes	X
	Neither Yes nor No	

No	
-----------	--

Q13	Further Comments
<p>D&A statements can be important for major applications and minor housing applications and in respect of all developments save possibly for householder in conservation areas. Other designated areas such as Heritage Coast and Special landscape areas may also benefit along with developments adjacent to Listed Buildings.</p>	

Q14	Design and Access Statements	X
<p>Should the mandatory requirement for Design and Access Statements be removed from secondary legislation? Give reasons for your answer.</p>		
Yes		
Neither Yes nor No		
No		X

Q14	Further Comments
<p>Not in respect of the above</p>	

Q15	Any Other Comments	
<p>We have asked a number of specific questions. If you have any related issues or ways which design can be improved through the planning system which we have not specifically addressed, please let us know.</p>		

How to respond

Please submit your comments by **16 January 2015** in any of the following ways:

E-mail	Post
<p>Please complete the consultation form and send it to: planconsultations-a@wales.gsi.gov.uk / planconsultations-a@cymru.gsi.gov.uk [Please include 'Design in the Planning Process Consultation' in the subject line]</p>	<p>Please complete the consultation form and send it to: Design Consultation Planning Policy Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ</p>

Additional information

If you have any queries about this consultation, please:

E-mail: max.hampton@wales.gsi.gov.uk

Telephone: Max Hampton on 02920 82 6166

Consultation reference: WG23314

Consultation Response Form

Frontloading the development management system

We would like your views on our proposals for the detailed operation of the pre-application processes introduced by sections 15 and 16 of the Planning (Wales) Bill. We also want your views on our proposals to use powers provided in the Planning (Wales) Bill and the Planning and Compulsory Purchase Act 2004 to place duties on statutory consultees.

Please submit your comments by 16 January 2014.

If you have any queries on this consultation, please email: planconsultations-c@wales.gsi.gov.uk or telephone 029 2082 5632.

Data Protection

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Consultation reference: WG23314

Frontloading the development management system		
6 October 2014 – 16 January 2015		
Name	Marcus Goldsworthy	
Organisation	Vale of Glamorgan Council	
Address	Docks Office Barry CF634RT	
E-mail address	MJgoldsworthy@valeofglamorgan.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	X <input 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"/>

Type of development affected

Q1	Do you agree that all “major” development should be subject to pre-application consultation?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes but not in the format proposed by Welsh Government. There should be limited public consultation procedures and these should not mirror the planning application process, as this will only cause confusion with local residents and Town and Community Councils.</p> <p>This Council have concerns with regard to a more comprehensive and standardised pre application system as a whole.</p> <p>This Council have concerns that this will lead to a confusing system, particularly for the public. This will introduce a two tier application processes where participants can easily be confused in respect of which part of the process they should involve themselves in.</p> <p>As the comprehensive and standardised pre application process will almost</p>				

Consultation reference: WG23314

wholly be administered by the applicant. Accordingly, the success of the process will depend on the calibre of the applicant and their agent. The scheme will add value to the application process as a whole if the applicant themselves embrace the front loaded approach and takes time to prepare their pre-application submissions and carry out a comprehensive consultation process. However, not all applicants will be so thorough and, as a result, the aims of the process will not be achieved. This will only result in more work for all parties.

Finally, minerals and waste fall into the definition of "major" development, even though the development proposed may well be relatively minor. Such development should not be subject to the pre-application process.

Publicising the development proposal

Q2	Do you agree that the issue of neighbour letters and site notices should follow the guidance in Circular 32/92? If not, how should the notification process operate?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The Council have no objection in response to the question asked, however, it should be noted that the Circular is out of date. For example it does not refer to electronic correspondence.</p> <p>With regard to the introduction of this consultation process as a whole, the Council have a number of concerns. Firstly, with regard to the policing of the consultation process, as the responsibility lies wholly with the developer, there is no guarantee that the consultation will be carried out in accordance with the set procedures. The Council do not have the resources to police this process and the process may, therefore, be open to abuse.</p> <p>Secondly, the proposal will result in the introduction of a further bureaucratic process, and one that relies on a third party, not a public body, to ensure compliance with the process.</p>				

Consultation reference: WG23314

Is the intention for the Council to ensure that the consultation exercise has been carried out correctly on submission of the pre-application proposal? If so, this will add further pressure to already stretched Local Planning Authorities.

Q3	Do you agree that 21 days is an appropriate timescale to allow responses to pre-application consultation?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

If the 21 days is in respect of neighbour consultations only, the Council have no objection to this proposal as it is in line with the formal application consultation response timescales.

However, this Council would again point out that this pre-application consultation process will be confused by the public with the planning application consultation process. Whilst the pre-app consultations will be carried out by the developer, the respondents will without doubt contact the Council to discuss the proposal. The Council will undoubtedly be drawn into this element of the pre-application process. The public will also confuse this consultation process with the formal planning application consultation process.

Also to expect Community and Town Councils to continue to respond in a timely manner to planning applications and to also take on the added burden of pre-application submissions is completely unrealistic for organisations which generally have no paid staff or professional representatives.

Q4	Would LPA offices be an appropriate location for viewing a hard copy of the plans and supporting information? If not, where should hard copies of plans and supporting information be made available for public viewing?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

This will just lead to confusion and suspicion in the eyes of the public with regard to what is a planning application and what is a pre application submission and who is promoting what? Moreover LPAs do not have sufficient space or resources to undertake such a function. Indeed all councils are now making planning registers available on line to ensure that in most cases interested members of the public can view planning applications from their own homes and it is not unreasonable to expect applicants of major schemes to do the same.

Consultation reference: WG23314

The Council would point out that by using Council offices for this service, Council officers will inevitably be drawn in at a cost to the Authority. This Council will again point out that all LPA's have limited and very stretched resources. They cannot afford officer time to deal with the queries that will result.

Consultation with “specified persons” (statutory consultees)

Q5	Do you agree that 21 days is an appropriate timescale for consultees to respond?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: see response to question 3. however WG should note that both consultees within the Council and statutory consultee's such as NRW, CADW, and WG itself, currently cannot meet the 21 day requirement for planning applications (indeed currently the majority of statutory consultees do not actually respond within 8 weeks with regard to major applications) so to expect them to respond to this additional burden is completely unrealistic and could actually lead to worse response times with regard to planning applications.				

Q6	Should provision be made for a time extension when this is agreed in writing between the developer and consultee?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: This is just another bureaucratic process for applicants to have to undertake which ultimately will add little to the system as a whole. it is more appropriate for the developers who will administer the pre-application process to respond.				

Consultation reference: WG23314

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Duty on the developer to provide a pre-application consultation report (PAC)

Q7	Are there any other issues that should be included in the pre-application consultation report? If so, please identify these issues and explain why they should be included in the PAC.	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Specifying when consultations were undertaken, requiring a limited timescale after the consultations for the submission so that they are actually meaningful and do not become out of date.			

The pre-application enquiry form

Q8	Do you agree that the information specified in paragraph 3.4 will be sufficient to allow the LPA to respond?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, but the list of items that must be submitted, must also include the necessary fee.				

Maintaining records of the pre-application service

Q9	Do you agree that LPAs should maintain spatial records of pre-application enquiries?	Yes	Yes (subject to further comment)	No

Consultation reference: WG23314

		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>It I recognised that if this is a statutory responsibility then records should be kept however WG must recognise this is an additional responsibility for LPAs which will involve the use of additional resources at a time when they are being significantly reduced</p>				

The LPA response

Q10	Should the written response from the LPA contain any other information?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>No, this Council's pre-application responses are in line with the suggested content of a written response and those responses are very comprehensive.</p>				

Consultation reference: WG23314

Timescale for response

Q11	Do you agree that 21 days provides the LPA with sufficient time to provide a written response that meets the requirements set out in paragraph 3.10?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 This timescale will never be met given the difficulties LPA are currently experiencing in dealing with planning applications, let alone a pre-application responses. It is also extremely unlikely that consultees will be able to respond in 21 days.

Meeting

Q12	Do you agree that the timescales and process for the pre-application meeting is appropriate?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 This is bureaucratic micromanagement by the WG and is completely unreasonable and indicates how little the WG appreciates the difficulties currently being experienced by LPAs in general.

It is this Council’s view that the timescales and process for the pre-app meeting are overly complicated.

Is it really necessary for the timescales and process to be so prescriptive and controlled as proposed?

It is this Council’s experience that one process will not fit all. For the process to be as productive as possible it should be left to the authority to determine how it considers and engages with the developer in a pre-app on a case by case basis. For example, in most cases it will not be productive to provide a written response prior to the meeting; the meeting serves better to inform the pre-app response.

Could there not simply be an overall target for time taken to consider pre-application submissions that involve a meeting, rather than the overly prescriptive approach proposed?

Consultation reference: WG23314

Fees for the statutory pre-application service

Q13	Do you agree that the fee for the statutory pre-application service should be based on existing discretionary charges? If not, how should fees for the statutory pre-application service be calculated?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: there may be a lack of development pressure in some LPAs; a fee applied to pre-apps may in those cases deter development interest in those areas. Whereas in the authority areas where there is a particularly high development pressure such as the VoG, such submissions can take up significant resources; those authorities should be able to set their own charging regime in order to recover the costs incurred.				

Q14	Should householder development proposals that are submitted to the statutory pre-application service be exempt from a fee?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: If this is a statutory service then a fee should be charged because otherwise it will be a new and unfunded responsibility for LPAs at a time when there is no capacity for new responsibilities.				

Substantive responses

Q15	Do you agree with our definitions of “substantive response”?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG23314

Comments:
 This Council would not have any objection to the definitions in principle. This Council would, however, point out that the definitions do not allow for circumstances where material changes to the scheme occur between pre-app and the planning application. Neither does it account for circumstances where there is a delay between the pre-app and planning application, during which there may have been a change to material considerations that would result in a change in the comments of a consultee.

Timescales for response

Q16	Do you agree that 21 days is a reasonable timescale for statutory consultees to provide a “substantive response” to consultation requests?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 If the substantive response is in accordance with the definition proposed, then this Council would answer no. As mentioned in response to question 5 and 11, the statutory Consultees are presently nowhere near meeting this deadline and this situation is not likely to improve in the near future, in view of inevitable further cuts to the resources of public bodies. Furthermore, there is no penalty should they fail to respond to within the specified period - see response below to question 16.

Performance reports

Q17	Do you have any comments on the content of the performance report?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 As mentioned above, there is little likelihood that statutory Consultees will comply with the suggested time period now or in the near future. This is mostly

Consultation reference: WG23314

due to a lack of and a likelihood of further decreasing resources. It is this Council's view that, having regard to the reasons for the current delays, a requirement to prepare a performance report will not incentivise Consultees to respond to pre-app consultations more swiftly than at present.

Other

Q18	We have asked a number of specific questions. If you have any related queries or comments which we have not addressed, please use this space to report them.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

While the Vale of Glamorgan Council supports the principal of pre-application discussions and submissions to improve planning applications before submission, it is not considered that the WGs stated aim of speeding up the determination of planning applications will be achieved with the form of overly bureaucratic process proposed in this consultation. Having operated a pre-application procedure for many years the experience of the VoG is that developers tend only to get out of the process what they put in. Overall it is an unfortunate truth that some house builders do not listen to comments made at the time of pre-application submissions and it is likely that this will continue to be the case. This will ultimately do nothing to speed up the planning process and in the form proposed above will in all likelihood slow down the determination of applications due to the extra burden of dealing with the statutory pre-app submissions. Moreover far from engaging the public in the process the proposed system will only lead to frustration and confusion on the part of the public.

Ultimately, if the WG is serious about speeding up the planning process it needs to consider simplifying the system not complicating it and allowing planning to operate within the originally set boundaries. Issues such as not being able to condition ecological mitigation and having to consider wildlife licensing slow the process inordinately. Wildlife and ecology matters have their own legislation and sanctions, yet contrary to all other matters such as noise, drainage or even pollution, must be considered fully at the time of the consideration of the planning application and cannot be conditioned. When this means that developers have to wait for spring or even summer to carry out a survey, this can lead to 6 month or more delays in the consideration of applications. No other technical matter delays the consideration of planning applications in this way.

To conclude there are now too many fingers to be considered in the planning pie and unless the system is simplified swiftly no real improvement will be seen in the processing of applications.

Consultation reference: WG23314

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation response form and send it to: planconsultations-c@wales.gsi.gov.uk</p> <p>(Please include "WG213314" in the subject line).</p>
Post
<p>Please complete the consultation form and send it to:</p> <p>Development Management Branch Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3NQ</p>
Additional information
<p>If you have any queries on this consultation, please Email: planconsultations-c@wales.gsi.gov.uk or Telephone: Alan Groves on 029 2082 5362</p>

Consultation Response Form

Planning committees, delegation and joint planning boards

We want your views on our proposals to prescribe the size and make-up of planning committees and the introduction of a national scheme of delegation. Your views on the membership of joint planning boards under section 2 of the Town and Country Planning Act 1990 are also sought.

Please submit your comments by 16 January 2015.

If you have any queries on this consultation, please email: planconsultations-e@wales.gsi.gov.uk or telephone Luke Seaborne on 029 2082 1573.

Data Protection

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Planning committees, delegation and joint planning boards		
Date of consultation period: 06 October 2014 – 16 January 2015		
Name	Marcus Goldsworthy	
Organisation	Vale of Glamorgan Council	
Address	Planning Department Docks Office Barry	
E-mail address	planning&transport@valeofglamorgan.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning 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"/>

Planning Committees

Q1	Do you agree that the size of the planning committee should be limited to a minimum of 11 members and a maximum of 21 members?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Although this is considered to be an appropriate size - this issue would seem to have been resolved by all Councils in Wales and is legislation really necessary?</p>				

Q2	Do you agree that where wards have more than one elected member only one should sit on the planning committee?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Ward members should be allowed to sit on the committee irrespective of numbers per ward. To view membership on any political line is wrong and to do so would undermine the quasi-judicial process.</p> <p>It should be open to the authority to determine membership make up at the local level.</p> <p>There are concerns that this will be particularly limiting, especially with regard to larger wards. Moreover this could lead to difficulties in getting members to sit on planning committees in the future. It would also seem unnecessary if rules are properly implemented with regard to requirements for members to decide if they are going to act as a ward member and speak against or in favour of a scheme and as such not vote or just take part in the normal debate and voting.</p>				

Q3	Do you agree with introducing a quorum of 50% (rounded up where the total committee size is an odd number) for decision-making?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The authority has a quorate figure of 25% for all committees and this has not been an issue with the operation of the planning committee noting that it is a generally well attended committee.</p>				

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Q4	Do you agree that the use of substitute members on the planning committee should be prohibited?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The only caviat being where relacement members are required for a planning committee due to ill health etc. and where the replacements are voted on correctly through the Councils constitution and therefore are a permanemt replacement from that point on.</p>				

The role of the planning committee

Q5	Do you agree with the development management role of the planning committee outlined above?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: The role of the committee in effective development management is essential and the level at which this is set should be such that it allows for genuine concerns at local level to be considered by the planning committee . Criteria (4.3.3) may cover this but it seems that there would be a further need to quantify and qualify to avoid ambiguity if this is centralised . This appears to be micro-management and interference in local democracy which in the long run may not actually provide the consistency sought, especially if it encourages members to call more minor developments in to Committee because in their eyes the bar has been set too high. Ultimately it is considered that minimum level of delgation is far more appropariate than a specific set national scheme.</p>				

National Scheme of Delegation

Q6	Do you agree with the inclusion of an exception that requires all applications that are contrary to the adopted development plan which are being recommended for	Yes	Yes	No
			(subject to further	

	approval to be determined by the planning committee? If not, please explain the reasons.		comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>To require all applications for approval and which are contrary to the development plan to go before committee has scope for uncertainty as it is not always clear whether an application is contrary to the plan or not. This could open up the decision making process to legal challenge as to whether a decision has been correctly made or not.</p> <p>Do not consider that a national scheme of delegation is appropriate in the format proposed. Would be more appropriate to have a minimum scheme of delegation which Councils could increase if they wished.</p>				

Q7	Do you agree with the inclusion of an exception that requires all applications involving an EIA to be determined by the planning committee? If not, please explain the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>This would not always be appropriate for reserved matters applications following outline approvals or discharges of planning conditions which are currently caught by the EIA regulations as well as the original outline approvals.</p>				

Q8	Do you agree with the inclusion of an exception relating to applications made by members, LPA staff and their spouses, partners and close relatives? If not, please explain the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>How would you define LPA staff? what if you have joint administration sections? why should this apply to junior members of staff who are not involved in the decision making process? the VoG currently require this but for senior level officers only. As written this appears to refer to a very wide group that seems not only disproportionate for small extensions or outbuildings, should only be 'senior' levels officers. This seems likely to create another delay for the determination process, most likely relating to minor householder applications.</p>				

--

Q9	Do you agree that the development threshold should be ‘major development’ as prescribed in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012? If not, please explain the reasons and suggest an alternative threshold.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 Would re-iterate the need for a minimum level of delegation not an overly prescriptive national scheme.

Q10	Do you agree that LPAs should have the choice of two development thresholds?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 Do not consider that a national scheme of delegation is appropriate in the format proposed. Would be more appropriate to have a minimum scheme of delegation which Councils could increase if they wished.

 Moreover to have two levels of delegation could be confusing to applicants etc.

Q11	Do you agree that the national scheme of delegation should include an exception based on an objection threshold?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 Do not consider that a national scheme of delegation is appropriate in the format proposed. Would be more appropriate to have a minimum scheme of delegation which Councils could increase if they wished.

 Objection thresholds are notoriously open to abuse and are not hard to achieve when faced with vociferous or organised objectors.

Q12	If yes, is 20 letters from different people in different addresses and/or a petition with 30 signatures appropriate to establish that there is a genuine community-wide interest in the development?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Please see above				

Q13	Is it necessary to limit member call-in? If not, please specific the reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: This is not considered to be a particular problem in the Vale of Glamorgan where currently over 90% of applications are determined under delegated powers.				

Q14	Should delegation panels be introduced as measure to validate member call-in requests?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: This appears overly bearucratic and will lead to unnecessay delays in the planning process				

Q15	Should member call-in be linked to another exception? If not, please specific the reasons and provide a suggested alternative measure.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Members are usually best placed to make these decisions and a requirement to give formal planning reasons for the call in request is considered sufficient.				

--

Joint Planning Boards

Q16	Do you agree that the Welsh Ministers should have the authority to determine the size of the joint planning board membership, providing that size is consistent with that for planning committees?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 This should be a matter to be resolved jointly by the authorities involved who are clearly best placed to make these decisions.

Q17	Do you agree with the proposed population formula for establishing the numbers of members from contributing planning authorities to form the joint planning board?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 This could lead to larger Councils completely dominating the process to the detriment of the smaller partner Council.

Financial Impacts

Q18	Do you have any comments to make about the partial Regulatory Impact Assessment at Annex 1? Are the assumptions made realistic? If not, what figures would be more appropriate?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

General

We have asked a number of specific questions. If you have any related issues or comments which we have not specifically addressed, please use this space to report them:

This would seem to be a form of micro management/interference which in the case of the Vale of Glamorgan Council is not considered necessary and will not

lead to any improvement in the planning process and may well actually slow down and hamper the Councils ability to process applications swiftly.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-e@wales.gsi.gov.uk [Please include ' <i>Planning Committees, Delegation and Joint Planning Boards – WG23070</i> ' in the subject line]
Post
Please complete the consultation form and send it to: Planning Committees, Delegation and Joint Planning Boards Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-e@wales.gsi.gov.uk Telephone: Luke Seaborne on 029 2082 1573

Consultation reference: WG23067

Annex 2 - Consultation Response Form

Review of Planning Application Fees

We want your views on our proposals to ensure local planning authorities have the necessary resources and that they are used in the most efficient and effective way.

This consultation document puts forward proposals for changes to the system of planning fees to help achieve this aim.

Please submit your comments by 16/01/2015.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Owen Struthers on 029 2082 6430.

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.

Consultation reference: WG23067

Review of Planning Application Fees		
Date of consultation period: 06/10/2014 – 16/01/2015		
Name	Marcus Goldsworthy	
Organisation	Vale of Glamorgan Council	
Address	Docks Office Barry CF634RT	
E-mail address	mjgoldsworthy@valeofglamorgan.gov.uk	
Type <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"/>

Q1a	Do you agree with the proposed 15% increase in fees?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 This increase is long overdue and is needed to try and maintain existing services with this Council's Planning Service. It is however likely that the time taken to implement the increase in fees will only lead to further difficult decisions for the Council with regard to the funding of the service.

ThLPA is also not clear of the rationale for proposing 15% when the consultation document acknowledges that the average cost recovery across Wales is 66%. It would be more understandable if LPAs and applicants split the current difference between current and full cost recovery done in Scotland.

Consultation reference: WG23067

Q1b	If not, what do you consider to be a more appropriate change, if any?
<p>Comments:</p> <p>It would be appropriate to build in a future yearly series or fee increases based around RPI for example to ensure that the current situation is not perpetuated where the charging regime remains unchanged for nearly 6 years and reasonable increases in charges are not dependant on waiting for new legislation from WG.</p>	

Q2a	Do you agree that introducing a refund will improve LPA performance?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The Planning (Wales) Bill is currently introducing a number of changes to improve LPA performance. Until these changes are commenced and given a period of time to bed in, it is unacceptable that improvement sanctions are introduced 'by the backdoor'. The LPA will be unwilling to hand back the planning fee so this could lead to more applications being refused to meet the refund determination targets set by WG.

This scenario will be detrimental to all and will do nothing to improve the speed of determination of planning applications, as in most cases major schemes are held up waiting for response from consultees and negotiating changes to the proposals to make them acceptable.

It is likely that this could lead to Councils taking decision to refuse applications when negotiations are ongoing because of a fear of going over the suggested timescales.

moreover at a time when the funding of Planning Departments is becoming increasingly difficult, the threat of having to pay back a large fee will make delivering a service impossible.

There are concerns that under the CIPFA regulations if there is a possibility the fee could be payed back, Councils may have difficulty including any planning fees within calculated future budgets.

Q2b	If you do not agree, what other options are available?
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Comments:
 The option of giving developers a right of appeal for non determination which currently exists allows developers to move the determination of an application to the WG if they feel they are not being properly considered by an LPA.

When trying to improve a service it makes no sense to link a long overdue fee increase to performance.

Q3a	Do you agree with the proposed time period of 16 and 24 weeks?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 See above

Q3b If you do not agree, what do you consider to be an appropriate time?

Comments:
 The principle of refunding a full planning fee is completely unacceptable and will just lead to the system either being abused by applicants to get their fees back or Councils being forced to make decisions because they do not have all the required information and a deadline for refunding the fee is approaching.

Q4a	Do you agree with the proposed fee levels to accompany the discharge of planning conditions?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Charging for the discharge of planning conditions is long overdue and welcomed. the LPA whether the amounts are correct. We would suggest that the fee for

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householder application is waived and that the amount for other applications increased to £100.

Suggest that it may be more appropriate to give a maximum number of conditions that can be discharged at any one time, so that applicants do not save up conditions discharges and then put them all in one go which will just lead to more resource issues for Councils.

Q4b If you do not agree, what do you think constitutes an appropriate amount?

Comments:
 The amount charged should at least mirror that charged in England

Q5 Do you agree with our proposed time period of 16 weeks after which the fee to accompany a discharge of condition would be refunded?

Comments:
 The introduction of fees should not be linked to performance.

Q6	Do you agree with the introduction of a standardised fee to accompany a confirmation that conditions have been discharged?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes although it is questioned whether this is actually needed because it can already be achieved through an application for a certificate of lawfulness under section 191 of the Act.				

Consultation reference: WG23067

Q7a	Do you agree with proposals for the introduction of a set fee to accompany the drafting of a Section 106 planning obligation?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 Local authorities legal teams will be involved in the drafting of Section 106 planning obligations and will have fee charging schedules and hourly rates which have been agreed by the various Councils involved. the LPA Do not consider this is necessary and have never had the fee charged questioned by applicants and moreover the option still exists of submitting a unilateral undertaking using their own legal advisors

Q7b	If you have answered yes, how should this fee be calculated? If not, what are your reasons?
------------	---

Comments:
 The fees for drafting 106 agreements are not generally a problem with applicants and in any many cases a standard tmlplate for agreements is used in any event with the fees based on a solicitors standard hourly rates.

Q8	Do you agree that the fee to accompany a ground (a) appeal should only be payable to the LPA?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 Do not undertand the reasoning behind this suggestion and what it is hoping to achieve?

Q9a	Do you agree that advertisements on broadband cabinets in a specified area should be treated as a single site for the purposes of charging a fee?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: This is legislation for no purpose and moreover it seems unreasonable for a council to have to judge the impacts of a proposed advert in multiple - probably unrelated locations for a single fee? The issue of advertisements on broadband cabinets is only an issue at the present time due to the roll out of Superfast broadband. This is not a category that should warrant special consideration</p>			

Q9b	If you have answered no, please explain why.
<p>Comments: This will cause Councils a significant workload for a single limited fee - if the WG thinks there is a problem with advertisements on broadband cabinets why not include adverts by the broadband provider in the permitted adverts within the advertisement regulations? this would at least reduce work loads for Councils.</p>	

Q10a	Should the applicant be entitled to a free go following approval of a reserved matters application?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Reserved matter applications often generate significant work, and in some cases as much as the original outline application.</p>				

Q10b	If you have answered no, please explain why.
<p>Comments: Often the real issues only develop with applications only once the full details are submitted and this doesn't change when applications are resubmitted after original approvals. At a time when Councils are struggling to deliver a service with ever reducing resources, it seems completely counter productive to allow this situation to perpetuate.</p>	

Consultation reference: WG23067

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Q11a	Do you agree that applications for renewable energy development should have a separate fee schedule to Section 5, Plant and Machinery?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 Would be concerned if such changes reduced the fees payable for ground intensive applications such as solar farms which generate a considerable workload.

Do agree that conversly wind farms which are very expensive for LPAs to process can generate very low fees due to the limited site area coverate of the turbines themselves.

Q11b	Do you agree that wind turbines should also have a separate system of fee calculation?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 The ground coverage of this type of application is limited but the effects and workloads for Councils in determinig the applications is considerable.

Q11c	What factors, or combination of factors, should be taken into account when is calculating the fee for wind turbines?
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Comments:
 A fee based around the size or MW of the turbines to be used - maybe height and number based an alternative could be the site worked out by including all the turbines and their supporting equipment within a contiguous site area.

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Q12a	Do you agree that fees for cross-boundary planning applications should be addressed, with all constituent LPAs receiving fee income?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 this seems fair and would agree with this proposal.

Q12b	If you have answered yes, how should this matter be addressed?
-------------	--

Comments:
 the relevant fee worked for each part of the site within each authority, that way a council gets an equitable fee and the developer is not disadvantaged.

Q13	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 2?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 At para 3.28 the comment is made
 "Overall LPAs will receive a fee more commensurate with the work actually involved in processing and dealing with an application. It is expected that such an increase will allow authorities to ensure resources are appropriately allocated within their planning service. This should improve the speed and quality of decisions made by LPAs".

 This would more appropriately advise that an increase in fees will allow LPAs to try and maintain the service as in the current financial climate it is unlikely that improvements in service will be possible.
 at para 5.21 the following comment is made:
 "Based on the current determination times, LPAs may refund 10% of applications

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that they receive. The fee level will be dependent on the application submitted; however the maximum fee that could be refunded to an applicant is £250,000, but the average fee (assuming all applications pay a fee) is £464. LPAs may therefore refund £4,640 per annum. However it is anticipated that performance will improve over time, reducing the percentage of applications that are refunded. This increase in determinations may also increase the number of refusals, the impact of which is discussed below."

This is completely unrealistic as the types of application where a refund is likely to threaten are major applications of 100 plus houses for example and the effect for Councils could be devastating and would certainly be in excess of £4,640. for example a single application for 115 houses yields a fee of £21000 and the Vale of Glamorgan received 27 major housing applications in the last financial year which if you worked on the 10% figure above could lead to the Council having to refund in the order of £60,000.

Q14

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Comments:

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Planning Fees Consultation – WG23067' in the subject line]

Post

Consultation reference: WG23067

Please complete the consultation form and send it to:

**Planning Fees Consultation
Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please
email: planconsultations-b@wales.gsi.gov.uk or
telephone: Owen Struthers on 029 2082 6430

Number: **WG23161**



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Welsh Government

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Welsh Government

Consultation Document

Design in the Planning Process

Date of issue: **6 October 2014**

Action required: Responses by **16 January 2015**

Overview

This consultation paper seeks the views of stakeholders on how, if the mandatory requirement for Design and Access Statements is removed from the development management process, we can support our national planning policy on design and facilitate the delivery of good design through the planning system.

How to respond

The closing date for replies is **16 January 2015**. You can reply in any of the following ways:

E-mail:

Please complete the consultation response form at Annex 1 and send it to:

planconsultations-a@wales.gsi.gov.uk

[Please include "Design in the Planning Process Consultation" in the subject line.]

Post:

Please complete the consultation response form at Annex 1 and send it to

Design Consultation
Planning Policy Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

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

Further related information can be found here:

Planning Policy Wales
www.wales.gov.uk/topics/planning/policy/ppw/?lang=en

Technical Advice Note 12: Design
<http://wales.gov.uk/topics/planning/policy/tans/tan12/?lang=en>

Positive Planning – Proposals to reform the planning system in Wales
www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en

Contact details

For further information:

Max Hampton

E-mail: planconsultations-a@wales.gsi.gov.uk

Telephone: 029 2082 6166

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.

Purpose of the Consultation

1. The Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment. Positive Planning, our recent consultation paper on reforming the planning system in Wales, set out our vision for a planning system which is positive in outlook and facilitates appropriate well designed development.
2. We established the Design Commission for Wales (DCfW)¹ in 2002 to promote good design. DCfW promotes, educates and disseminates design advice to all those involved in the design of the built environment.
3. Planning Policy Wales (PPW) sets out our national planning policy in respect of promoting sustainability through good design and planning for sustainable buildings, and sets out the role of local planning authorities in delivering good sustainable design. This is supported by the recently updated Technical Advice Note (TAN) 12: Design which provides advice for all those involved in the design of development on how good sustainable design can be facilitated through the planning system. We have a robust national planning policy on design and do not intend to undertake a fundamental review of the design section of PPW or TAN 12.
4. Following research and consultation, the Planning (Wales) Bill proposes the removal of the mandatory requirement for Design and Access Statements (DAS) from primary legislation². However, the requirement for DAS will still remain in secondary legislation³ and hence they will still be required to be submitted with planning applications. This approach gives us flexibility for the future in continuing to require DAS in the short term while we consider more effective ways to continue to raise design standards in the planning process.
5. This consultation paper seeks the views of stakeholders on how we can support our national planning policy on design and facilitate the delivery of good design, and communicate it, through the planning system without the future requirement for DAS.

What are the main issues?

6. The requirement to submit a DAS is set out in legislation; they are a mandatory requirement for many planning applications. The DAS is a communication tool that must explain how both good and inclusive design principles have been considered and applied from the outset of the development process. Building Regulations Part M – Access to and use of buildings, provides guidance on external and internal access to the buildings and the use of their facilities.
7. TAN 12 contains guidance on the preparation of a DAS, including its role and broad content. It was anticipated that the introduction of mandatory

¹ [Design Commission for Wales](#)

² [Town and Country Planning Act 1990](#) and [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

³ [Town and Country Planning \(Development Management Procedure\) \(Wales\) October 2012](#) and [Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012](#)

DAS in 2009 would add value to the planning and design process and would enable various stakeholders (such as local authorities, applicants, local communities and access groups) to engage more effectively in the process, and improve awareness of the various issues that should be considered. It was envisaged that DAS would result in an improvement in the quality, sustainability and inclusiveness of development.

8. In 2010 we published a report by GVA Grimley 'Study to Examine the Planning Application Process in Wales'⁴ which highlighted key criticisms of DAS, such as perceptions regarding the process and additional costs, and recommended that the scope and content of DAS should be clarified in order to speed up and improve the validation of planning applications.
9. In response to the GVA report, the Welsh Government issued a policy clarification letter⁵ which explained that the amount of information submitted within a DAS should be proportional to the development proposal, site location and the issues raised and should not be a reason for additional delays when processing planning applications. However, despite this DAS are still causing significant delays when processing planning applications. There have also been criticisms of DAS from the business and construction sectors in respect of the perceived additional costs associated with them.
10. More recently, the Welsh Government's Framework for Action on Independent Living (launched September 2013)⁶ also cited DAS as being ineffective in promoting the consideration of inclusive access issues through the design process. The Framework included a commitment to undertake a review of the effectiveness of DAS including how they relate to the access requirements under Building Regulations.
11. The Welsh Government commissioned The Urbanists to undertake further research into the effectiveness of DAS in influencing the final design of development proposals as part of the planning application process. This also included consideration of the role of future Building Regulation requirements (Part M Access).

What is the current position?

12. The research 'Review of Design and Access Statements in Wales'⁷ was published in November 2013 and the report makes recommendations for refining and improving the process. The report found that DAS can vary significantly in terms of their quality. Indeed the weight attributed to a DAS became more significant when justifying proposals for potentially complex sites, both in scale and issues, and those located in more sensitive locations. In other cases DAS were often poor quality, only meeting the minimum requirements of the planning authority. The general perception of applicants is that the mandatory requirement for DAS has become a

⁴ [Welsh Assembly Government \(2010\) Study to Examine the Planning Application Process in Wales](#)

⁵ [Welsh Assembly Government \(2010\) Policy Clarification Letter \(CL-03-10\) – Design and Access Statements](#)

⁶ [Welsh Government \(2013\) Framework for Action on Independent Living](#)

⁷ [Welsh Government \(2013\) Review of Design and Access Statements in Wales](#)

box ticking exercise used for validation purposes, having minimal impact on design quality and inclusive access.

13. The report indicates a key positive value of DAS is their role as a communication tool for multiple audiences. These include design officers, police architectural liaison officers, development management officers, access groups, committee members and the public. The research found that DAS have raised the profile of design and inclusive access, and give consistency as to how they are considered and presented in the planning process.
14. The nine recommendations of the report set out how legislation, guidance and procedures can be amended to improve the credibility and efficiency of the process. The primary recommendations, which would require changes to subordinate legislation, are summarised as follows:
 - Retain DAS as a communication tool, but only as a mandatory requirement for applications within certain categories (e.g. listed buildings/designations) and above certain dwelling/size thresholds (e.g. over 10 dwellings)
 - Expand Building Regulations (Part M) to include all external areas within the boundary of the development.
15. The remaining recommendations advise an array of best practice measures such as promoting effective pre-application meetings with developers and the use of stronger planning conditions. In applications below set thresholds, it is recommended that local planning authorities engage with building control colleagues or improved inspectors earlier in the process. This is to ensure that access issues that would affect the design of a proposal are considered from the outset.
16. The recommendations outline a possible way forward, based on retaining the mandatory requirement for DAS for large applications, to deliver the Welsh Government's commitment to good and inclusive design. However, the research has highlighted that there is no significant evidence that DAS are important in attaining good design and that they have done very little to broaden applicants' perception of inclusive access. While DAS have benefits as a communication tool, we are not convinced that this is sufficient reason to retain them as a mandatory requirement for many planning applications and consider resources should be focussed on alternative ways of securing good design and inclusive access. We believe expectations are best delivered through a planning system which is clear and transparent and expects design issues to be considered from the outset. This approach is in line with the ethos of Positive Planning to improve local delivery and promote efficient development management procedures.

Why are we proposing change?

17. The actions arising from the Framework for Action on Independent Living and the preparation of a Planning (Wales) Bill provided an ideal opportunity to review both the requirement and the process, including how DAS sit alongside Building Regulation access requirements. The research paper forms part of the evidence base underpinning the Positive Planning consultation paper⁸ and asked the question 'Should the mandatory requirement for DAS be removed?' which sought to evoke further debate and discussion on this issue.
18. A small majority of respondents (95 in total or 57.6% of those who directly answered the question) said they support the proposed approach. In particular, the majority of the responses from businesses, consultants and local planning authorities agreed with the proposal. Whereas other respondents, including local access groups and community safety organisations, felt DAS should be retained.
19. Respondents highlighted the following criticisms of DAS:
 - time consuming, costly and cumbersome to prepare
 - unnecessary for many applications
 - validation issues cause delays to the planning process
 - content are often too complex, repetitive, and irrelevant
 - not always used by local authority planning officers.
20. The responses also identified the following benefits of DAS:
 - as a communication tool, particularly for larger or more complex planning applications
 - explain design issues and highlight inclusive access and community safety considerations
 - provide a means for local access groups to engage in the planning process.
21. The responses also included a number of suggested alternative measures to promote good design and access that are summarised below:
 - Improving the pre-application process to consider issues of design and inclusive access
 - Improved use of design tools such as design briefs and masterplans
 - The use of Planning Statements
 - Improving local planning authorities' design expertise through training and better design education
 - Develop a more robust design policy
 - Develop an alternative way for assessing whether proposals provide suitable means of inclusive access
 - Amending Building Regulations relating to access.

⁸ [Welsh Government \(2013\) Positive Planning - Consultation Paper](#)

22. A summary of the consultation responses submitted by various stakeholders are published within the Positive Planning Consultation Paper – Summary of Responses Report⁹.
23. Following careful analysis of the consultation responses and taking into account the key findings highlighted in the research, the Planning (Wales) Bill proposes the removal of the mandatory requirement for DAS from primary legislation. The rest of this consultation paper examines, in light of this proposal, the work we are currently undertaking in relation to design and seeks your views on how we can support our existing policies on design and inclusive access, and mainstream the delivery of good design through the planning system, without the need for DAS.

Related Work

24. We have already undertaken a substantial amount of work to promote and facilitate high quality design in the planning system:

- **Sustainable Buildings** - TAN 12: Design has been updated to include key planning guidance on sustainable buildings. We have also worked with DCfW to publish practice guidance¹⁰ on sustainable building techniques which demonstrates how, through the design process, better sustainability standards can be achieved. Building Regulations are also being reviewed to examine how they can increase the sustainability of buildings in Wales.
- **Crime, Community Safety and Security** - National planning policy, TAN 12 and Circular 16/94: Planning out Crime identifies community safety as one of the key aspects of good design. Our policy position on this matter has not changed. Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take.

We have supported action to design out crime in new housing for a number of years by requiring Secured by Design for social housing development funded by social housing grant.

We are currently giving consideration to the introduction of a mandatory standard of robustness for the security of windows and doors, through Building Regulations, for new domestic dwellings.

- **Heritage** - We are reviewing Planning Policy Wales Chapter 6: Conserving the Historic Environment. The revised chapter will be supported by a TAN on the Historic Environment. Both documents will complement the Heritage Bill and be consulted upon in 2015 after the Bill is introduced to the National Assembly for Wales.

⁹ [Welsh Government \(2014\) Positive Planning - Summary of Responses](#)

¹⁰ [Welsh Government \(2014\) Practice Guidance: Planning for Sustainable Buildings](#)

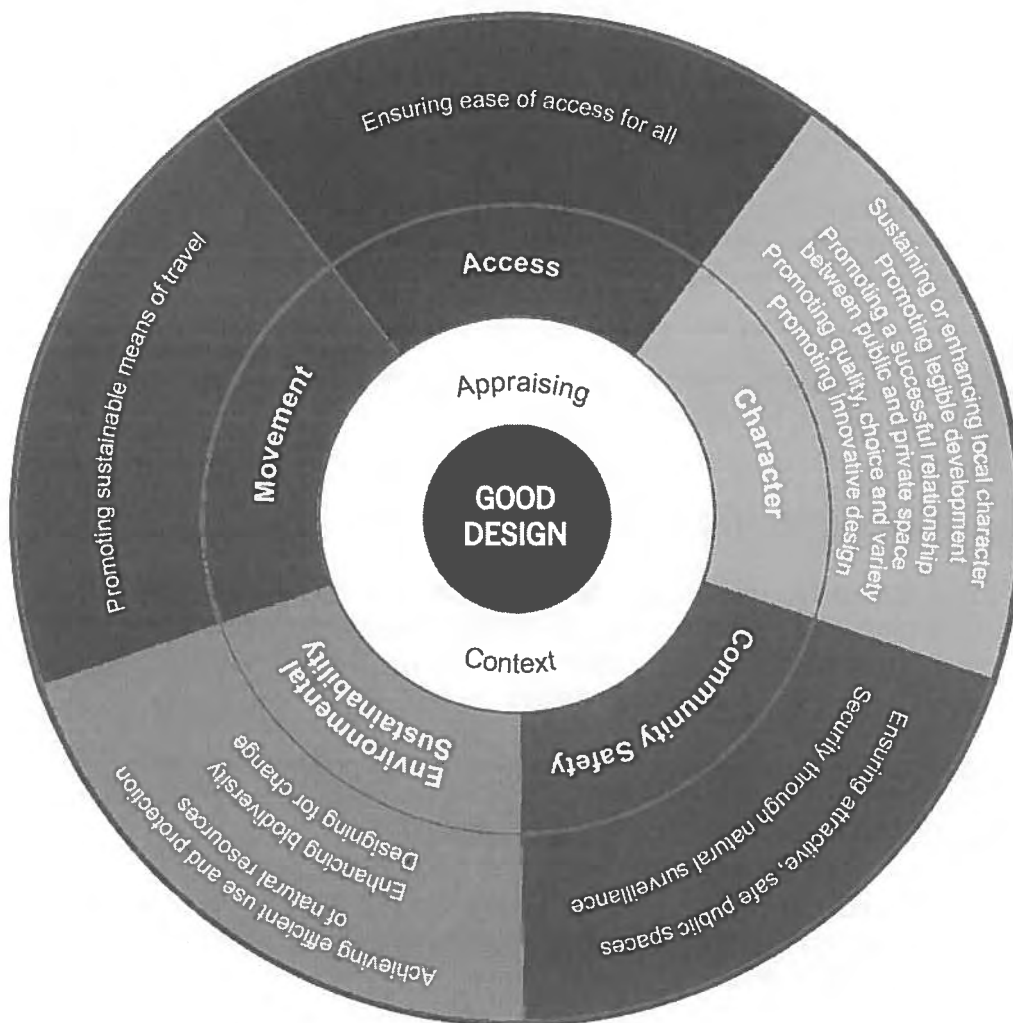
- **Green Infrastructure** - Green Infrastructure is a network of high quality green and blue water spaces and other environmental features. We are currently preparing clarification advice on how our existing policy and guidance can facilitate well designed Green Infrastructure.

What are we seeking your views on?

Design Quality

25. PPW and TAN 12 categorise five key objectives of good design and provide guidance on how to respond to these objectives following an appraisal of the context.

Objectives of Good Design



Our aim is that all new development meets the objectives of good design. We would like to ascertain whether the planning system is effectively delivering this aim.

Q1 Is the planning system effectively delivering the five key objectives of good design? Give reasons for your answer.

Local Development Plans

26. Local development plans should set out a vision-based strategy for the plan area. PPW sets out that development plans should provide clear policies setting out the design expectations of local planning authorities for various places and development proposals supported by the local development plan vision. Local planning authorities should encourage good quality design of buildings and spaces in their policies and should use these to eliminate poor quality development.
27. DCfW has produced a guide 'Good Design and the Local Development Plan Process'¹¹ with general principles on what to consider in developing a local development plan in order to achieve good quality places.
28. In the Positive Planning consultation we proposed issuing a suite of national development management policies to ensure that future local development plans are reviewed quickly.

Q2 Do you agree that a national development management policy on design would be beneficial?

Supplementary Planning Guidance

29. Local authorities can prepare area and site specific supplementary planning guidance, such as urban design frameworks and masterplans, to guide development in key areas or provide guidance on the way in which a particular site should be developed.
30. The 'Review of Design and Access Statements in Wales' identified that area or site specific guidance, such as masterplans and development briefs, can have a positive influence on design.
31. We propose to promote the use of area and site specific plans which seek to facilitate appropriate development and improve the design of development at an early stage in the design process.
32. TAN12 states that site context is the basis for a meaningful and sustainable design response. Site analysis, as identified in PPW, TAN 12 and Practice Guidance: Planning for Sustainable Buildings, is therefore the key starting point in the process of achieving good quality design. We therefore propose to run specific training events and produce practice guidance on this issue in order to assist the development industry and local planning authorities in this area.

¹¹ [Design Commission for Wales \(2012\) Good Design and the Local Development Plan Process](#)

Q3 Are area and site specific plans, such as masterplans, being used to positively plan for key development? Can you highlight areas of good practice?

Q4 Do you agree that the Welsh Government should produce practice guidance on the process of site analysis to inform the development of well designed proposals?

Front Loading / Pre-applications

33. Our proposals set out in Positive Planning outlined a number of proposals designed to promote 'frontloading' in the Development Management system.
34. The 'Review of Design and Access Statements in Wales' indicated that pre-applications are an important tool for planners to be able to proactively shape the quality of design of new development. Pre-application discussions enable design and access issues to be identified earlier in the process and to be addressed in the design stage rather than when the planning application has been submitted.
35. Practice Guide: Realising the Potential of Pre-application Discussions¹² provides advice to applicants and local planning authorities on how to make the most of pre-application discussions.
36. We are consulting separately on the processes associated with pre-application discussions. However, as part of this consultation we are seeking to identify how to ensure that pre-application discussions improve design.

Q5 How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?

Planning Applications

37. PPW sets out that the visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. It states that local planning authorities should reject poor building and contextual designs¹³.

¹² Welsh Government (2012) Practice Guide: Realising the Potential of Pre-application Discussions

¹³ Welsh Government (2014) Planning Policy Wales (Edition 7)

38. We believe that PPW provides a robust national planning policy on design and, along with the advice in TAN 12 on achieving the key objectives of good design; local planning authorities have a strong basis to assess planning applications. We would like to identify ways in which we can further assist local planning authorities, and others involved in the design of development, in the assessment of planning proposals.

Q6 Other than further training or additional practice guidance what additional tools would assist you in assessing the quality of design in planning proposals?

Access

39. National planning policy identifies that a key objective of good design is ensuring ease of access for all¹⁴. The principles of inclusive design are that it places people at the heart of the design process, acknowledges diversity and difference, offers choice where a single design solution cannot accommodate all users, provides for flexibility in use, and provides buildings and environments that are convenient and enjoyable to use for everyone.

40. Most improvements to access arrangements are likely to be achieved during the design process before a planning application is submitted. We propose a new question on the 1APP planning application form to identify where inclusive access has not been achieved and space to provide reasons why this was not possible.

41. The evidence has shown that applicants have routinely included statements regarding inclusive access within a DAS, however the issue has often been a 'bolt on' and not considered appropriately from the outset. The proposed amendments to the 1APP form will ensure that access issues are considered from the outset, and will reduce the burden of having to submit unnecessary information where inclusive access is agreed not to be an issue.

Q7 Do you agree that the amendments to the 1APP form will ensure inclusive access issues are considered in development proposals?

Q8 What information or other measure would assist local planning authorities assess planning proposals in terms of inclusive access?

¹⁴ [Welsh Government \(2014\) Planning Policy Wales \(Edition 7\)](#)

Design Commission for Wales and Planning Advisory and Improvement Service

42. DCfW¹⁵ promotes, educates and disseminates design advice to all those involved in the design of the built environment. DCfW provides bespoke training for local planning authorities, consultants and the private sector. DCfW also provides a free expert design review and consultation service, which allows early consultation with its independent expert team. DCfW also publishes case studies and produces good practice guides on design related issues.
43. We are in the process of establishing a national Planning Advisory and Improvement Service (PAIS)¹⁶ which will have a co-ordinating role in identifying and disseminating good practice and standards and assisting in sharing expertise and resources between local planning authorities.

Q9 How can the PAIS and DCfW mainstream good design and inclusive access in the planning process?

Design Skills and Good Practice

44. It is important that local planning authorities have the skills to enable good quality development and raise the standard of design. Local planning authorities have a key role in developing design policies and guidance, helping applicants and potential applicants to respond effectively to the planning and design process and in determining planning applications. It is important that a team approach to achieving good quality development is employed by local planning authorities. The sharing of knowledge and skills, including input from the necessary departments, including decision makers and elected members is essential. This will maximise both the understanding of the importance of good design and ensure it is delivered on the ground.
45. The 'Review of Design and Access Statements in Wales' identified that design training and education can have a positive influence on design.
46. TAN 12 provides advice on how good design can be facilitated through the planning system. We would like to support this by working with the PAIS and DCfW to raise the design skills of local planning authority planners, and other built environment professionals, and increase the design awareness of elected members.
47. We already know about a significant amount of existing good practice on design and inclusive access but believe that it is important to continue to identify best practice to ensure that we learn from the best examples across Wales and elsewhere. We would like to use this consultation to identify further examples of best practice in relation to achieving good design and inclusive access.

¹⁵ [Design Commission for Wales](#)

¹⁶ [Welsh Government \(2014\) Planning Advisory and Improvement Service](#)

Q10 How can we continue to raise the design skills of local authority officers and members and what further specific training is required?

Q11 Is there scope for local planning authorities to work differently or more collaboratively on design issues? Do you know of any existing activity in this area?

Q12 Can you highlight areas of good practice, from Wales or elsewhere, relating to any of the above, which promote and/or lead to the achievement of good design and inclusive access?

Design and Access Statements

48. In light of the issues identified above we propose to remove the need to submit a DAS with any planning application and consider our proposed actions are more likely to achieve good design and inclusive access. We are seeking your views on the effectiveness of these measures in achieving our aims.

Q13 Are there any benefits in retaining the requirement for Design and Access Statements for particular applications?

Q14 Should the mandatory requirement for Design and Access Statements be removed from secondary legislation? Give reasons for your answer.

Q15 We have asked a number of specific questions. If you have any related issues or ways which design can be improved through the planning system which we have not specifically addressed, please let us know.

Consultation questions

49. Questions relating to this consultation are set out below. If you wish to respond please complete the Consultation Response Form at Annex 1.

50. Responses to consultations may be made public on the internet or in a separate report. If you would prefer your response to be kept confidential please indicate this by ticking the relevant box on the response form.

Q1	Is the planning system effectively delivering the five key objectives of good design? Give reasons for your answer.
Q2	Do you agree that a national development management policy on design would be beneficial?
Q3	Are area and site specific plans, such as masterplans, being used to positively plan for key development? Can you highlight areas of good practice?
Q4	Do you agree that the Welsh Government should produce practice guidance on the process of site analysis to inform the development of well designed proposals?
Q5	How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?
Q6	How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?
Q7	Do you agree that the amendments to the 1APP form will ensure inclusive access issues are considered in development proposals?
Q8	What information or other measure would assist local planning authorities assess planning proposals in terms of inclusive access?
Q9	How can the PAIS and DCfW mainstream good design and inclusive access in the planning process?
Q10	How can we continue to raise the design skills of local authority officers and members and what further specific training is required?

Q11	Is there scope for local planning authorities to work differently or more collaboratively on design issues? Do you know of any existing activity in this area?
Q12	Can you highlight areas of good practice, from Wales or elsewhere, relating to any of the above, which promote and/or lead to the achievement of good design and inclusive access?
Q13	Are there any benefits in retaining the requirement for Design and Access Statements for particular applications?
Q14	Should the mandatory requirement for Design and Access Statements be removed from secondary legislation? Give reasons for your answer.
Q15	We have asked a number of specific questions. If you have any related issues or ways which design can be improved through the planning system which we have not specifically addressed, please let us know.

Number: WG23314



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Consultation Document

Frontloading the development management system

Date of issue: 6 October 2014

Action required: Responses by 16 January 2015

Overview

This consultation seeks your views on the detailed operation of the pre-application processes introduced by sections 15 and 16 of the Planning (Wales) Bill. It also seeks the views of stakeholders on how powers provided in the Bill and the Planning and Compulsory Purchase Act 2004 can facilitate improved service delivery from statutory consultees.

How to respond

The closing date for responses is 16 January 2015. You can respond in any of the following ways:

Email:

Please complete the consultation form at Annex 2 and send it to:
planconsultations-c@wales.gsi.gov.uk

(Please include "Frontloading the development management system" in the subject line)

Post:

Please complete the consultation response form at Annex 2 and send it to:

Frontloading the development management system consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff CF10 3NQ

Further information and related documents

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

Positive Planning – Proposals to reform the planning system in Wales
www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en

Contact details

For further information please contact:

Email: planconsultations-c@wales.gsi.gov.uk
Telephone: Alan Groves on 029 2082 5362

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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1. Frontloading the development management system

- 1.1 Positive Planning, the Welsh Government's consultation paper on reforming the planning system in Wales, outlined a number of proposals designed to promote "frontloading" in the Development Management system¹.
- 1.2 Frontloading aims to ensure that planning applications proceed smoothly and quickly once they are formally submitted to the determining authorities. The idea is that any significant planning issues are raised prior to the submission of a formal application. This provides applicants with the opportunity to consider these issues and, if necessary, amend their proposals before they are finalised and submitted as planning applications. Another key benefit of frontloading is that it provides the community with an early opportunity to engage with developers at an early stage in the development process.
- 1.3 The Planning (Wales) Bill (the Bill) introduces new pre-application processes that will be key to the delivery of effective frontloading. Provisions in the Bill will place a duty on applicants to carry out pre-application consultation with the community and specified consultees (specified consultees will effectively comprise statutory consultees²), and introduce a new statutory requirement for local planning authorities (LPAs) to provide pre-application services to applicants. The relevant provisions are sections 15 and 16 of the Bill.

Purpose of the consultation

- 1.4 This consultation sets out the detailed proposals that will be brought forward in subordinate legislation on receipt of the powers that are proposed in the Bill. It specifically seeks the views of stakeholders on the detailed operation of the pre-application processes introduced by sections 15 and 16 of the Bill. The following paragraphs provide a reminder of the policy intention behind these powers.

¹

<http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/towardsawelshplanningact/?lang=en>

² See Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 for current list of statutory consultees
<http://www.legislation.gov.uk/wsi/2012/801/part/4/made>

Requirement to carry out pre-application consultation (section 15 of the Bill)

- To ensure that developers provide the local community with the opportunity to comment on development proposals, and consult specified consultees, before planning applications are formally submitted to LPAs. This pre-application engagement aims to reduce the time taken to determine planning applications, improve the quality of planning applications, help to promote public confidence in the planning system, and encourage a collaborative approach to considering development proposals.
- To impose a duty on statutory consultees to ensure that they respond to pre-application consultation requests within specified timescales, provide substantive responses to pre-application consultation requests, and report their performance to the Welsh Ministers.
- To require developers to submit a “pre-application consultation report” with any subsequent planning application.

Requirement to provide pre-application services (section 16 of the Bill)

- This provision applies to LPAs and the Welsh Ministers (the Bill provides powers for the Welsh Ministers to determine planning applications for Developments of National Significance and Direct Planning Applications).
- The intention is to place a statutory duty on the Welsh Ministers and LPAs to provide a pre-application service when the service is requested by prospective applicants.

1.5 This consultation paper is only concerned with how this provision relates to LPAs. A separate consultation paper will discuss the role of the Welsh Ministers in the context of Developments of National Significance.

Other issues

1.6 In order for the frontloading approach to be effective, it relies on timely and comprehensive responses from consultees. Part 4 of the consultation paper provides further detail and seeks the views of stakeholders on how powers provided in the Bill and the Planning and Compulsory Purchase Act 2004 (PCPA) can facilitate improved service delivery from statutory consultees.

Design and Access Statements

- 1.7 Section 27 of the Bill removes, from primary legislation, the mandatory requirement for Design and Access Statements to be submitted with planning applications. We are consulting separately on potential measures to support our national planning policy to facilitate the delivery of good design and inclusive access through the planning system. This includes the role of pre-application discussions.

2. Requirement to carry out pre-application consultation

The type of development affected

- 2.1 We want the pre-application consultation process to be proportionate to the scale and complexity of development, and we do not want it to place an unnecessary burden on developers. Therefore the intention is that the procedure will only apply to major development proposals that would result in planning applications for full or outline permission. The procedure will apply to Developments of National Significance (DNS) and direct applications.
- 2.2 Major development is defined in article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPO)³.

Question 1

Do you agree that all “major” development should be subject to pre-application consultation?

Publicising the development proposal

- 2.3 Section 15 of the Bill places a duty to “publicise the proposed application in such a manner as the applicant reasonably considers likely to bring it to the attention of a majority of the persons who own or occupy premises in the vicinity of the land”. The intention is to ensure the immediate community are provided with an opportunity to comment on development proposals before they are formalised as planning applications.
- 2.4 As stated above, we do not want this process to overburden developers but we do want to secure effective publicity. Therefore we propose that the minimum publicity requirements will comprise the following:
- Site notice(s)
 - Letters to neighbours, all local ward members, any town or parish councils
- 2.5 Welsh Office Circular 32/92, “Publicity for planning applications”, provides guidance for LPAs on the interpretation of statutory publicity, including neighbour notification. We consider that the requirement to

³ <http://www.legislation.gov.uk/wsi/2012/801/article/2/made>

notify neighbours by letter and to issue site notices will follow the advice in the Circular.

- 2.6 The site notice(s) and letters would need to contain the following information:
- (i) 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.
 - (ii) A description and address of the proposed development.
 - (iii) The address of a building in the locality where a hard copy of plans and any relevant supporting information will be made available for public viewing for the duration of the consultation. Details of opening times will need to be provided. Developers will also be encouraged to make the plans and supporting information available on the web.
 - (v) The timescales for response (this will be a minimum of 21 days)
 - (vi) A postal address and e-mail address for the submission of any comments.
 - (vii) A statement explaining that any comments submitted to the developer may be placed on the public file.
 - (viii) A statement to clarify that the LPA will publicise any resulting planning application, providing the public with an opportunity to comment directly to the LPA.
- 2.7 The level of detail required for both the publicity and consultation requirements in terms of plans and supporting information will be the same as would be required for any subsequent planning application, as set out on the relevant 1APP application form. The intention is that sufficient information is provided to enable informed representations and feedback to the developer.

Question 2

Do you agree that the issue of neighbour letters and site notices should follow the guidance in Circular 32/92? If not, how should the notification process operate?

Question 3

Do you agree that 21 days is an appropriate timescale to allow responses to pre-application consultation?

Question 4

Would LPA offices be an appropriate location for viewing a hard copy of the plans and supporting information? If not, where should hard copies of plans and supporting information be made available for public viewing?

Consultation with “specified persons” (statutory consultees)

- 2.8 For the purposes of section 15 of the Bill, “specified persons” will comprise a list of statutory consultees similar to those set out in schedule 4 of the DMPO. The list of consultees in schedule 4 is subject to review.
- 2.9 As is the case for consultations before the grant of planning permission under schedule 4, developers will only be required to consult statutory consultees when developments of a specified scale and description are proposed.
- 2.10 The developer will be expected to provide the following to the consultee:
- A letter (hard copy or sent by e-mail) confirming the purpose of the consultation.
 - The description and address of the proposed development.
 - A copy of the relevant plans and supporting technical information.
 - Confirmation of the timescales for response (21 days).
 - A postal address and e-mail address for replies and queries.

Question 5

Do you agree that 21 days is an appropriate timescale for consultees to respond?

Question 6

Should provision be made for a time extension when this is agreed in writing between the developer and consultee?

Duties placed on statutory consultees

- 2.11 A duty will be placed on “specified persons” (statutory consultees), when consulted under the pre-application consultation process, to provide a “substantive response” to the developer within the specified timescale, likely to be 21 days.
- 2.12 “Specified persons” will also be required to report to the Welsh Ministers on their performance in providing timely “substantive” responses to developers.

- 2.13 The duty to provide timely “substantive responses” is similar to that placed on statutory consultees by section 35 of the Bill, which inserts a new section 100A into the Town and Country Planning Act 1990. Part 4 of this paper provides more detail of the new duties placed on statutory consultees.

Duty on the developer to provide a pre-application consultation report (PAC)

- 2.14 The pre-application consultation report is the means of formally reporting the process and outcome of pre-application consultation. The developer will need to submit the report to the determining body with the resulting planning application.

- 2.15 The pre-application consultation report will need to contain the following:

(i) A photocopy of the site notice, publicity letter and letters to local members, town councils, parish councils, and statutory consultees.

(ii) A list of addresses of those persons notified of the proposal.

(iii) Details of any additional non-statutory notification.

(iv) A summary of the material planning 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 terms of summarising material planning issues, the developer will not be required to address each individual comment made by respondents. Instead, a summary of the main material planning considerations will be provided.

(v) Copies of responses from specified consultees. The developer must indicate in the report how the comments of 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.

Question 7

Are there any other issues that should be included in the pre-application consultation report? If so, please identify these issues and explain why they should be included in the PAC.

Validation of pre-application consultation report

- 2.16 The Bill requires all planning applications that are subject to the pre-application consultation procedure to be accompanied by a PAC. LPAs will be unable to validate an application where PAC requirements apply but compliance with these requirements has not been demonstrated.

3. Requirement to provide pre-application services

What type of development proposal would be subject to the statutory pre-application service?

- 3.1 We consider that the statutory pre-application service would apply to development proposals that would need an application for planning permission in order to be implemented.
- 3.2 In terms of householder development this means that general permitted development (PDR) queries will not be dealt with through the new statutory process. Instead, it is expected that LPAs will continue to provide advice on PDR enquiries as part of their planning service.
- 3.3 The type of householder proposals that will be dealt with through the statutory pre-application service are those where the applicant considers that planning permission is required but would like advice on issues such as design or amenity.

The pre-application enquiry form

- 3.4 All requests using the statutory pre-application service must be submitted on a pre-application enquiry form which, as a minimum, will need to secure the following information:
 - (i) Contact details of developer/agent (name, address, tel. no. e-mail address).
 - (ii) Description of development, to include volume of floorspace, number of units being created.
 - (iii) Site address.
 - (iv) Location plan (on OS base).
 - (v) Plans, additional supporting information and reports that will assist the LPA to provide a helpful, focussed response. (Developers will obviously benefit from providing the LPA with as much information as possible in order to facilitate an informed response). Enquiries relating to householder development will need to be supported by elevation drawings.
- 3.5 Only enquiries that are submitted on the pre-enquiry form will be able to access the statutory pre-application service.
- 3.6 LPAs may wish to add fields on their pre-application enquiry form to secure additional information but only (i) to (v) must be complied with by the prospective applicant.

Question 8

Do you agree that the information specified in paragraph 3.4 will be sufficient to allow the LPA to respond?

Maintaining records of the pre-application service

- 3.7 In order to facilitate consistent pre-application advice, we will require LPAs to maintain a record of all pre-application enquiries, responses, and meeting notes. The record should be linked to the relevant parcel of land or property (the site address) in order to provide a spatial record that will inform subsequent planning history searches. The records will not need to be published but may be subject to requests under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Question 9

Do you agree that LPAs should maintain spatial records of pre-application enquiries?

Publicising the pre-application service

- 3.8 LPAs will be required to publish the details of their statutory pre-application service on their web pages. The pre-application enquiry form will also need to be accessible from LPA websites. Hard copies should be made available when requested.

The LPA response

- 3.9 The LPA will be required to provide an initial written response and an offer of an hour long meeting to discuss the written response and any other issues. Within 7 days of the meeting, the LPA will provide a written note of the meeting to the developer.

Content of written response

- 3.10 When the LPA receives an enquiry, submitted on a completed pre-application enquiry form, we consider that the following details, as a minimum, will need to be provided in a written response:
- i. The planning history of the development site.
 - ii. The relevant development plan policies against which the development would be assessed.
 - iii. Any relevant supplementary planning guidance.
 - iv. Any other material planning considerations.

- v. Whether the Council is likely to seek any contributions under S106 of the Planning Act – the scope of these contributions and the anticipated amount of any financial contributions.
- vi. The information that will be required to enable validation of any subsequent application.
- vii. An informal, without prejudice written summary of the views of the Case Officer that will address the merits of the proposal in the context of i, ii, iii & iv and v.

Question 10

Should the written response from the LPA contain any other information?

Timescale for response

- 3.11 We consider that 21 days from receipt of a valid pre-application enquiry will provide an adequate period for the LPA to respond.

Question 11

Do you agree that 21 days provides the LPA with sufficient time to provide a written response that meets the requirements set out in paragraph 3.10?

Meeting

- 3.12 On receipt of a valid application, the LPA will send an acknowledgement to the prospective applicant, and will provide 2 meeting dates. The meeting dates will be within 28 days but after 21 days of the date of receipt of a valid pre-application enquiry, this ensures that the prospective applicant is in receipt of the written response from the LPA before meeting.
- 3.13 The prospective applicant will need to respond to the LPA within 7 days of receipt of the acknowledgement letter to either:
- (i) state that a meeting will not be required;
 - (ii) accept one of the meeting dates; or
 - (iii) explain that neither date is acceptable and request the offer of an alternative date.

If (iii) applies, the LPA will need to contact the prospective applicant to arrange an alternative meeting date.

Question 12

Do you agree that the timescales and process for the pre-application meeting is appropriate?

Additional pre-application requests

- 3.14 Any requests for further meetings or written advice from the LPA would be outside the scope of the statutory service. But we will encourage LPAs to respond positively to such requests. We consider that any additional pre-application requests should not attract a charge. However we note that, as discretionary services, they may be subject to a charge under Section 93 of the Local Government Act 2003. If LPAs decide to charge for additional meetings or advice, all charges must accord with the provisions in Section 93.

Role of local members

- 3.15 The Welsh Government has produced a guidance note to encourage pre-application discussions⁴, it provides advice on the involvement of local members at pre-application stage. Additionally, the Welsh Government will be part of a steering group, to include the Welsh Local Government Association and the Planning Officers Society Wales, which will establish a protocol for involvement of local members in the development management process. It is expected that the protocol will address the role of local members in pre-application discussions for major development proposals.

Fees for the statutory pre-application service

- 3.16 We consider that LPAs should be able to recover the cost of providing the pre-application service. But we recognise that it is important to ensure that charges do not discourage prospective applicants from engaging with LPAs at the pre-application stage.
- 3.17 We will set standard national fees for the statutory pre-application service. We recognise that a number of LPAs already charge for pre-application advice, using powers under Section 93 of the Local Government Act 2003.
- 3.18 As any charges under Section 93 must be on a cost recovery basis, it seems reasonable to base any standard national fee for the statutory pre-application service on existing discretionary charges.

⁴ <http://wales.gov.uk/topics/planning/policy/guidanceandleaflets/preappguide/?lang=en>

- 3.19 We are seeking views on whether proposals for householder development that are submitted to the pre-application service should be exempt from any fee.
- 3.20 We have investigated whether fees could be based on a percentage of the equivalent planning application fee. The problem with this approach is that, for certain developments, it can result in pre-application fees that are excessively low or high. But we welcome ideas on how fees for the statutory pre-application service should be calculated.

Question 13

Do you agree that the fee for the statutory pre-application service should be based on existing discretionary charges? If not, how should fees for the statutory pre-application service be calculated?

Question 14

Should householder development proposals that are submitted to the statutory pre-application service be exempt from a fee?

4. Statutory consultees

- 4.1 The IAG report⁵ found significant concern that statutory consultees delay decision making on planning applications by providing late responses to consultation requests, disproportionate responses and unclear recommendations. To address these concerns, IAG report recommends that, “The Planning Bill places a duty on such statutory consultees to contribute positively to the efficient and effective functioning of the planning system”.
- 4.2 Sections 15 and 35 of the Bill respond to this recommendation. As discussed in paragraph 2.11 we intend to use the powers in section 15 (Requirement to carry out pre-application consultation) to place a duty on “specified persons” (statutory consultees) to provide timely, substantive responses to developers. These “specified persons” will also be required to report to the Welsh Ministers on their performance in providing such responses.
- 4.3 Section 35 makes provision for consultation relating to applications for the approval of reserved matters, the discharge of planning conditions, and applications made under section 96A (4) of the Planning Act (non-material changes to planning permission). It provides that when a statutory consultee is consulted on such applications they must provide a substantive response. The response must be provided within a prescribed period or as agreed in writing between the LPA and consultee. Section 35 provides powers to set out, in a development order, the requirements of a “substantive” response, and to require statutory consultees to report to the Welsh Ministers on their compliance in providing a “substantive response” within a specified timescale. It also provides that a development order can set out the information that LPAs need to provide statutory consultees to allow them to carry out their duties.
- 4.4 In addition to the commencement of sections 15 and 35 of the Bill, we also intend to commence section 54 of the PCPA. Section 54 is another legislative provision that places duties on statutory consultees in recognition of their key role in the planning system. It introduces a requirement on statutory consultees to provide a substantive response within a prescribed period to consultation requests that relate to development proposals for the grant of any permission, approval or consent under the planning Acts. Section 54 also gives the Welsh Ministers the power to require reports on the performance of consultees in meeting their response deadlines.

⁵

<http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/towardsawelshplanningact/?lang=en>

4.5 Section 54 is already in force in England. Our intention is to commence section 54 of the PCPA by June 2015.

“Substantive response”

4.6 We need to establish a definition of “substantive response” for the purpose of commencing section 54 of the PCPA in Wales.

4.7 Article 20 of the DMPO (England) states that a substantive response is one which -

- (a) states that the consultee has no comment to make;
- (b) states that, on the basis of the information available, the consultee is content with the development proposed;
- (c) refers the consultor to current standing advice by the consultee on the subject of the consultation; or
- (d) provides advice to the consultor.

4.8 But, informed by the IAG report, which 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, we consider that this definition of a “substantive response” is too general. In particular, we consider that the provision of standing advice does not necessarily provide developers, LPAs, or other stakeholders with sufficient site specific information to provide certainty that the consultee has given the development due consideration. There remains a risk that outstanding technical issues could prevent development proceeding.

4.9 Instead we are considering the following definition of “substantive response” as one which:

- (i) states that the consultee has no comment to make, with reasons why this is the case;
- (ii) states that, on the basis of the information available, the consultee is content with the development proposed;
- (iii) provides advice to the consultor, the advice to include –
 - (a) in cases where the proposal raises significant concerns that would result in an objection being raised by the consultee, the reason for the objection; or
 - (b) how the developer can address specific concerns or issues in order to enable the proposal to proceed.

Commencement of section 15 and 35 of the Planning (Wales) Bill and “substantive response”

4.10 Once section 54 of the PCPA is commenced, consultees will have a statutory duty to provide timely, substantive responses to consultation

requests. The subsequent commencement of sections 15 and 35 of the Bill will introduce similar requirements at pre-application and post-submission stages.

- 4.11 So following commencement of section 54 of the PCPA and the subsequent commencement of sections 15 and 35 of the Planning (Wales) Bill, statutory consultees will be responsible for providing a substantive response at :
1. Pre-application stage (section 15 of the Bill),
 2. Planning application stage (section 54 of the PCPA), and
 3. Post-determination stage (i.e. approval of discharge of conditions, approval of reserve matters, and non-material changes to planning permissions – section 35 of the Bill.)
- 4.12 At planning application stage, as proposed in Positive Planning, we will restrict the responses of statutory consultees when they have already provided comments in carrying out their duties under the stage 1, the pre-application stage (section 15 of the Bill).
- 4.13 The result is that at planning application stage, there will be 2 different categories of “substantive response”, depending on whether the scheme has been subject to the statutory pre-application consultation process.
- 4.14 The intention is that once section 54 of the PCPA, and sections 15 and 35 of the Planning (Wales) Bill are commenced, the following definitions of “substantive response” will be adopted in a development order.

1. Pre-application stage

- 4.15 A “substantive response” will either :
- (i) confirm that the consultee has no comment to make, with reasons why this is the case;
 - (ii) state that, on the basis of the information available, the consultee is content with the development proposed; or
 - (iii) provide advice to the consultor, the advice to include –
 - (a) in cases where the proposal raises significant concerns that would result in an objection being raised by the consultee, the reason for the objection; or
 - (b) how the developer can address any concerns or issues in order to enable the proposal to proceed.

2. Planning application stage

2(a) In cases where a planning application is not subject to statutory pre-application consultation

- 4.16 A substantive response would be :

- (i) the consultee has no comment to make, with reasons why this is the case;
- (ii) on the basis of the information available, the consultee is content with the development proposed;
- (iii) provides advice to the consultor, the advice to include –
 - (a) in cases where the proposal raises significant concerns that would result in an objection being raised by the consultee, the reason for the objection; or
 - (b) how the developer can address any concerns or issues in order to enable the proposal to proceed.

2(b) In cases where a planning application is subject to statutory pre-application consultation

4.17 A substantive response would be :

- (i) the consultee confirms that they are satisfied with the development proposed;
- (ii) that the objection remains (the consultee must provide a reason(s) for the objection) ;
- (iii) that the concerns raised at pre-application stage remain, the consultee must then identify how these concerns can be addressed by the developer;
- (iv) the consultee identifies new issues with the proposal, explains what these new issues are, states why they were not raised at pre-application stage, and addresses the following:
 - (a) does the new issue(s) raise significant concerns that would result in an objection being raised by the consultee (the consultee must state the reason for the objection); or
 - (b) how the developer can address any concerns or issues in order to enable the proposal to proceed

3. Post – determination stage

4.18 A substantive response would be:

- (i) the consultee has no comment to make, with reasons why this is the case;
- (ii) on the basis of the information available, the consultee is content with the proposal; or
- (iii) the consultee explains why the information provided cannot be approved.

Question 15

Do you agree with our definitions of “substantive response”?

Timescales for response

- 4.19 Article 14 of the DMPO provides that, when LPAs are required to consult statutory consultees they must provide at least 14 days for a response. But in practice LPAs provide statutory consultees with 21 days to respond, this timescale is the same as the notification periods detailed in articles 21 1(a) and (b) of the DMPO.
- 4.20 To reflect current practice and as sections 15 and 35 of the Planning Bill, and section 54 of the PCPA will place a new legal duty on statutory consultees to provide a substantive response to consultation requests, it is considered reasonable to provide 21 days for statutory consultees to respond to the following :
- (i) consultation requests from applicants in respect of statutory pre-application consultation (section 15 of the Planning (Wales) Bill);
 - (ii) consultation requests from LPAs and other determining bodies when determining planning applications (section 54 of the PCPA);
 - (iii) consultation requests from LPAs and other determining bodies in relation to approval of discharge of conditions, approval of reserve matters, and non-material changes to planning permissions.

Question 16

Do you agree that 21 days is a reasonable timescale for statutory consultees to provide a “substantive response” to consultation requests?

Performance reports

- 4.21 Using the powers under sections 15 and 35 of the Bill, and section 54 of the PCPA, we will require statutory consultees to submit a report to the Welsh Ministers on their compliance with their legal duties at each stage of the planning application process: pre-application, planning application and post-determination stages.
- 4.22 The intention is that:
- The reporting period will cover 12 months, starting on 1 April.
 - The report will need to contain, for the reporting period, the number of occasions when a substantive response was requested, the number of substantive responses provided and the time taken to provide the substantive response.
 - The report will need to be submitted to the Welsh Ministers by May 1 of each year for the preceding reporting period.

Question 17

Do you have any comments on the content of the performance report

Number: WG23070



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Welsh Government

Consultation Document

Planning committees, delegation and joint planning boards

Date of issue: 6 October 2014

Action required: Responses by 16 January 2015

Overview

This consultation paper contains our proposals to reform the planning application determination process through the introduction of secondary legislation and guidance.

The consultation paper in particular identifies the need to standardise which decisions are delegated to officers and the size and make-up of planning committees across Wales.

It also seeks views on the size and make-up of joint planning boards and strategic planning panels.

How to respond

The consultation paper includes a set of specific questions to which the Welsh Government would welcome your response.

The closing date for replies is **16 January 2015**.

Responses are welcome in either English or Welsh and should be sent by email or post to the address below to arrive no later than **16 January 2015**.

You can reply in any of the following ways.

Email:

Please complete the consultation response form (Annex 2) and send it to:

planconsultations-e@wales.gsi.gov.uk

(please include 'Planning committees, delegation and joint planning boards - WG23070' in the subject line)

Post:

Please complete the consultation response form (Annex 2) and send it to the address provided under the 'Contact details' section.

Further information and related documents

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

This consultation paper is also accompanied by a draft Regulatory Impact Assessment at Annex 1, which should be read in conjunction with this paper.

The proposals details in this paper are informed by the following documents:

- Towards a Welsh Planning Act: Ensuring the Planning System Delivers. Report to the Welsh Government by the Independent Advisory Group. June 2012.
- RTPI Cymru. Study into the Operation of Planning Committees in Wales. Final Report. Fortismere Associates with Arup. July 2013.
- Positive Planning. Proposals to reform the planning system in Wales. Welsh Government December 2013.
- Study to examine the planning application process in Wales. A Report to the Welsh Government by GVA Grimley. June 2010

Reader may want to refer to these documents for further information.

Contact details

All responses should be sent by **16 January 2015** to:

Planning committees, delegation and joint planning boards consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Or by email to:

planconsultations-e@wales.gsi.gov.uk

(please include 'Planning committees, delegation and joint planning boards - WG23070' in the subject line)

If you have any queries regarding this consultation please use the e-mail address above, or phone Luke Seaborne on 029 2082 1573.

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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Appendices:

Appendix 1 - Existing Delegation Arrangements

Appendix 2 - National Scheme of Delegation Structure and Flow Charts

Section 1 - Introduction

- 1.1 The Welsh Government is proposing a package of changes through the Planning (Wales) Bill that deliver comprehensive reform to the planning system in Wales, including development management procedures.
- 1.2 In particular, the Bill proposes changes to the way planning decisions are taken, including provisions which would allow for standardisation of planning committee arrangements and delegation to officers across Wales.
- 1.3 The evidence base that supports the Bill demonstrates wide variation in planning committee and decision delegation practice. In particular, it identified areas where planning committees and delegation arrangements to local planning authority (LPA) officers could be improved.
- 1.4 Recommendation 56 of the Independent Advisory Group (IAG) report¹ suggested that the Planning (Wales) Bill contain a power for the Welsh Ministers to make regulations to:
 - Introduce a national scheme of delegation of decision making powers by LPAs
 - Prescribe the size and make-up of Planning Committees.
- 1.5 In response to the above recommendation, the Welsh Government commissioned the Royal Town Planning Institute (RTPI) to oversee a study into the operation of planning committees in Wales. The RTPI study² agreed with the suggestions made in the IAG report and made recommendations on how a national scheme of delegation and national standard on committee size could be put into practice.
- 1.6 The recommendations of this study were included within the Positive Planning consultation document³ accompanying the Draft Planning (Wales) Bill published in December 2013.
- 1.7 Subsequently, provision has been made in section 37 of the Planning (Wales) Bill to enable the Welsh Ministers to make regulations that introduce a national scheme of delegation in relation to local planning authority planning decisions, and to prescribe the size and make up of planning committees. This consultation seeks views on the proposed content of those regulations.
- 1.8 This consultation also seeks views on joint planning boards and strategic planning panels. Currently, section 101 of part 6 to the Local Government Act 1972 makes provision for the way in which local authorities may arrange for the discharge of their functions. All authorities may operate a planning committee or a joint planning committee with another LPA through a voluntary arrangement

¹ Towards a Welsh Planning Act: Ensuring the Planning System Delivers. Report to the Welsh Government by the Independent Advisory Group. June 2012.

² RTPI Cymru. Study into the Operation of Planning Committees in Wales. Final Report. Fortsimere Associates with Arup. July 2013.

³ Positive Planning. Proposals to reform the planning system in Wales. Welsh Government December 2013.

under this legislation. Additionally however, Welsh Ministers may make arrangements under section 2 of the Town and Country Planning Act 1990 to establish a joint planning board as the LPA for two or more areas, each of which is the whole or part of a Welsh county or county borough. This action would be compulsory.

1.9 Unlike joint planning boards, strategic planning panels will not perform the function of a local planning authority and will be single purpose bodies set up solely for the purpose of preparing strategic development plans (SDPs).

1.10 This consultation is structured as follows:

- Section 2: Planning Committee Protocol** - This section identifies the variation in procedures which planning committees operate throughout Wales and introduces the Welsh Government's proposal to address these variances by establishing a National Planning Committee Protocol.
- Section 3: Planning Committees** - This section outlines how planning committees can be formed and recognises the varying size and make-up of existing planning committees in Wales. It considers the impact of large planning committees on the decision-making process and sets out the Welsh Government's proposals to prescribe the size and make-up of planning committees.
- Section 4: The role of the planning committee** – This section summarises what the Welsh Government considers to be the principles that define the role of a planning committee.
- Section 5: National Scheme of Delegation** - This section identifies the varying nature of schemes of delegation across Wales and the impacts for stakeholders in the planning system. The conclusions of the research are summarised and the Welsh Government's proposals to improve consistency within the decision making-process are set out.
- Section 6: Joint Planning Boards & Strategic Planning Panels** - This section considers the implications of the Planning (Wales) Bill proposals for joint planning boards to perform a full range of local planning authority functions and for strategic planning panels to prepare strategic development plans for greater than one local authority area. It considers how the size and composition of such arrangements can be structured in accordance with the Bill provisions for prescribing the size of planning committees.
- Section 7: Financial Impact** - This section provides an overview of the financial impact of implementing the proposed regulations.

Section 2 - Planning Committee Protocol

- 2.1 The evidence provided by the RTPI research identified significant inconsistencies between procedures adopted by different planning committees across Wales. It highlighted the confusion this causes, a reduction in transparency and undermining of confidence in the planning process. The variances are of matters such as (but are not limited to):

Customer care

The RTPI Cymru study concluded that the overall experience of attending a planning committee as a member of the public can be quite confusing and suggested actions are taken regarding aspects of the committee process, such as the publication of agendas, audio-visual presentations, identification, and room layout.

Procedure for overturning officer recommendations or deferring decisions

Methods for deferring applications and overturning officer recommendations vary between LPAs. The Study to Examine the Planning Application Process in Wales 2010 by GVA Grimley⁴ recommended the use of a cooling off period when members are minded to go against officers' recommendation, to allow committee members time to re-consider. The RTPI study also recommended this approach.

The role of members in a planning appeal following an overturn of an officer recommendation

It is considered important for members to take greater responsibility when overturning an officer recommendation. The Welsh Government should consider the role members should have in the appeal process following the overturning of an officer recommendation.

The 2010 GVA Grimley study suggested that consideration should be given to the practice in Scotland where members who depart from officers' recommendations on applications are required to defend their decisions at appeals without the assistance of officers.

Public speaking arrangements

If it is agreed that public speaking should be permitted nationally (22 of 25 LPAs had speaking arrangements in place), applicants and the public should be afforded the same speaking rights regardless of administrative boundaries. This would ensure consistency, transparency and accessibility, particularly for the public who might be affected by applications.

The process of decision-making

The RTPI study recommended that a broad running order should be set out to provide a clear explanation of the committee decision-making process. It would ensure that firstly, once members are at the point of voting on an application that they have been suitably informed on all aspects of the proposal to enable them to make an informed decision, and secondly, that all planning committee

⁴ Study to examine the planning application process in Wales. A Report to the Welsh Government by GVA Grimley June 2010

meetings have (and follow) a set structure, delivering consistency throughout Wales.

Site visit procedure

LPAs should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. There is however currently differing practice in relation to the use of site visits which contributes towards the variety of decision-making process, depending upon the authority.

Initial and ongoing training obligations

The RTPI study recommended that member training should be mandatory on a national basis; all newly elected members should receive training on the planning system with those members receiving more detailed training should they join a planning committee. It should be based on a single national set of materials to avoid unnecessary effort and duplication by 25 LPAs all preparing the same training materials.

The study also recommended the introduction of mandatory ongoing training but that members should not be compelled to attend every session, accepting that some members with long standing experience might not gain from some sessions. Members should engage in a minimum of 10 hours of CPD and a minimum of one half-day outcome, reflective type training each year. Members that do not meet this requirement should be removed from the committee until this requirement has been met.

Distinguishing between the decision-maker and local representative roles at committee

The RTPI Cymru study recommended that local members who are not on the planning committee should be able to speak at committee on applications within their local area. However, they should form part of the public speaking element of the decision making process and should not appear to be part of the committee. Further, members that are on the committee should be asked to make a conscious decision as to whether they wish to act as a local member and speak on behalf of their constituents or remain as a decision maker on the committee and vote. When acting as a local member they should 'step down' from the committee 'table' and join the public gallery for those applications where they wish to address the committee on their constituents' behalf.

Involvement of members in major applications at pre-application stage or discussions which occur before a decision is taken

Pre-application discussions between a potential applicant and an authority can benefit both parties and are encouraged. Very few LPAs involve members in the pre-application process and the RTPI study revealed that none had prepared a detailed protocol to deal with members' involvement.

Members code of conduct

Some of the adopted codes of conduct are quite old dating from 2003 onwards and many are in need of updating following the introduction of the Localism Act 2011. The Planning Advisory Service (PAS) has produced a guidance document

titled 'Probity in planning for councillors and officers' which provides protocols for members regarding the above-mentioned issues.

- 2.2 In order to address the above variances (as part of standardising the planning system in Wales), the RTPI research recommended the creation of a national planning committee protocol.
- 2.3 The Welsh Government agree with this recommendation and is seeking, through the introduction of a national protocol, to make the committee experience predictable within the application process by standardising procedures so that planning committees are operated in a consistent manner across Wales.
- 2.4 The Welsh Government intends to work with the Welsh Local Government Association (WLGA) to develop the protocol.
- 2.5 The RTPI Study did not recommend legislation to deliver a national protocol. The Welsh Government agrees with this approach. It is imperative that LPAs and members take ownership of the protocol. It should be a set of standards that are developed by them with the assistance of the Welsh Government addressing the problems identified in the existing system. It will require monitoring and refinement overtime so legislative provisions have not been sought for a national protocol.

Section 3 - Planning Committees

Background and Current Position

- 3.1 Section 70 of the Town and Country Planning Act 1990 provides LPAs with the power to determine an application for planning permission. Section 101 of the Local Government Act 1972 allows the local authority to arrange for the discharge of its functions, including the determination of an application for planning permission, by a committee, sub-committee or by delegation to an officer of the authority (normally the Head of Service / Chief Planning Officer in the case of planning decisions).
- 3.2 The RTPI research identified that the size and make-up of planning committees across Wales varies significantly, from a single planning committee consisting of 11 members at Merthyr Tydfil County Borough Council to the City and County of Swansea Council who operate three planning committees (two area development control committees consisting of 35 and 37 members respectively and a development management and control committee consisting of all 72 members).
- 3.3 The table below illustrates the variances in planning committee sizes throughout Wales.

Table 1: The number of elected members and the size of planning committees in Wales

LPA	Total number of members	Number of members on planning committee
Blaenau Gwent	42	15
Bridgend	54	17
Caerphilly	48	20
Cardiff	75	12
Conwy	59	17
Denbighshire	47	30
Flintshire	69	21
Gwynedd	75	15
Isle of Anglesey	30	11
Merthyr Tydfil	33	11
Monmouthshire	43	16
Neath Port Talbot	63	45
Newport	50	11
Rhondda Cynon Taff	75	75*
Pembrokeshire	60	15
Powys	73	20
Swansea (DM & Control Committee)	72	72
Swansea (Area 1)	72	35
Swansea (Area 2)	72	37
Torfaen	44	16
Vale of Glamorgan	47	20

Wrexham	52	20
Brecon Beacons NPA	24	24
Pembrokeshire Coast NPA	18	18
Snowdonia NPA	18	18

*Rhondda Cynon Taff County Borough Council reduced the size of its planning committee to 18 members in May 2014.

The Case for Change

- 3.4 The evidence received to inform the IAG report identified that the size and make-up of planning committees vary across Wales. The IAG suggested that smaller planning committees are more appropriate in order to develop a better culture of informed evidence-based decision making. It recommended that a study on the effectiveness and efficiency of the various planning committee models operating in Wales should be undertaken by an independent body in order to establish the most appropriate arrangements. It also recommended (Recommendation 56(b)) that, subject to the outcomes of the study, the Welsh Ministers should have a power to make regulations regarding the size and make-up of planning committees in order to ensure that the best operating model is adopted by LPAs across Wales.
- 3.5 The RTPI study included a survey of planning officers who generally agreed that committees would be better with smaller sizes and more round table discussions. Those authorities who had reviewed the size/structure of their committee generally felt that a smaller committee made them less parochial, enabled members to be better trained and that decisions were more consistent and based on planning criteria. However, members who were part of large or full committees felt that smaller committees were undemocratic and would not allow sufficient members to have their say.
- 3.6 The Welsh Government consider that large planning committees are resource intensive, including administrative resources, as well as members requiring attendance at committees, training and preparation reading and absorbing the agendas. It can also diminish the valuable role of members because of the responsibilities which accompany planning committee membership. If they are not on the committee they may have a role, expressing support for a particular opinion in advance of the matter being considered by the planning committee and campaign in accordance with that opinion free of potential accusation of having a fixed view on the application, referred to as predetermination. Members, in their role as decision-maker as part of the planning committee, must not put themselves in a situation where they may be perceived as biased. Furthermore, whilst members have a responsibility to their constituents, in their role as a member of the planning committee, their overriding duty is to the wider community, that is to the whole authority. There can be tension can exist between the role of members upholding the wider public interest and their role as representing the views of the community.
- 3.7 The research found that, in general, the larger committee the lower the average attendance. The Welsh Government consequently has concerns about the lack of continuity in membership of larger committees and therefore the consistency

of decision-making. The use of substitute members also impacts upon consistency in decision-making. Substitute members may not be adequately trained to understand the issues being discussed and to make a robust decision based on material planning considerations.

- 3.8 The Welsh Government considers that smaller committees would not only assist in addressing these issues but also enable member training to be more focused, resulting in better trained and robust committees. A culture of better informed evidence-based decision making should be facilitated by the creation of an informed group of councillors with the necessary skills and knowledge to make better decisions in the wider public interest. Therefore, smaller planning committees are likely to provide a consistent, fairer, more transparent planning service.
- 3.9 The changes provide the development industry and local communities with greater confidence that all LPA planning committees have the ability to debate and assess complex development proposals and subsequently make well informed decisions in a timely manner.

Our Proposal

- 3.10 Following from the recommendation made by the RTPI study, it is proposed that planning committees in Wales shall be structured and operated in the following way.

Committee size

The size of the planning committee shall be a minimum of 11 members and a maximum of 21 members but no more than 50% of the authority members (excluding National Park Authorities)

- 3.11 There is a need to strike a balance when identifying the appropriate size of a planning committee. It is important for it not to be too large for the reasons above. However if the planning committee is too small it may result in very few members of the LPA making important locally strategic decisions and not allow for occasions where members are absent or need to declare an interest in a particular item.
- 3.12 The Welsh Government agree with the RTPI Cymru recommendation that setting a range within which LPAs can choose the size appropriate for their circumstances would be better to reflect the differences in size of authority and to allow for apportionment to reflect political composition. On the basis of the RTPI research, a minimum figure of 11 members and a maximum of 21 members are proposed.
- 3.13 It is also proposed that, in the case of National Parks, the requirement that the planning committee shall consist of no more than 50% of the authority members would not apply due to their lower number of members.

QUESTION 1: Do you agree that the size of the planning committee should be limited to a minimum of 11 members and a maximum of 21 members?

Multi-member wards

Where wards have more than one elected member, only one should sit on the planning committee, in order to allow some members to perform the representative role for local community interests.

- 3.14 Members participating in the planning committee process in a local representative role reflect the democratic process in the planning system. Members acting in the local representative role can become involved in local planning issues without the particular constraints which accompany planning committee membership, including taking up a campaigning role on planning issues affecting their constituents. In local authority wards where all local members are on the planning committee, this constituting role is diminished to the detriment of their constituents and, subsequently, democratic inclusivity.

QUESTION 2: Do you agree that where wards have more than one elected member only one should sit on the planning committee?

Quorum

Introduce a quorum for decision-making (50% of the committee)

- 3.15 The Welsh Government agrees with the recommendation of the RTPI study that, if the overall committee size is to be limited, it is important that there should be a quorum for decision making. This is to ensure that where the committee size is small there is a sufficient number of members present to debate the planning issues and make consistent decisions on planning applications. Accordingly, a quorum of 50% of the size of the committee to be present when taking decisions is proposed. Where the total committee size is an odd number it would be 50% of the total committee plus one.

QUESTION 3: Do you agree with introducing a quorum of 50% (rounded up where the total committee size is an odd number) for decision-making?

Substitute Members

Prohibit the use of substitute members

- 3.16 In practise, some authorities permit substitution of members in relation to committee meetings. In line with the RTPI research, it is considered that the use of substitute members should be prevented.
- 3.17 The practice is arguably open to abuse through deliberate substitution. In addition, a substitute member may not be trained to the high standard proposed. Furthermore, inconsistencies in membership of a committee can arise where applications are deferred to a subsequent meeting. This leads to inconsistent

decision-making. Therefore, it is proposed that regulations will make provision to prevent the practice of substitute members.

QUESTION 4: Do you agree that the use of substitute members on the planning committee should be prohibited?

Impact of the Proposed Regulations

- 3.18 Provision has been made in the Planning (Wales) Bill to enable local authorities (should they choose) to delegate decision-making powers to sub-committees. Area-based committee structures, such as that operated by the City and County of Swansea Council, could therefore continue, however the size and make-up of those committees / sub-committees will have to comply with the prescribed requirements detailed in the regulations.
- 3.19 The size of planning committees in local planning authorities in Wales has fluctuated significantly over the years, with both increases and decreases observed. Most recently, the planning committee at Rhondda Cynon Taff County Borough Council has moved from an all member committee to one consisting of 18 members, which falls within the structure proposed by the Welsh Government.
- 3.20 It is acknowledged that the proposed regulations will require a change in practice by a small number of LPAs, requiring them to change the structure of their planning committee. However, the regulations are necessary to ensure that the structure identified as efficient and effective and currently operated by many of the LPAs, is maintained.
- 3.21 In conclusion, the Government is seeking to introduce regulations to limit the size and make of planning committees. It is proposed that the regulations are set out as follows:
- **The size of the planning committee shall be a minimum of 11 members and a maximum of 21 members (but no more than 50% of the authority members – excluding National Park Authorities)**
 - **Where wards have more than one elected member, only one should sit on the planning committee, in order to allow some members to perform the representative role for local community interests.**
 - **Introduce a quorum for decision-making of 50% of the committee**
 - **Prohibit the use of substitute members**

Section 4 - The Role of the Planning Committee

- 4.1 It is essential that the role of the planning committee in making development management decisions is clearly defined in order to inform what types of applications should be delegated to officers and therefore act as the cornerstone to the national scheme of delegation.
- 4.2 Currently, the role of the planning committee in making development management decisions is decided at a local level. The specific responsibilities of the committee are set out in each of the LPAs' schemes of delegation.
- 4.3 The Welsh Government considers that planning committees should not be concerned with small-scale, non-controversial development proposals which can be more efficiently considered by officers under delegated arrangements. It considers the committee's role to be:

To deliver the adopted development plan by making locally strategic planning decisions by determining those applications:

- 1. that are identified as major development;**
- 2. that raise policy issues affecting the delivery of the development plan, such as applications departing from the adopted plan ; and**
- 3. where there is quantifiable, community-wide interest in a development which goes beyond protecting the private interests of one person, or group of people, against the activities of others.**

QUESTION 5: Do you agree with the development management role of the planning committee outlined above?

Section 5 – National Scheme of Delegation

Background and Current Position

- 5.1 A planning application can be determined by either elected members at planning committee meetings, or by delegated means, whereby members agree that an appointed person (normally the head of service / chief planning officer) may make a planning decision on behalf of the authority.
- 5.2 The LPA's scheme of delegation forms part of the council's constitution and sets out circumstances where a planning application will be determined by planning committee and circumstances where it can be determined by the chief planning officer or equivalent under delegated powers. These circumstances normally relate to issues such as the type of development, the number of objections received, and who submits the application.
- 5.3 Most schemes of delegation allow for local members to formally request, on a case by case basis, for the planning committee to determine a planning application within their ward that would have otherwise been delegated to an officer (known as a call-in). The delegation scheme also normally allows for the chief planning officer to refer any application to committee if he/she believed the proposal warrants committee consideration (e.g. because it is controversial or has an authority wide impact).
- 5.4 Some LPAs operate a delegation scheme that requires some applications to be referred to the chair of planning committee or delegation panel to decide whether it should be determined by the planning committee. This can include member "call in" requests, giving the chair of the committee the final decision over whether an application should be determined by officers under delegated powers or by the planning committee.

The case for change

- 5.5 There are significant differences in the criteria that set out which applications are determined by committee and which are dealt with under delegated powers. Appendix 1 provides a breakdown of the criteria used to delegated powers currently used by LPAs in their delegation schemes. It is evident however that most schemes require applications that meet the following criteria to be decided by committee:
 - Member call-in requested
 - Departure / contrary to development plan (where officers recommend approval)
 - Chief officer / Head of Planning decides to refer application to committee
 - LPA employee / council member has a financial or similar interest in the application.
- 5.6 The inconsistencies in schemes of delegation provide uncertainty for applicants and developers, particularly those who operate over several local planning authority areas.

- 5.7 In response to the inconsistencies, the IAG report recommended that Welsh Ministers should have the power to specify by regulation a national scheme of delegation in order to achieve consistency across Wales in the determination of applications so that applicants will have the same type of application considered at the same level throughout Wales.
- 5.8 The RTPI study supported the recommendations made in the IAG report, noting that the variation and complexity of the delegation schemes they studied, and the significant differences in the manner in which these are managed, led them to conclude the need for a clear and simple national scheme.
- 5.9 The IAG report and RTPI study both recommended that the same types of application should be considered at committee throughout Wales, and the Welsh Government supports this view.
- 5.10 The delegation of decision-making to officers has benefits for all stakeholders in terms of simplifying procedures and freeing up committee members to concentrate on major, policy issues or controversial cases, removing applications which typically would elicit no member discussion and evaluation at committee. Where there is no need to await a committee cycle and decision, time can be saved in dealing with planning applications. Increasing delegation is therefore a positive process that gives benefits not just in terms of streamlining internal procedures, but also in terms of improved responsiveness for applicants.
- 5.11 The planning committee should not deal with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area. The national scheme of delegation should allow small scale applications and those in line with the development plan, a straightforward route to determination since the council's policy position is already stated in the development plan, again both in the interests of efficient and the consistency of decision making.
- 5.12 It is important that the national scheme of delegation ensures that the right type of application is determined at the right decision level, reflecting the complexity and conformity of the proposal with policy. Most applications should be decided by officers under delegated powers, with only exceptional cases being reported to committee i.e. major development, those that raise policy issues that would impact upon the delivery of the development plan, or those where there is a public interest.
- 5.13 There is likely to be potential cost savings associated with increasing the number of delegated decisions. Research suggests that it costs on average over twice as much to process an application through a planning committee than an application determined under delegated powers, with a delegated decision costing the LPA £536 compared to £1,201 for a committee decision⁵.

⁵ Planning Service Benchmarking Club 2011: Barchester City Council, PAS/CIPFA Report, February 2012

Our Proposal

- 5.14 In accordance with the recommendations of the IAG report and RTPI Cymru study, it is the intention of the Welsh Government to introduce a mandatory national scheme of delegation. This would deliver greater consistency in the decision-making process across Wales. A national scheme of delegation will be prescribed so that the same type of planning application is dealt with in the same way (i.e. by committee or delegation) across Wales.
- 5.15 Whilst the Welsh Government agrees with the principle of a national scheme of delegation, we do not agree with the structure of the scheme as recommended by the RTPI.
- 5.16 The RTPI study recommended the introduction of a mandatory national scheme of delegation for Wales which would be incorporated into local schemes, reviewed regularly (at least every three years) and approved by the Welsh Government. The scheme would include applications for significant developments'; the definition of significant would be left for local authorities' schemes to determine.
- 5.17 The Welsh Government does not agree with this approach. Firstly, the continuation of local schemes with individual variations (particularly in relation to the definition of significant development) is contradictory to the overriding aim of introducing a national scheme of delegation - to achieve consistency in the way in which the type of application is handled considered throughout Wales. This approach would severely restrict the potential and influence of the national scheme of delegation and would not address the current problems in the decision-making process identified.
- 5.18 Secondly, in respect of the recommendation that local schemes are approved by the Welsh Government, this approach was not taken forward in order to ensure that the national scheme of delegation delivers consistency across Wales.
- 5.19 The RTPI study also recommended a target of 95% of applications be determined under delegated powers. While the national scheme of delegation will be structured to achieve a high level of delegation, setting a target is not considered expedient; by prescribing the delegation arrangements nationally, the Welsh Government would be removing an LPA's ability to control its delegation rate.

Proposed structure and content

- 5.20 The national scheme of delegation will capture all applications for full and outline planning permission and applications for the approval of reserved matters made under Part 3 of the Town and Country Planning Act 1990, i.e. the bulk of applications that currently make up a planning committee's workload. Regulations will not prescribe how the LPA makes decisions about its other functions (such as discharging planning conditions, enforcement, TPO's etc.). These matters will be left to each individual authority. For this reason, it is

envisaged that the national scheme of delegation will form part of the authority's wider adopted constitution.

- 5.21 Research of existing schemes of delegation adopted by each LPA shows that there are two distinct ways of structuring a scheme of delegation. The "by exception" approach, where LPA officers are given the power to determine all planning applications unless they fall into defined exceptional categories that are listed in the scheme. The second approach involves specifying all types of planning application that are to be determined by officers and all types that are to be determined by committee.
- 5.22 The RTPI Cymru study recommended that the national scheme of delegation should adopt the "by exception" approach, and this is the approach that the Welsh Government proposes to adopt. This approach will ensure that, in the first instance, all planning applications are to be determined by officers unless certain exceptions are triggered.
- 5.23 From the research, and taking account of the role of the planning committee as defined in section 4, the Welsh Government considers that the national scheme of delegation should consist of the following exceptions:
1. Departure/contrary to development plan (where officers are minded to approve)
 2. Applications involving an Environmental Impact Assessment (EIA)
 3. LPA employee/Council member has interest in application
 4. Above a specified development threshold
 5. Above a specified objection threshold
 6. Member call-in

Proposed Criteria:

Departure/contrary to development plan (and seeking to approve)

- 5.24 All of the existing schemes of delegation make provision for development proposals that depart from the policies in the approved development plan to be determined by the committee. The key responsibility of the planning committee, as defined by the Welsh Government in paragraph 4.3, is to deliver the adopted development plan for that LPA. Departures from the development plan risk the delivery of approved strategic aims of the LPA and can impact upon the integrity of the development plan. Decisions on such applications should be taken by the planning committee in order for them to be fully and publically debated in light of the implications of approving such applications by members elected to be accountable for those decisions. It is therefore proposed to include this exception as part of the national scheme of delegation. It is proposed that all applications that are contrary to the adopted development plan which are being recommended for approval will be referred to the planning committee.

QUESTION 6: Do you agree with the inclusion of an exception that requires all applications that are contrary to the adopted development plan which are being recommended for approval to be determined by the planning committee? If not, please explain the reasons.

Applications involving an Environmental Impact Assessment (EIA)

- 5.25 An EIA must be undertaken for projects likely to have significant effects on the environment by virtue of their nature, size or location. Such applications involve complex issues which require careful consideration by the LPA.
- 5.26 EIA developments are by their nature major developments and are therefore in-keeping with the principle role of the planning committee as defined in paragraph 4.3.

QUESTION 7: Do you agree with the inclusion of an exception that requires all applications involving an EIA to be determined by the planning committee? If not, please explain the reasons.

LPA employee/Council member has interest in application

- 5.27 The Welsh Government consider it important in the interests of transparency for the national scheme of delegation to include an exception for applications made by members or council staff involved in the planning decision making process. Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Such proposals must be handled in a way that gives no grounds for accusations of favouritism. This exception is included within the majority of delegation schemes, although the scope of the exception varies.
- 5.28 It is the intention of the Welsh Government for this exception to capture all applications made by serving members of the Council and all current LPA staff who are involved in the processing applications. The exception will also apply to the spouse or partner of any of these persons.
- 5.29 To avoid disproportionate effect, it is proposed that applications submitted by the persons identified above would only be withdrawn from the delegation process and referred to the planning committee if one or more material planning objections have been received within the stipulated consultation period. Whilst the reason for the exception is to provide transparency, there is no need for applications to be determined by the planning committee where there is no interest from the public. A single material objection is deemed to be sufficient public interest to warrant a committee decision in order to ensure transparency.

QUESTION 8: Do you agree with the inclusion of an exception relating to applications made by members, LPA staff and their spouses, partners and close relatives? If not, please explain the reasons.

Development threshold

- 5.30 The size of a development affects whether the application is delegated to officers for determination. Provision is made in 14 existing LPA delegation schemes.

Such development thresholds are currently set by each individual authority and vary significantly across Wales.

- 5.31 Six LPAs currently use the definition of 'major development' as prescribed in article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) as their development threshold, which includes:
- a) the winning and working of minerals or the use of land for mineral-working deposits;
 - b) waste development;
 - c) the provision of dwellinghouses where—
 - i. the number of dwellinghouses to be provided is 10 or more; or
 - ii. the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
 - d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - e) development carried out on a site having an area of 1 hectare or more;
- 5.32 Two LPAs have development thresholds for residential development of between 2-5 units. 1 LPA bases its development threshold on site area and 1 LPA differentiates between development on allocated sites (10 units) and that on infill (2 units).
- 5.33 Twelve LPAs currently do not have a development threshold as a trigger within their scheme of delegation. Each of these authorities have other exceptions, such as Chief Officer referral, objection thresholds and member call-in, which would capture applications for major development and ensure that they are determined by the planning committee.
- 5.34 The City of Cardiff Council, as might be expected due to the urban nature of the area and its economic strength, delegates applications for development greater than the definition of major development within the DMPWO. Officers can determine applications for up to 20 residential units and non-residential development to a maximum floorspace of 2000 square metres.
- 5.35 Delegated powers to determine applications for residential development above what constitutes major development in the DMPWO are not limited to Cardiff. Officers at Pembrokeshire County Council have delegated authority to determine applications for up to 30 units.
- 5.36 The RTPI Cymru research suggested that these variations in development thresholds may reflect the nature of the local area. The Welsh Government acknowledges that the relationship between members and officers can also be reflected within the degree of delegation. There is not a single straightforward reason for these variations. The inconsistencies in the schemes of delegation provide uncertainty for applicants and developers, particularly those who operate over several local planning authority areas. The Welsh Government agrees with the view taken in both the IAG report and RTPI Cymru study that applicants

should have the same type of application considered at the same level throughout Wales.

5.37 As outlined in section 4, the Welsh Government consider that one of the principal roles of the planning committee is to determine applications for major development. Major developments are large-scale developments where the potential benefits and impacts are significant and, although not of national importance, can include many of the developments that are essential for economic prosperity. Such applications should therefore be determined by the planning committee and would need a development threshold to provide to provide consistency across Wales.

5.38 Views were sought as part of the 'Positive Planning'⁶ consultation paper whether the existing categories and thresholds within the DMPWO remained appropriate in defining major development. This formed part of the wider consultation in respect of a new development management hierarchy. Stakeholders who responded to the consultation supported the definition. The evidence therefore suggests that major development in Wales should remain as defined in the DMPWO.

5.39 Accordingly if it is agreed that it is the role of the planning committee to determine applications for major development, then the development threshold to capture such development within the national scheme of delegation should be as prescribed in the DMPWO.

QUESTION 9: Do you agree that the development threshold should be 'major development' as prescribed in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012? If not, please explain the reasons and suggest an alternative threshold.

5.40 By prescribing delegation arrangements, the Welsh Government will remove control of delegation rates from LPAs. Whilst this approach will achieve consistency in the decision making process across Wales, it will not permit any flexibility for those LPAs who may wish to achieve a higher delegation rate.

5.41 In response to this, the Welsh Government propose to introduce an alternative threshold. LPAs will have the option of adopting the DMPWO threshold or the second threshold which would provide greater delegation to their officers. It is proposed that the alternative threshold would be structured as follows:

- a) the winning and working of minerals or the use of land for mineral-working deposits;
- b) waste development;
- c) the provision of dwellinghouses where—
 - i. the number of dwellinghouses to be provided is 20 or more; or
 - ii. the development is to be carried out on a site having an area of 1 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

⁶ Positive Planning. Proposals to reform the planning system in Wales. Welsh Government. December 2013

- d) the provision of a building or buildings where the floor space to be created by the development is 2,000 square metres or more; or
- e) development carried out on a site having an area of 2 hectare or more;

5.42 Whilst introducing two options would not result in optimum consistency across Wales, it will provide a minimum level of consistency and clarity for the development industry and the public.

QUESTION 10: Do you agree that LPAs should have the choice of two development thresholds?

Objection threshold

- 5.43 The RTPI survey data revealed that in at least nine authorities the level of objections received on an application can trigger an application either going directly to committee or to a panel that will recommend how the application is determined. Currently, the range of objections required varies from as low as one objection to a petition of 30 objections.
- 5.44 Some LPAs operate whereby the local member(s) are informed that an objection has been received on an application which the officers are recommending for approval. This gives the member an opportunity to call-in the application should they consider that there are issues raised that would be best considered by the planning committee.
- 5.45 Other LPAs refer to committee applications where there is a petition containing 30 or more signatures and an indication of a desire to address the committee are put on the agenda. Some authorities make this provision subject to the discretion of the chair and so the number of applications reaching committee relies upon the degree to which the chair exercises this discretion.
- 5.46 The use of objections as a trigger results in a significant number of minor, straightforward applications going to committee that could efficiently and effectively be determined by officers under delegated powers. Often these are householder applications, which do not attract any public speakers and appear towards the end of the agenda, being nodded through without any presentation or debate, perhaps as a result of so many being on the agenda.
- 5.47 Objections, together with member call-ins, are identified in the RTPI study as the most significant factors in the large percentage of applications which would normally be determined under delegated powers, being referred to committee. As a result, the RTPI study does not include an objection threshold as part of its recommendation regarding the content of a national scheme of delegation.
- 5.48 If it is accepted that it is the role of the planning committee to determine those applications where there is a community-wide interest (see paragraph 4.3), the Welsh Government consider that an objection threshold should be included within the national scheme of delegation and used to quantify the degree of public interest. However it is important that, if there is to be an objection threshold, the level of objections required is set at a level that ensures there is a

genuine community-wide interest in a development which goes beyond protecting the private interests of one person, or group of people, over the activities of others.

- 5.49 It is suggested that 20 letters of objection from different people in different addresses should be required. With regard to petitions, it is suggested that a minimum of 30 signatures are required. This level of objection is considered to best represent genuine community-wide interest.

QUESTION 11: Do you agree that the national scheme of delegation should include an exception based on an objection threshold?

QUESTION 12: If yes, is 20 letters from different people in different addresses and/or a petition with 30 signatures appropriate to establish that there is a genuine community-wide interest in the development?

Member call-in

- 5.50 Whilst the process for member call-in varies between local planning authorities, all have a mechanism within their delegation schemes for this. Most require the member to provide a planning reason, and some require the request to be made within a set time frame. Some authorities have an additional process, where the call-in is vetted by the chair/vice chair of the planning committee or a delegation panel before being put on an agenda.
- 5.51 The RTPI Cymru study identified that, from its survey data, around a third of committee agenda items are as a result of member call-ins. It is identified as one of two significant factors (the other being objection threshold) in the large percentage of applications being removed from the delegation procedure and referred to planning committees. However, the study concluded that member call-in is a key aspect of the exercise of democratic control in the planning system and should be retained as part of the national scheme of delegation.
- 5.52 The Welsh Government agrees with this recommendation and will therefore seek to retain member call-in as part of the national scheme of delegation. However, to ensure that member call-in operates within the parameters of the role of the planning committee as defined in paragraph 4.3, limits must be exercised over when members may use the function. The Welsh Government is seeking to create an exception for member call-in on this basis.
- 5.53 The Welsh Government is currently considering three options for this specific exception (see appendix 2):

Option 1 - delegation panels / chair verification

- 5.54 Guidance would be issued to the effect that a delegation panel or the chair of the planning committee would determine formal requests from members that a planning application delegated to the planning officers should be withdrawn from the scheme of delegation and be determined by the planning committee.

- 5.55 Members would submit their request to the delegation panel or chair (via the LPA) within 21 days from the date that the member is notified of the application.
- 5.56 Criteria would be set for members to submit a request for referral. The member would state why they are making the request and how it meets the set criteria.
- 5.57 The delegation panel or chair would assess the validity of the request against the criteria and provide the member with a reason for their decision. The decision of the delegation panel or chair is final.
- 5.58 A delegation panel is currently operated by Pembrokeshire County Council which, according to the RTPI Cymru research, had a member call-in rate of just 5% (of total applications at planning committee) in 2012/13.
- 5.59 The criteria that members at Pembrokeshire County Council must comply for submitting a request for a referral is as follows:
- The development has an adverse planning impact on more than immediate neighbours or other electoral divisions;
 - The decision on a proposed development's impact within the local community is finely balanced between competing interests or is complex and sensitive and would benefit from a public examination of the merits;
 - That issues are raised which highlight conflicting planning policy issues.
- 5.60 The criteria for the national scheme of delegation would be structured so that those applications which members seek to remove from the delegation process and refer to the planning committee can only be of a type/scale which has been identified as falling within the remit of the planning committee (see section 4). Minor development proposals, especially householder development, would therefore be excluded from the call-in process.
- 5.61 Prescribing the criteria nationally would provide a level of consistency across Wales and would provide clarity for members about when they could use their call-in power.
- 5.62 It is acknowledged that implementing and operating a delegation panel may have costs in respect of additional pressure on valuable member time (and officer/technical support staff) and could add delay to the decision-making process.

Option 2 - member call-in linked to objection threshold

- 5.63 Member call-in could be linked to an objection threshold. Members could only call-in an application if the prescribed objection threshold is reached. The triggering of the objection threshold would demonstrate that there is sufficient local concern regarding a development which may constitute quantifiable, community-wide interest and therefore resulting in the application falling within the remit of the planning committee.

5.64 This creates a process of validity of the objections, firstly, to ensure that the issues raised are material planning considerations and secondly, to determine whether there is a genuine wider public interest.

Option 3 - member call-in linked to objection threshold and development threshold

5.65 This option would see the development threshold removed as a stand alone exception and linked to member call-in together with the objection threshold exception.

5.66 Members would not be able to call-in applications that fall outside of the development threshold or those which have not attracted the prescribed level of objection and triggered the objection threshold.

5.67 Through this option, the local member would potentially have an increased involvement in the decision making process. In their role as local representative, they would take the decision whether the development, whilst falling within the category of 'major development' due to its scale, raises any issues which would be best debated in a public forum by the planning committee. The consideration regarding objections and the public interest is as per paragraph 5.63. The local member has significant control of the flow of applications that would be determined by the planning committee.

QUESTION 13: Is it necessary to limit member call-in? If not, please specific the reasons.

QUESTION 14: Should delegation panels be introduced as measure to validate member call-in requests?

QUESTION 15: Should member call-in be linked to another exception? If not, please specific the reasons and provide a suggested alternative measure.

Chief officer/head of planning referral

5.68 Chief Officer/Head of Planning referral was also identified through the research as being a consistent feature of existing delegation schemes. The Welsh Government will not seek to include it as part of the national scheme of delegation. It is expected that those applications that are currently referred to the planning committee as a result of this exception will be captured by other exceptions, such as departure from the development plan, or above the development threshold.

Section 6 - Joint Planning Boards & Strategic Planning Panels

Background

- 6.1 The Welsh Government considers that there may be circumstances in future where it would be necessary to merge local planning authority functions in order to facilitate more efficient and resilient local planning services
- 6.2 Existing powers to merge local planning services lie within Section 2 (Joint Planning Boards) of the Town and Country Planning Act 1990. It provides the Welsh Ministers with powers to establish a Joint Planning Board as the local planning authority for two or more areas, each of which is the whole or part of a Welsh county or county borough.
- 6.3 To date, the existing legislation has not been applied in Wales. In its current form, it is not considered to be fit for purpose as it does not extend to the inclusion of all modern local planning functions such as the preparation of a Local Development Plan or the collection of the Community Infrastructure Levy. The Draft Planning (Wales) Bill and accompanying consultation paper: Positive Planning set out proposals to extend the powers for Joint Planning Boards to include all local planning authority functions. Legislative provisions to this effect are contained in the Planning (Wales) Bill introduced to the National Assembly for Wales; section 13 refers.
- 6.4 The current primary legislative provisions for Joint Planning Boards do not prescribe how Joint Planning Boards will operate. Section 2 of the Town and Country Planning Act 1990 stipulates that how they will operate will be prescribed by the order to establish a Joint Planning Board, as follows:-

'A joint planning board constituted by an order ... shall consist of such number of members as may be determined by the order, to be appointed by the constituent councils.'

- 6.5 The Positive Planning Consultation Paper proposed that a Joint Planning Board 'would be served by a single planning department' and that membership 'would be drawn on a proportionate basis linked to population'. In addition to proposals in this paper to define the size and make-up of planning committees, consideration has been given to how Joint Planning Boards will operate in practice, alongside planning committees.
- 6.6 This consultation focuses on elected membership of the Joint Planning Boards rather than composition of technical staff, including planning officers and associated staff forming part of the Joint Planning Board. It will be the responsibility of the individual Joint Planning Board to determine the make-up of its staff once a Board is established.

Current Practice: Example of Local Planning Authority Joint Working – Anglesey and Gwynedd Joint Local Development Plan

- 6.7 Although there are no examples of where local planning authorities have combined all their functions in Wales, local planning authorities have undertaken collaborative working on a voluntary basis in respect of various elements of their functions. The most recent and notable example of this is the decision by Isle of Anglesey and Gwynedd to prepare a Joint Local Development Plan (LDP).
- 6.8 The two authorities have established a 'Joint Planning Policy Committee' in order to consider and finalise various aspects of the Joint LDP during the process of plan preparation. This Committee has been established in accordance with the Local Government Act 1972 and consists of 14 members, with 7 members from Gwynedd Council and 7 members from Isle of Anglesey County Council. Gwynedd Council acts as the host authority for preparation of the plan. However, the Committee is not the decision maker as policies / the plan are subject to approval by the constituent authorities. The approach represents a less formal arrangement of joint working than merger of local planning authorities would entail.

Joint Planning Board Size and Composition: Options

Joint Planning Board: Size

- 6.9 Under powers for Joint Planning Boards sought by the Welsh Ministers, the numbers of elected members who will comprise the Board will be prescribed by the Welsh Ministers through an order. To ensure the number of members elected to the Joint Planning Boards accords with proposals prescribing the size of planning committees, it is proposed that the Welsh Ministers determine the number of decision making members elected to the Joint Planning Board and that this number should fall between the minimum of 11 and maximum of 21 members, in line with recent independent research carried out by RTPI Cymru research (see section 4).

QUESTION 16: Do you agree that the Welsh Ministers should have the authority to determine the size of the joint planning board membership, providing that size is consistent with that for planning committees?

Joint Planning Board: Composition

- 6.10 It will be up to the individual local planning authorities to decide which local authority elected members should sit on the Joint Planning Board, but the numbers of members elected from each contributing authority will be prescribed in order to ensure fairness, transparency and proportionality. It is proposed that a formula based on levels of population will be applied to ensure representative proportionality of Joint Planning Board members elected from each contributing authority. The proposed formula is shown below:

Formula: Determining the proportion of members from each contributing local planning authority elected to a joint planning board

**Total number of members
on the Joint Planning
Board***

Divided

X

**Population for each
contributing local
planning authority**

**Combined population
for the contributing local
planning authority**

Totals should be rounded to the nearest whole number

**an explanation of how this number is proposed to be determined is contained in paragraph 6.9*

6.11 In applying the above formula, for certain cases rounding to the nearest whole number may not match the member figure originally specified by the Welsh Ministers; for example the Welsh Ministers determine a total of 21 members should form the Board, but the total number of members determined by the formula reaches 22. In such cases, the figure calculated using the representative proportionality approach should be used, assuming the final calculation for all contributing local planning authorities does not exceed 21 in total. Should the number of members calculated using this population formula exceed 21, the largest authority should forego one member and, if necessary, the second largest authority should forego one member in order to ensure that the authorities contributing to the Joint Planning Board stay within this member limit.

6.12 An example of how this formula may apply in practice is as follows:

Worked Example 1

The Welsh Ministers use their powers to establish a Joint Planning Board combining the planning functions of Local Planning Authority A (population 80,000) with Local Planning Authority B (population 100,000). The Welsh Ministers determine that 13 members will form the Joint Planning Board.

Applying Formula for Worked Example 1

Firstly, divide number of members forming the Joint Planning Board by combined population for the contributing local planning authorities, as follows:

$$\frac{13}{(80,000 + 100,000)} = 0.0000722$$

To determine representation from Local Planning Authority A

$0.0000722 \times 80,000 = 5.78$ (to 2 decimal places), rounded to the nearest whole number =

6 members from Local Planning Authority A will form part of the Joint Planning Board for Worked Example 1

To determine representation from Local Planning Authority B

$0.0000722 \times 100,000 = 7.22$, rounded to the nearest whole number =

7 members from Local Planning Authority B will form part of the Joint Planning Board for Worked Example 1

QUESTION 17: Do you agree with the proposed population formula for establishing the numbers of members from contributing planning authorities to form the joint planning board?

6.13 Having calculated the number of members from each constituent authority, the next stage is for authorities to identify those members who will represent them on the Joint Planning Board. In doing so, each authority will wish to be mindful of the composition and character of its constituent population, including the importance of securing gender balance on the Joint Planning Board. The Board will have sole responsibility for all planning functions without reference back (collectively or individually) to constituent authorities, except where a strategic development plan is to be prepared.

Strategic Development Plans: Nomination to 'Strategic Planning Panel'

6.14 In addition to the proposals for Joint Planning Boards, the Planning (Wales) Bill and accompanying consultation paper, Positive Planning, set out proposals for the preparation of Strategic Development Plans (SDPs) to tackle strategic plan making in those limited areas requiring a cross local planning authority approach. Responsibility for preparation and approval of the SDP resides with representatives from local planning authorities nominated to a Strategic Planning Panel by constituent authorities. Powers to ensure the panel has decision making capability and other related provisions are contained within the Planning (Wales) Bill introduced to the National Assembly for Wales; sections 3-5 and schedule 1 refer.

6.15 The precise boundary of the SDP area will be prescribed by regulations made by the Welsh Ministers, as well as the number of local planning authority members and number of other nominated members, which together comprise the Strategic Planning Panel. Two thirds of the panel will be drawn from elected members in the constituent local planning authorities, with at least one member from each authority within the strategic planning area. Elected members eligible for nomination will include those councillors representing an electoral division within

the strategic planning area or members of a national park authority so included. The remaining one third of the Strategic Planning Panel will be appointed by the panel, following nomination by a body on a list published by the Welsh Ministers. The bodies listed will reflect economic, social and environmental partners. The Strategic Planning Panel must appoint a chair and deputy chair, both drawn from the local planning authority members, for no more than one year, though they may be re-appointed.

- 6.16 Unlike Joint Planning Boards, Strategic Planning Panels will not perform the function of a local planning authority and will be single purpose bodies set up solely for the purpose of preparing SDPs.
- 6.17 Due to the anticipated numbers of local planning authorities that may be involved in SDP preparation, it is considered that the size of the Strategic Planning Panel is likely to exceed the proposals for planning committees of between 11-21 members. Welsh Ministers will set the total number of Panel members in regulations to ensure the Strategic Planning Panel comprises an appropriate number of members from each local planning authority and bodies representing economic, social and environmental interests.

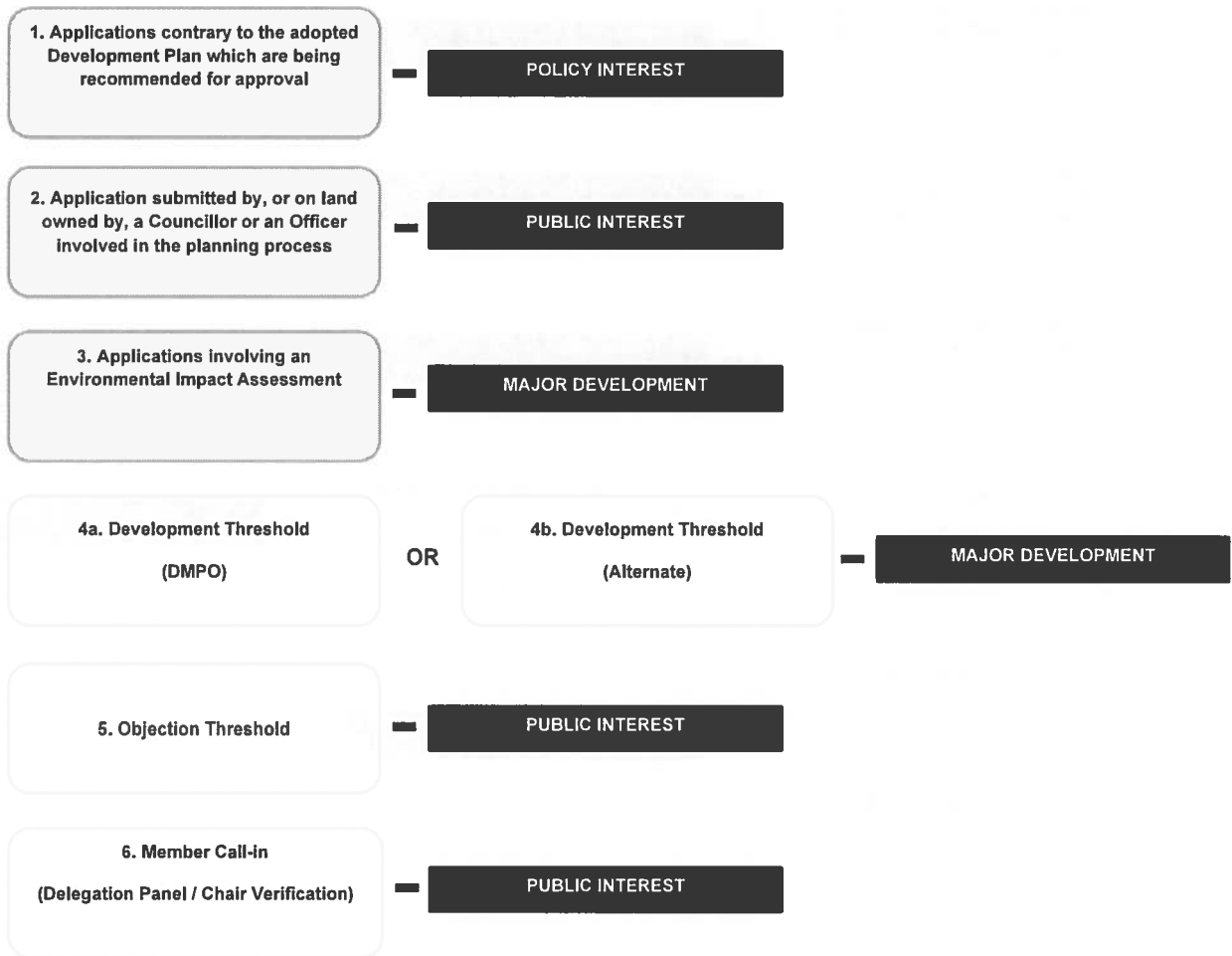
Section 7 - Financial Impacts

- 7.1 The costs to stakeholders associated with implementing the proposed changes to planning committees and the introduction of a national scheme delegation are outlined in a partial regulatory impact assessment in annex 1

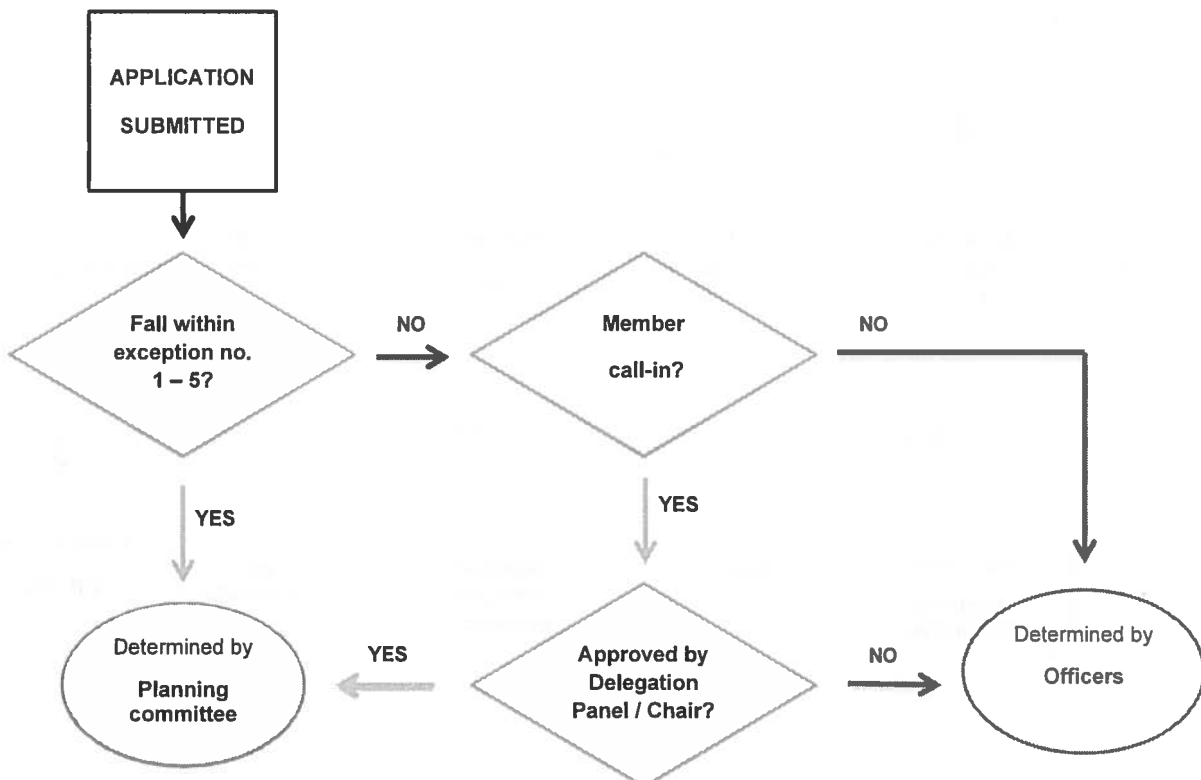
QUESTION 18: Do you have any comments to make about the partial Regulatory Impact Assessment at Annex 1? Are the assumptions made realistic? If not, what figures would be more appropriate?

Option 1 – Member call-in validated by Delegation Panel / Chair:

Structure

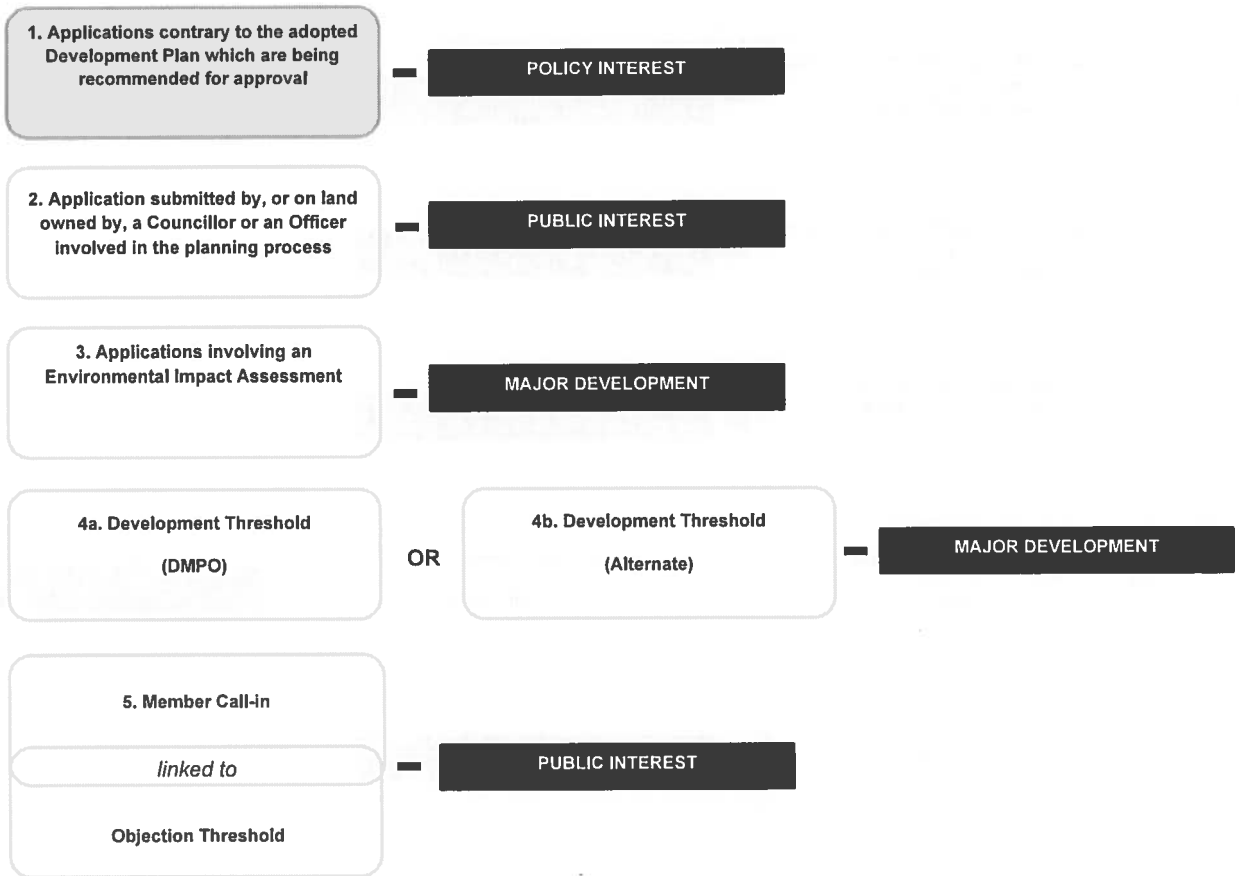


Process

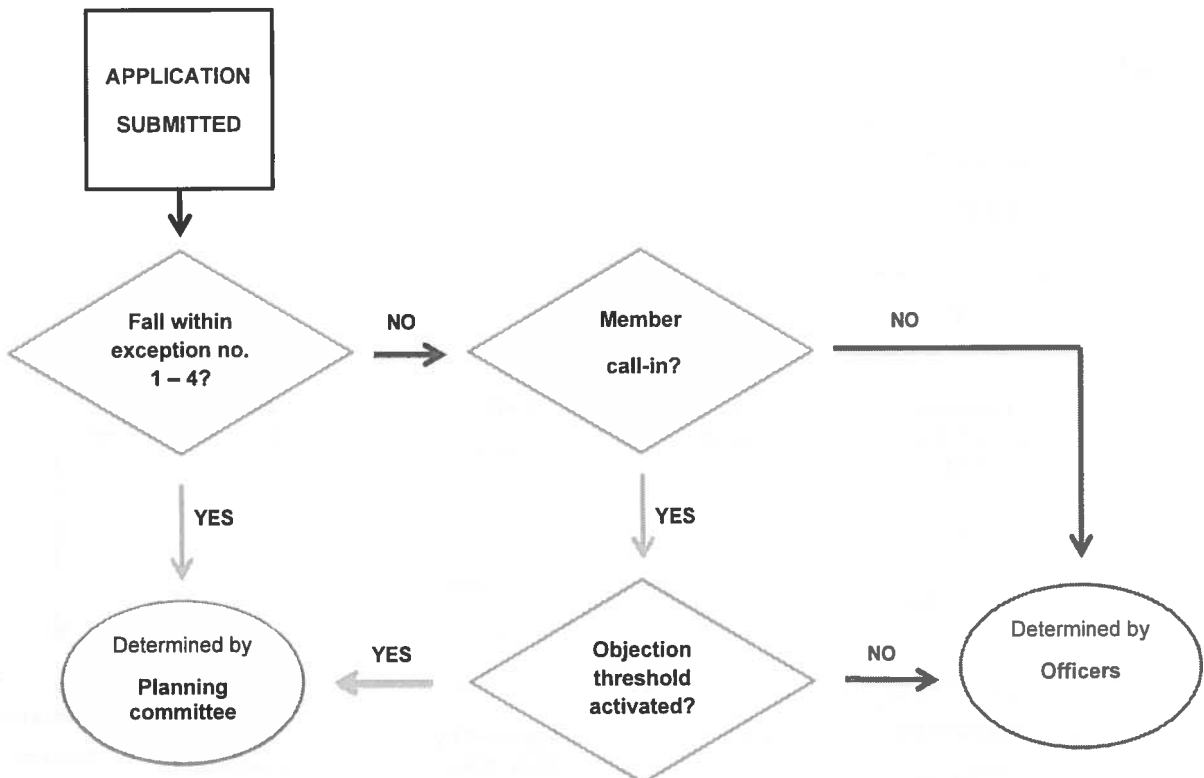


Option 2 – Member call-in linked to objection threshold:

Structure

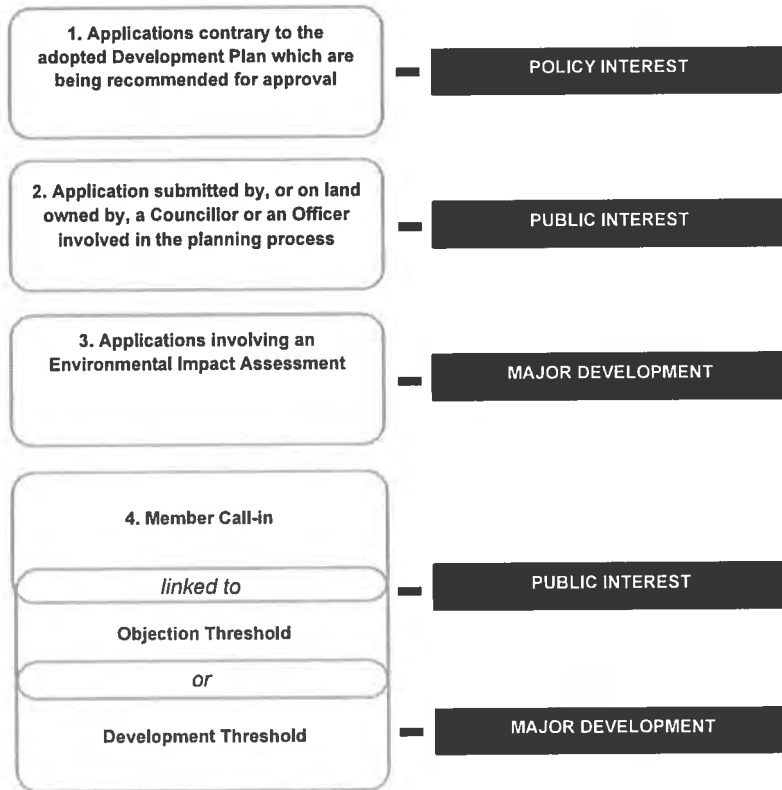


Process

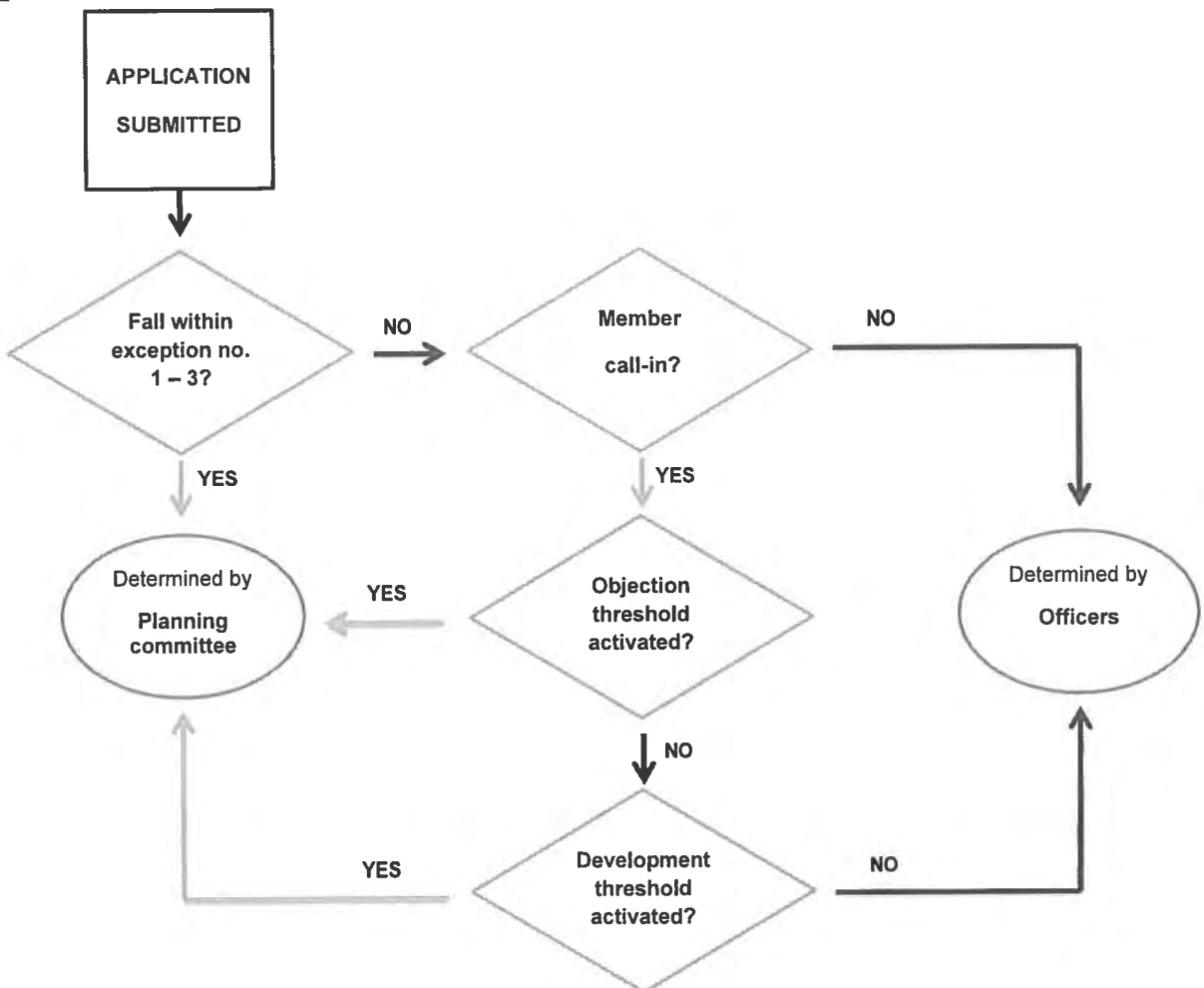


Option 3 – Member call-in linked to objection threshold and development threshold:

Structure



Process



Number: **WG23067**



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation Document

Review of Planning Application Fees

Date of issue: **6 October 2014**

Action required: Responses by **16 January 2015**

Overview

The Welsh Government considers that if our vision for the development management system is to be realised we need to ensure local planning authorities have the necessary resources and use these in the most efficient and effective way.

This consultation document puts forward proposals for changes to the system of planning fees to help achieve this aim.

How to respond

The consultation paper includes a set of specific questions to which the Assembly Government would welcome your response.

The closing date for replies is **16 January 2015**.

You can reply in any of the following ways:

E-mail:

Please complete the consultation response form (at Annex 2) and send it to:

planconsultations-b@wales.gsi.gov.uk

[Please include "Planning Fees Consultation – WG23067" in the subject line.]

Post:

Please complete the consultation response form (at Annex 2) and send it to the address specified under the heading 'Contact details'.

Further information and related documents

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

The current Town and Country Planning (Fees for Applications) Regulations is available at:

www.legislation.gov.uk/wsi/2009/851/contents/made

This consultation paper is also accompanied by a draft Regulatory Impact Assessment at Annex 1, which should be read in conjunction with this paper.

Contact details

All responses should be sent by 16 January 2015 to:

Planning Fees Consultation
Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ

Or by e-mail to:

planconsultations-b@wales.gsi.gov.uk

If you have any queries regarding this consultation please use the e-mail address above or phone Owen Struthers on 02920 826430

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.

1. Introduction and Overview

Introduction

- 1.1 The Welsh Government set out in the 'Positive Planning' consultation document that we want a planning system that enables appropriate development. It needs to support national, local and community objectives for infrastructure, new homes and development that supports business growth and jobs. To ensure the development management system helps deliver this vision we need to ensure local planning authorities (LPAs) have the necessary resources **and** that they are used in the most efficient and effective manner. To help achieve this, this consultation paper puts forward changes to fees that accompany planning applications.
- 1.2 This paper responds to the evidence base¹ which suggests that the quality and timeliness of the service provided by LPAs is being affected by stretched resources available to the planning services within authorities. It identified a need to undertake a review of planning application fees. In response to this work, this paper puts forward three main changes to the system of planning fees; these are:
- an increase in fee levels, as detailed in section two of this paper;
 - to provide a refund of the application fee where an application remains undetermined after a period of time, as detailed in section three of this paper and,
 - to extend the scope of planning fees, as detailed in section three of this paper.
- 1.3 The consultation paper is also accompanied by a draft partial Regulatory Impact Assessment (RIA). This identifies the costs and benefits of our proposals should they be taken forward following consultation. Should, as a result of the consultation, changes be made to the proposals, the impact of the proposals will be reassessed. This is a partial RIA and where we are uncertain of our preferred option we have not undertaken an assessment.

The basis for planning fees

Legal background

- 1.4 Section 303 of the Town and Country Planning Act (TCPA) 1990 enables the Welsh Ministers to prescribe fees or charges in connection with planning functions. These are currently detailed in the Town and

¹GVA Grimley Study to Examine the Planning Application Process in Wales (2010); the IAG paper towards a Welsh Planning Act (2012); the Hyder 'Evaluation of Consenting Performance of Renewable Energy Schemes in Wales' (January 2013); the ARUP & Fortismere Associates Evaluation of the Planning Permission Process for Housing (October 2013); and direct research undertaken by Welsh Government.

Country Planning (Fees for Applications and Deemed Applications Regulations 1989 (as amended in relation to Wales) (the 'fee regulations'). It is proposed that to the extent that any of the proposals detailed in this paper are taken forward, it will be in the context of a Wales-only updated and consolidated set of regulations.

The purpose of planning fees

- 1.5 The Welsh Ministers consider that a LPA should be prepared to pay for activities that are purely or largely for the wider public good; such as development plans and enforcement activity. Yet planning decisions often bring private benefit to the applicant as well; a property with planning permission may be much more valuable than it would be without. The fee that accompanies a planning application is an acknowledgment of that private benefit and reflects the overall cost of handling, administering and deciding the various types of application. The level set is designed to include recovery of direct costs and an apportionment of related overheads.

2. Increasing Planning Fees

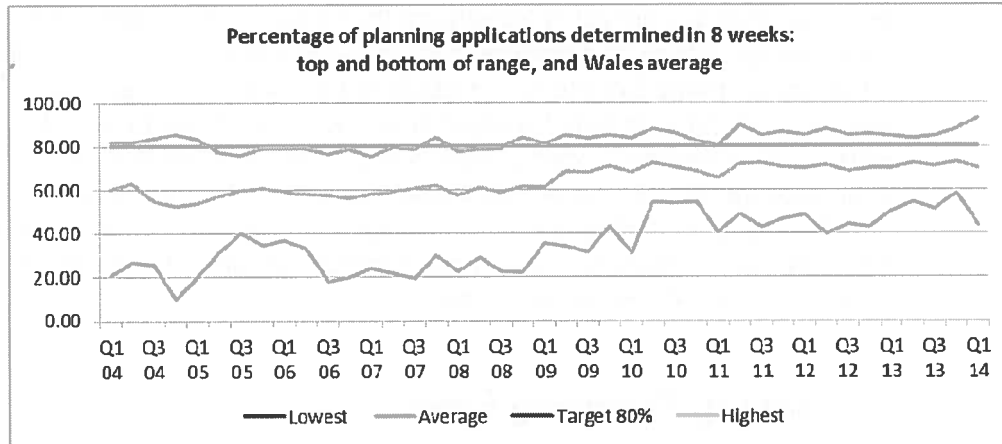
The issue

- 2.1 The Welsh Government stated in the 'Positive Planning' consultation paper that the definition of development management is a positive and proactive approach to shaping, considering, determining and delivering development proposals. It is considered that a key element of the LPAs role in achieving this is to issue accurate and timely decisions. Where this is not achieved applicants can experience delay, frustration and additional cost. Indeed, for the majority of applicants, the development management service is only available through the payment of a fee, and it is expected that the needs of the customer (speed and quality of service) are a priority for the LPA.
- 2.2 LPAs have indicated that the current level of planning fees in combination with general budget cuts has affected the service they provide. The Welsh Government recognises that the current levels of income received through the planning fee system do not currently allow LPAs to achieve full cost recovery² and that this can affect how services are delivered. However, the relationship between resources and service delivery is not a straightforward one, and the issue of how resourcing levels should be improved is similarly challenging. There are complex relationships between the availability of skills, the exercise of people and time management, and addressing the needs of diverse communities, including the differences in number and type of applications generated by these areas. The significant difference (up to

² Average cost recovery across Wales is 66 %

60%) in the level of cost recovery across Wales, shows that the internal systems of LPAs are also an important factor.

- 2.3 It is clear that LPAs can affect how they achieve an efficient and effective service and even with the current financial constraints, LPAs have continued to show improvements in their customer service. The graph below shows the trends for the percentage of applications determined within the statutory 8 week target.



- 2.4 The above graph shows the percentage of planning applications determined in 8 weeks. It shows the average Wales figure, as well as the top and bottom returns for that period. The graph clearly shows that improvements in the performance of LPAs are most dramatic for the Bottom LPA returns for each period. It is considered that further improvements in this area will have the greatest impact in driving up overall performance standards across Wales.

Our proposals

- 2.5 It is evident that cost recovery and the customer service provided are affected by the planning fee level, as well as how LPAs use that fee to deliver services in their area. On this basis, we consider that an increase in planning fees alone will not improve the customer service provided by the LPA. It is clear that any increase in fees should compliment sustained improvements in customer service and our proposals below are based around this concept.

Increasing planning fees

- 2.6 To help address the resource deficit faced by LPAs in processing and determining application, we propose a general increase in planning application fee levels. We propose an increase of 15% across all applications³. A copy of the proposed revised fees is contained in appendix 1 and some general examples are provided below:

³ There are minor variations in the level of increase for the purpose of rounding.

- Example one - householder development
- 2.7 For example, a 'householder development' (an application made by homeowners who wish to seek permission for building works in and around their house) is currently charged at £166 where the application relates to one house, and £330 where it relates to a 2 or more houses. Under the new schedule these applications would be charged at £190 and £380 respectively.
- Example two – full application for residential development of five dwellings
- 2.8 Under the current schedule, an application for full planning permission for a residential scheme consisting of 5 new dwellings would be charged at fee of £1,650 (£330 x 5). Under the new schedule the proposed fee is £1,900 (£380 x 5).
- Example three – outline application for industrial development of 5 hectares
- 2.9 Under the current schedule outline application for an industrial estate of 5 hectares would be charged as follows. Since the site exceeds 2.5 hectares, the basic fee of £8,232 is paid plus £2,100 (calculated at 25 x £84) giving a total of £10,332. Under the proposed schedule the basic fee would be £9,500, plus £2,500 (25 x £100) giving a total £12,000.
- 2.10 The increase in planning fee income that each LPA will experience as a result of this increase will depend on the number and type of applications they receive. However, we predict that a fee increase of 15%, if this affected all of the applications received by that LPA, could add an average of £80,000 to its income.

A commitment by local planning authorities

- 2.11 We have already stated that we do not consider an increase in planning fees alone will deliver our objectives and that we need to ensure LPAs use the resources in the most efficient and effective manner. The proposed increase in planning fees would be on the understanding that there is a commitment by LPAs to review their service delivery.
- 2.12 We are aware that some LPAs have previously looked at service delivery which identified alternative ways of working. Where this review has occurred recently, LPAs should evaluate the success that this has secured. When looking at service delivery one model is unlikely to fit all LPAs and there are many ways positive change can be achieved. For example, there are specialist consultants who can be brought in to review the way a LPA delivers its planning service, which was an approach previously undertaken by Neath Port Talbot County Borough Council.
- 2.13 Rhondda Cynon Taff County Borough Council used the 'lean thinking' process to review how the service was delivered. This is based on the

principle of getting the right things to the right place, at the right time, in the right quantities, while minimising waste and being flexible and open to change. The technique is used in many different industries and for Rhondda Cynon Taff it removed instances where planning applications were being double handled.

- 2.14 Some LPAs may find that a specialist team approach may provide a better solution to the workload that the authority receives. Reviewing practices outside Wales, Cornwall Council operates a dedicated fast track householder team. The householder team operates on a cost recovery model and achieves a very efficient service, with the determination target set below the statutory period at six weeks. They have also found by targeting householder applications in a very efficient manner that this has helped to free up resources for the larger schemes.

Q1a	Do you agree with the proposed 15% increase in fees?
Q1b	If not, what do you consider to be a more appropriate change, if any?

Monitoring and addressing unacceptable customer service

- 2.15 In the 'Positive Planning' consultation document we proposed a LPA annual performance report. This proposal has since been developed in conjunction with LPAs and looks at a range of LPA performance measures, including the speed and quality of planning decisions that they make. The need for this system of monitoring was identified in the IAG report, where the group considered that this would help create a culture of self improvement and help drive up performance standards across Wales. It was also intended to help us monitor the level of impact the changes have on the system.
- 2.16 As well as a need to more formally monitor LPA performance, the IAG group identified a need for a system of measures to ensure LPAs adopt the improved way of working, including introducing a system of penalties to help address poor performance. The group identified that penalising LPAs based on the performance of their planning function could play a role in encouraging them to improve. This idea is supported by the Arup et al report⁴ that suggested a range of carrots and sticks could be used to incentivise and penalise LPAs. Two options identified in the report were to remove the ability of a LPA to determine a planning application and setting a levy on the fee for planning applications.
- 2.17 Performance of the LPA is a priority for the Welsh Government, especially where the LPA has not delivered a service to its customers.

⁴ Arup, the Cardiff School of City and Regional Planning and Liz Mills Associates "A New Approach to Managing Development in Wales" (September 2012)

We propose two measures that would reflect the fact that service delivery has failed; these are:

- optional direct applications; and,
- refund of the application fee after a certain time period.

Optional direct applications

- 2.18 We believe that where there are clear and consistent failures in LPA customer service, it has failed in its role as a planning authority. We have put forward in the Planning (Wales) Bill, currently before the National Assembly for Wales, powers that will provide the Welsh Ministers with the ability to take direct action where an LPA is deemed poorly performing.
- 2.19 Where an LPA is designated by the Welsh Ministers as poorly performing, applicants will have the option to choose whether to make an application for major development to the Welsh Ministers, rather than the LPA. This will provide developers with an alternative service to enable their applications to be determined in a correct and timely manner.
- 2.20 For LPAs to be subject to these 'special measures' they will be seen as poorly performing against the indicators set out within its annual performance report. The indicators are likely to focus on the efficiency and quality of determining applications, which could include being assessed on the basis of the speed within which applications are determined and the extent to which such decisions are overturned at appeal. Appropriate thresholds for designation, and the time period in which they are monitored, are currently under consideration by the Welsh Government. Proposals on optional direct applications will be the subject of a separate consultation.

Refund of the application fee

- 2.21 Welsh Government considers that it is unreasonable for a LPA to go beyond certain time periods before providing a decision on a planning application. To encourage swifter decisions we propose to introduce changes based on recommendations contained within the Arup and Fortismere Associates report⁵, that, where a planning application remains undecided after a set period of time, the application fee is refunded. As well as encouraging swifter decisions, this measure will ensure that; where the LPA have not provided an acceptable service, the financial burden on the applicant is reduced.
- 2.22 Planning applications can vary in their complexity and in setting the target that 80% of applications should be determined within the statutory 8 (16 for applications subject to Environmental Impact Assessment) week period, it is recognised some will exceed this time. Although an

⁵ Evaluation of the planning permission process for housing (October 2013)

application may exceed the determination period, we believe that there is a time after which it is considered unreasonable for the LPA to have failed to come to a decision. In considering an appropriate time period for a refund, it is recognised that the determination of an application can be delayed for genuine reasons; the need to undertake surveys, because the application raises complex matters, or the applicant has submitted revisions to the original scheme. These can require a LPA to undertake further consultation on the application and in considering the new information, and any comments made by consultees, adds further delay to the system. However, even with these additional delays we consider that the LPA should have made a decision on a 'householder' application within 16 weeks and within 24 weeks for all others. After this time we propose that the LPA will be required to refund the application fee.

- 2.23 Pre-application discussions will be important to ensure that applications come before the LPA containing the necessary information for their determination and should alleviate the need to amend schemes. We have produced a guidance note⁶ to advise applicants and local planning authorities on how to make the most of pre-application discussions. In a separate consultation document we set out proposals to formalise this process for certain applications. For complicated applications, the Welsh Government encourages the use of planning performance agreements, where a bespoke timetable to determine the application is agreed between the authority and the applicant. Similarly, applicants and authorities may enter into post-submission agreements to extend the time period for determination to cover unforeseen situations. In these circumstances, a refund would only be payable 16 or 24 weeks after the agreed extension date.
- 2.24 We have set the time limit for a refund to account for general delays in the system; including those that are outside of the applicant's and LPAs control. However there is a danger that an applicant would try to deliberately delay the determination of an application in order to obtain a refund or LPAs may determine applications to avoid having to refund applicants. We place equal weight on both parties being timely, responsible and reasonable in the development management process.
- 2.25 LPAs have the power to ask for additional information if it is necessary to determine an application, but may also choose to determine applications without this evidence being provided by the applicant. This is not a means to prevent a refund and LPAs must be confident that the information requested is necessary for the determination of the application and if the application is refused, that their rationale would stand up at appeal. Similarly, applicants should not cause delay to trigger a refund and requests for additional information may be accompanied by an extension of time request if necessary. This should prevent the unnecessary refusal of applications, and where this does

⁶ <http://wales.gov.uk/topics/planning/policy/guidanceandleaflets/preappguide/?lang=en>

occur the recovery of costs at appeal may be considered by both parties.

Q2a	Do you agree that introducing a refund will improve LPA performance?
Q2b	If you do not agree, what other options are available?
Q3a	Do you agree with the proposed time period of 16 and 24 weeks?
Q3b	If you do not agree, what do you consider to be an appropriate time?

3. Other Changes to Planning Application Fees

3.1 We have set out our vision for linking performance to planning application fees. This section of the consultation paper looks at other, more technical changes to the planning fee system. These changes include introducing new charges, as well as minor technical amendments that alter the current fee arrangements. A variety of measures are proposed; for some areas we have identified our preferred option and in others consultation responses will inform the way forward. This section looks at the following areas:

- fees for the discharge of planning conditions;
- the introduction of a fee for confirmation that a condition has been discharged;
- a standard charge for drafting Section 106 agreements;
- deemed planning application fees;
- facilitating broadband rollout;
- amendments to the 'free go';
- a separate fee category for renewable energy/low carbon applications; and,
- the division of planning fees for cross authority applications.

Discharge of planning conditions

3.2 The ARUP and Fortismere report that looked at the planning permission process for housing, identified that the planning system should be seen as distinct stages. Each stage would constitute a self-contained structure whereby an applicant / agent would prepare a submission for the LPA, pay a fee and receive a service regulated by a target timescale. These stages are:

The initial phase: that is based around pre-application discussions but includes engagement with statutory consultees, members, the local community etc.

The determination phase: that is the submission and determination of a single, defined development proposal.

The post decision phase: that runs from the issue of the decision notice through to implementation.

- 3.3 In taking forward proposals for the 'initial phase' we are seeking to formalise the work undertaken pre-application. Our proposals for this are contained in the consultation paper 'Frontloading the planning system' and include a set of options for charging for a pre-application service provided by the LPA. The 'determination phase', is already accompanied by a fee and is subject to a statutory time period. However the proposals set out earlier in section two of this consultation paper will help deliver the aims of a swift and efficient process. This section looks at the 'post decision phase' and the introduction of a fee for the discharge of conditions.
- 3.4 Planning conditions are requirements set out in a planning permission that may require information for approval by the LPA, or control and limit the operation of the development in some way. Conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. This post decision approval of further information has been identified as a significant barrier to the timely delivery of schemes and a drain on LPA resources. It is estimated that 15% of officer time⁷ is spent dealing with this post decision workload.
- 3.5 Although the process of discharging conditions is widely considered to be covered by mainstream application fees, research⁸ indicates that in practice this is rarely the case as the 'discharge' of conditions can occur considerably later after handling of the original application. To address this issue, studies by Hyder and Arup & Fortismere Associates⁹ both recommend the introduction of a fee for the discharge of planning conditions.

Our proposals

- 3.6 In response to the report recommendations we intend to introduce a fee to accompany the discharge of planning conditions that fall under article 23 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012. We consider the introduction of a fee will assist in paying for the processing, consultation and determination costs incurred by the LPA. A charge is also seen as providing confidence that the work will be undertaken in a timely manner by the LPA.

⁷ GVA Grimley Study to Examine the Planning Application Process in Wales (2010)

⁸ ARUP, Planning Costs and Fees (2007)

⁹ Hyder 'Evaluation of Consenting Performance of Renewable Energy Schemes in Wales' (January 2013), and ARUP & Fortismere Associates Evaluation of the Planning Permission Process for Housing (October 2013)

- 3.7 We propose that a fee would be required for each request to discharge a condition or group of conditions. This follows the approach used for applications that fall within Section 73 of the TCPA (applications to vary or remove conditions), which allows a single or multiple conditions to be submitted for review under one application. This approach is also seen to incentivise applicants to group conditions and contribute to a more efficient approach in their processing and determination. This approach would also provide flexibility to the developer to submit information individually, if they choose. This would also remove the potential for LPAs to add conditions to a planning permission to achieve greater revenue.
- 3.8 The level of fee should be proportionate to the level of work undertaken, and it is recognised this can vary with each application. We consider that conditions attached to householder developments are significantly fewer in number and less resource intensive than those associated with local and major applications. Therefore we propose fees of:
- £25 for householder; and,
 - £83 for all other applications.
- 3.9 We also propose the fee to accompany this application should be refunded if the LPA has failed to come to a decision within a certain time period (details our proposals for the refund of the application fee are covered in paragraphs 2.20 to 2.24). We propose that the time limit should be set 16 weeks but seek your views as to whether this is appropriate.

Q4a	Do you agree with the proposed fee levels to accompany the discharge of planning conditions?
Q4b	If you do not agree, what do you think constitutes an appropriate amount?
Q5	Do you agree with our proposed time period of 16 weeks after which the fee to accompany a discharge of condition would be refunded?

The introduction of a fee for confirming that a condition has been discharged

- 3.10 The IAG report identified that the form of a planning permission has remained unaltered over the years, despite the fact that the number and complexity of conditions has expanded significantly. The group stated that this results in difficulty in identifying the complete content of the planning permission, including where conditions have been 'discharged' on permission.
- 3.11 When selling or raising finance on property buyers and mortgagees will normally want proof that any conditions attached to planning permissions have been complied with. Non-compliance with or lack of

proof of compliance with planning conditions can be a frequent cause of delays in the conveyancing process and can even result in property sales falling through. Where the LPA receive requests to confirm that conditions have been discharged on a development the LPA can experience difficulty in searching for this information. To cover costs LPAs may charge a fee for this service to cover these costs,

Our proposals

- 3.12 To assist in standardising the process across Wales, a set fee for the formal confirmation that the condition (or conditions) has been discharged could be introduced. Formalising the fee would provide certainty to applicants that the fee level is reflective of the cost and can help those unfamiliar with the process.
- 3.13 The fee to accompany a request that confirms that a condition(s) has been “discharged” would merely be confirmation that no more information needs to be submitted in connection with that condition for approval by the LPA, and is not confirmation that the development has been built in accordance with those details. If a fee were introduced, the levels would be £25 for householder; and £83 for all other applications to reflect the different level of work involved with the application types.
- 3.14 To fully address the issue of decision notices, we are seeking to introduce, through the Planning (Wales) Bill, provision to make the decision a ‘live’ document. The introduction of these proposals, where the discharge of conditions is recorded on the decision notice of the original permission, should significantly reduce the time taken in identifying and confirming conditions have been discharged. Therefore if this provision is enacted we would re-evaluate any fee to accompany a request to confirm conditions to be discharged on a planning permission.

Q6	Do you agree with the introduction of a standardised fee to accompany a confirmation that conditions have been discharged?
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Planning obligations under Section 106

- 3.15 Agreements under Section 106 of the Town and Country Planning Act 1990 (known as planning obligations) are an essential feature of the planning system. They are a mechanism which makes a development proposal acceptable in planning terms that would not otherwise be able to be built. The purpose of the agreement is to deal with points that, as matters of law, cannot be covered by planning conditions. They are focused on site specific mitigation of the impact of development and enable a council to secure contributions to services, infrastructure and amenities in order to support and facilitate a proposed development.

- 3.16 The current mechanism for agreeing Section 106 obligations is seen as protracted. There is often a substantial time lag between a resolution to grant planning permission and the issue of the decision notice after the completion of the Section 106 process. There are many reasons for delay, and these can be the responsibility of both the LPA and applicant.

Our proposals

- 3.17 The ARUP and Fortismere report, that identified the application process as a set of distinct stages, also makes recommendations in relation to Section 106 negotiations. Although they consider that these negotiations should be interwoven into each stage of the system, its final agreement is seen as a distinct stage following the 'resolution to grant planning permission' having been made by the LPA.
- 3.18 They identify that this stage of the process should be accompanied by a fee and a set timescale. This fee would cover the administrative cost of the LPA legal team responsible for reviewing the agreement. In paying a fee the applicant can expect a better level of service from the local authority in return.

Q7a	Do you agree with the proposals for the introduction of a set fee to accompany the drafting of a Section 106 planning obligation?
Q7b	If you have answered yes, how should this fee be calculated? If not, what are your reasons?

Deemed planning application fees

- 3.19 When a person appeals an enforcement notice served by the LPA, they may appeal on the basis that planning permission ought to be granted for the activities cited in the notice (a ground (a) appeal under s.174(2) of the Town and Country Planning Act 1990).
- 3.20 Appealing on this ground is known as a 'deemed planning application'. As the appellant wants the planning merits to be considered through this appeal mechanism, a fee is payable. The size of the fee is double that charged for the equivalent ordinary application for planning permission. Half of the fee goes to the Planning Inspectorate and the other half to the LPA. The fee paid to the Planning Inspectorate is effectively held as a deposit which is refundable if the appeal succeeds on the 'legal' grounds.
- 3.21 At present it takes time and effort for the Planning Inspectorate to administer this system, and as this revenue is treated as a 'receipt', any monies that are retained through failed appeals are paid to the Treasury. This means that there is no income that would cover the costs of the Planning Inspectorate. However, the recent

commencement of Section 199 of the Planning Act 2008¹⁰ that inserts a new Section 303 into the TCPA 1990 in relation to Wales provides greater flexibility for the Welsh Ministers in relation to this fee. They may make provision in regulations for the whole of this fee to be paid to either the LPA, the Welsh Ministers, or as is currently the position, to both the Welsh Ministers and LPA.

Our proposals

- 3.22 We propose that the fee to accompany a ground (a) appeal will only be paid to the LPA. It is proposed that the current arrangements, where the level of fee is double that of the equivalent planning application shall remain the same. Where the appeal fails the LPA would retain the entire double fee. We consider it is more appropriate that the fee is paid to the LPA as they are better equipped to deal with the administration of the fee.
- 3.23 A previous consultation¹¹ on enforcement concluded that there was support for the double fee to be paid to the LPA and we seek confirmation that this remains the case.

Q8	Do you agree that the fee to accompany a ground (a) appeal should only be payable to the LPA?
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Facilitating broadband rollout

- 3.24 The Welsh Government is committed to the roll-out of broadband across Wales through commercial rollout schemes and the Superfast Cymru programme. When combined, the aim is to provide 96% of Wales with a world class fibre broadband network by 2016.
- 3.25 To assist in broadband rollout we set out proposed changes to permitted development rights for code operators in a recent consultation paper¹² and amending regulations will come into force later this year. To further support the rollout of broadband we are now considering ways to help let the public and businesses know where the network has been upgraded.
- 3.26 We are aware of existing schemes to roll out information that consist of standardised advertisements located on the 'broadband cabinets' after they have been installed. These cabinets are the small metal cabinets that are often painted green and are commonly seen in the street environment.

Our proposals

¹⁰ The Planning Act 2008 (Commencement No.2) (Wales) Order 2014.

¹¹ Improving the Appeals Process (August 2011)

¹² <http://wales.gov.uk/consultations/planning/permitted-development-for-broadband-roll-out/?status=closed&lang=en>

- 3.27 The current fee regulations state that the fee to accompany an application shall be paid for the 'site' at which the advertisement shall be displayed. Where the application deals with advertisements to be displayed on more than one site, the fee is the aggregate of the fees for each site. However, the regulations make provision for advertisements on certain elements of street furniture, such as litter bins and parking meters; the whole of a specified area is considered a single site. This means that an application covering multiple sites is only charged a single fee, instead of a fee based on the aggregate for each site.
- 3.28 We are currently considering if advertisements on broadband cabinets in a specified area, then the whole of that specified area should be treated as a single site for the purposes of attracting a single fee; we seek your views on this proposal.

Q9a	Do you agree that advertisements on broadband cabinets in a specified area should be treated as a single site for the purposes of charging a fee?
Q9b	If you have answered no, please explain why.

Amendments to the 'free go'

- 3.29 The current fee regulations provide that following withdrawal, refusal, non-determination or approval of a reserved matters application, the applicant is entitled to submit a revised application without paying a fee. This is known as a 'free go' and provides flexibility for applicants. The 'free go' is often used to address concerns made by the LPA, and applicants can provide an alternative scheme that may be considered more acceptable. There are certain limitations that apply to the 'free go' arrangements, they:
- must be made by, or on behalf of the original applicant;
 - be for the same character or description of development on the same site, or part of that site; and,
 - must be made within a certain time limit.

Our proposals

- 3.30 We believe that the 'free go' still provides many benefits to the planning system as it provides flexibility. For example, applicants may withdraw a reserved matters applications to prepare additional information or importantly, following refusal, or where the LPA has failed to make a decision on an application, it provides the applicant an alternative route to an appeal.
- 3.31 However, where the original reserved matters application has been approved, we are considering if it is appropriate to allow the applicant the opportunity of a 'free go'. In this situation, the LPA has determined that the details submitted were acceptable. Therefore should the

applicant want to make amendments to the scheme, it may be more appropriate to apply for the change through an application that falls within section 73 of the TCPA 1990. Section 73 provides for the determination of applications to develop land without compliance with condition(s) previously attached. This allows changes to be made to the approved scheme and these applications can be less complex and may not require all the information to be resubmitted to the LPA for consideration.

Q10a	Should the applicant be entitled to a free go following approval of a reserved matters application?
Q10b	If you have answered no, please explain why

Create a separate fee category for energy generation projects

3.32 An energy generation project is any project where part of its primary function is the generation of electrical power. This can be from fossil fuel systems to renewable and low carbon energy development. LPAs have responsibility for determining planning applications for energy projects under 50MW. Energy generation projects are often large scale applications and the 2013 Hyder report states:

'The cost of the planning service is clearly significant for renewable and low carbon renewable applications and raises questions on the level of fee income for these applications and whether this adequately reflects the resource and time commitments of LPAs.'

3.33 At present energy generation projects often fall within Schedule 1, part II, Section 5, Plant and Machinery, of the fee regulations. Section 5 covers a wide variety of applications, many outside energy generation. This schedule does not generate sufficient income to the LPA to allow them to efficiently determine the energy generation applications, however simply increasing fee levels for Section 5, plant and machinery would unfairly impact on those other applications that are covered by the section. It is therefore appropriate to review the inclusion of energy generation projects in this category.

3.34 Energy generation projects can be split into a number of different categories, and any revision should seek to take account of their different characteristics. It is considered that site area is appropriate for the majority of developments; however wind turbines, due to the nature of the development, may require alternative methods of calculating fees. To review the current situation the Welsh Government has collected a range of data, including the size of the application area, the number of turbines, the output generated and the fee paid. This shows that the current regime is inconsistent in the amount of income received by a LPA, compared with applications with a similar scale of impact.

Our proposals

- 3.35 Having considered the different characteristics of energy generation projects we believe that wind turbines warrant a separate section with the fee regulations. Other energy generation projects are still suited to the current method of charging, based on the area of the development. The larger the development, the larger the fee. However, with wind turbines, the small geographical area of the application site does not lend itself to this model; planning application fees remain low compared with the work required to determine the application.
- 3.36 There are a number of wind turbine characteristics that could potentially be used to calculate a more proportionate fee. Options that look to provide thresholds for this fee are explored below.

Output of turbines

- 3.37 The use of 'output' could be considered a fairer and more proportionate approach to fee calculation, as the higher the turbine output, the greater the likely impacts that need to be assessed. This would warrant a higher planning application fee. However, the output of a wind turbine is dependent on numerous factors, such as the location, height, wind speed and terrain and these factors can lead to a difference between potential, and the actual, generated output of a scheme.
- 3.38 Using predicted energy outputs is likely to complicate the validation of applications as the LPA and applicant may disagree about the potential output of a scheme. Using the maximum output is an alternative, but will not reflect the actual energy generated by a scheme. This method would enable greater alignment between the application fee and the impacts of the development.

Number of turbines

- 3.39 The number of turbines would appear to offer a simpler approach, and as the number of turbines increases, the likely impact of the development will also increase, leading to increased determination costs. However, if the fee was only calculated on the number of turbines in an application, the fee would not take account of different development sizes, for example a 15M high turbine would be charged the same fee as a 50M high turbine. The likely impacts of a wind farm on an area, and the consequential costs to the LPA to assess that impact, are likely to be different depending on the height of the turbine. Number of turbines alone would therefore not appear to offer a practical solution to calculating application fees.

Height of turbines

- 3.40 The height of the turbine also affects the impact of the development; as the turbine height increases from a 'domestic' scale development, to a commercial operation, the greater the workload placed on a LPA to determine the application.
- 3.41 Using height to calculate the application fee would not take account of the ancillary development, such as ground works, turbine bases, etc, associated with the application. One option to overcome this issue would be to incorporate all ancillary development within the unit cost for each turbine.
- 3.42 The height of the turbine may be a point of negotiation between the developer and LPA. Therefore an applicant may feel aggrieved if height was used to determine the planning fee and the LPA sought to have this lowered after it had been submitted. However, in this situation the applicant would of course retain the right of appeal.

Area

- 3.43 The above alternatives attempt to address the issues associated with using area to calculate the planning application fee. However, each alternative raises different issues. If any of these measures were combined with site area, the original shortfalls with the latter may be overcome. The fee schedule could therefore be set at a per 0.1 hectare value for wind turbine development of a certain size (such as the height or output of a scheme).
- 3.44 While not included in appendix one, the schedule below shows an example of how these fees could operate if a combined approach were used:
- i. where the potential output does not exceed 2.5 MW, £330 for each 0.1 hectare of the site area ,
 - ii. where the potential output exceeds 2.5MW but does not exceed 5 MW, £400 for each 0.1 hectare of the site area,
 - iii. where the potential output exceeds 5MW but does not exceed 10 MW, £450 for each 0.1 hectare of the site area,
 - iv. where the potential output exceeds 10MW, £500 for each 0.1 hectare of the site area, subject to a maximum in total of £287,500.

Q11a	Do you agree that applications for renewable energy development should have a separate fee schedule to Section 5, Plant and Machinery?
Q11b	Do you agree that wind turbines should also have a separate system of fee calculation?
Q11c	What factors, or combination of factors, should be taken into account when is calculating the fee for wind turbines?

Allow the division of planning fees for cross authority applications

- 3.45 A planning application may straddle the boundaries of two or more LPAs. As a LPA cannot grant planning permission for a development within the administrative area of another authority, it is necessary for each LPA to receive an application, identifying on the plans which part of the site is relevant to each.
- 3.46 The fee regulations state that the planning fee to accompany the application is payable solely to the authority that contains the largest part of the whole application site. The fees for each application should be calculated separately and then added together. The applicant pays this amount, or, if it is less, an amount equal to 150% of the fee that they would have been paid if they had only to make one application that covers the entire site.
- 3.47 Determination of cross boundary applications by each LPA separately may lead to problems over its processing and determination; including duplication in terms of publicity, notification and consultation requirements, as well as leading to conflicting decisions or the establishment of different conditions and obligations on any permission granted.
- 3.48 Local government legislation makes provision with respect to the functions and procedures of local authorities, including arrangements that facilitate the determination of cross boundary applications. These procedures can lead to a reduction in the workload of the LPA that receives the smaller part of the application site. However, a complex application may still require substantial work on behalf of the authority with the smaller area of the application. Yet the LPA that does not receive the application fee, must provide this service without receiving an income to cover the associated time and resource costs.

Our proposals

- 3.49 We consider that cross boundary applications should provide a fee to both authorities calculated at the standard rate for the application that is submitted within their area. This would mean that the applicant would pay the fee to each LPA for the development that is within their administrative boundary calculated at the normal rate. This will mean that should each LPA choose to determine the application within their area, they will receive the necessary income to cover their costs.

Where a LPA chooses to make alternative arrangements for the determination of the application, it will be for the LPAs to agree the transfer of all or part of the fee as required.

Q12a	Do you agree that fees for cross-boundary planning applications should be addressed, with all constituent LPAs receiving fee income?
Q12b	If you have answered yes, how should this matter be addressed?

General questions

3.50 A draft partial RIA has been prepared (at Annex 1) that identifies the impacts on stakeholders if these proposals were taken forward following the consultation. Should, as a result of the consultation, changes be made to the proposals, the impact of the proposals will be reassessed and the RIA revised.

Q13	Do you have any comments to make about the draft partial Regulatory Impact Assessment at Annex 1?
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Q14	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:
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Appendix 1 : Draft Fee Schedule

Wales	
Category of Development	Proposed fee payable
<p><i>I. Operations</i></p> <p>1. The erection of dwellinghouses (other than development within category 6 below).</p>	<p>(a) where the application is for outline planning permission and –</p> <p>(i) the site area does not exceed 2.5 hectares, £380 for each 0.1 hectare of the site area,</p> <p>(ii) the site area exceeds 2.5 hectares, £9,500 and an additional £100 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum total of £143,750;</p> <p>(b) in other cases –</p> <p>(i) where the number of dwellinghouses to be created by the development is 50 or fewer, £380 for each dwellinghouse,</p> <p>(ii) where the number of dwellinghouses to be created by the development exceeds 50, £19,000 and an additional £100 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £287,500.</p>
<p>2. The erection of buildings (other than buildings in categories 1, 3 4, 5 or 7).</p>	<p>(a) Where the application is for outline planning permission and –</p> <p>(i) the site area does not exceed 2.5 hectares, £380 for each 0.1 hectare of the site area,</p> <p>(ii) the site area exceeds 2.5 hectares, £9,500 and an additional £100 for each 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £143,750;</p> <p>(b) in other cases –</p> <p>(i) where no floor space is to be created by the development or where the area of gross floor space to be created by the development does not exceed 40 square metres, £190,</p> <p>(ii) where the area of the gross floor space to be created by the development exceeds 40 square metres but does not exceed 75 square metres, £380,</p> <p>(iii) where the area of gross floor space to be created by the development exceeds 75 square metres, £380 for each 75 square metres (or part thereof), subject to a maximum in total of £287,500.</p>

WG Consultation: WG23067

<p>3. The erection, on land used for the purpose of agriculture, of buildings to be used for agricultural purposes (other than Buildings in category 4).</p>	<p>(a) Where the application is for outline planning permission and –</p> <p>(i) the site area does not exceed 2.5 hectares, £380 for each 0.1 hectare of the site area,</p> <p>(ii) the area exceeds 2.5 hectares, £9,500 and an additional £100 for each additional 0.1 hectare in excess of 2.5 hectares, subject to a maximum in total of £143,750;</p> <p>b) in other cases –</p> <p>(i) where no floor space is to be created by the development or where the area of gross floor space to be created by the development does not exceed 465 square metres, £70,</p> <p>(ii) where the area of gross floor space to be created by the development exceeds 465 square metres but does not exceed 540 square metres, £380,</p> <p>(iii) where the area of gross floor space to be created by the development exceeds 540 square metres £380 and an additional £380 for each 75 square metres (or part thereof) in excess of 540 square metres, subject to a maximum in total of £287,500.</p>
<p>4. The erection of glasshouses on land used for the purpose of agriculture.</p>	<p>(a) where the gross floor space to be created by the development does not exceed 465 square metres, £70;</p> <p>(b) where the gross floor space to be created by the development exceeds 465 square metres, £2,150.</p>
<p>5. The erection, alteration or replacement of plant or machinery.</p>	<p>(a) where the site area does not exceed 5 hectares, £385 for each 0.1 hectare of the site area;</p> <p>(b) where the site area exceeds 5 hectares, £19,000 and an additional £100 for each 0.1 hectare in excess of 5 hectares, subject to a maximum in total of £287,500.</p>
<p>6. The enlargement, improvement or other alteration of existing dwellinghouses.</p>	<p>(a) where the application relates to one dwellinghouse, £190;</p> <p>(b) where the application relates to 2 or more dwellinghouses, £380.</p>
<p>7. (a) the carrying out of operations (including the erection of a building) within the curtilage of an existing dwellinghouse, for purposes ancillary to the enjoyment of the dwellinghouse as such, or the erection or construction of gates, fences, walls or other means of enclosure along a boundary</p>	<p>£190</p>

of the curtilage of an existing dwellinghouse;	
7 (b) the construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£190
8. The carrying out of any operations connected with exploratory drilling for oil or natural gas.	(a) where the site area does not exceed 7.5 hectares, £380 for each 0.1 hectares of the site area; (b) where the site area exceeds 7.5 hectares, £28,600 and an additional £84 for each 0.1 hectare in excess of 7.5 hectares, subject to a maximum in total of £287,500
9. The carrying out of any operations not coming within any of the above categories.	(a) in the case of operations for the winning and working of minerals – (i) where the site area does not exceed 15 hectares, £190 for each 0.1 hectare of the site area, (ii) where the site area exceeds 15 hectares, £28,600 and an additional £100 for each 0.1 hectare in excess of 15 hectares, subject to a maximum in total of £74,800 ; (b) in any other case, £190 for each 0.1 hectare of the site area, subject to a maximum of £287,500 .
<i>II. Uses of land</i> 10. The change of use of a building to use as one or more separate dwellinghouses.	(a) Where the change of use is from a previous use as a single dwellinghouse to use as two or more single dwellinghouses – (i) where the change of use is to use as 50 or fewer dwellinghouses, £380 for each additional dwellinghouse. (ii) where the change of use is to use as more than 50 dwellinghouses, £19,000 and an additional £100 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £287,500 (b) in all other cases – (i) where the change of use is to use as 50 or fewer dwellinghouses, £380 for each dwellinghouse, (ii) where the change of use is to use as more than 50 dwelling houses, £18,000 and an additional £100 for each dwellinghouse in excess of 50 dwellinghouses, subject to a maximum in total of £287,500 .

<p>11. The use of and for the disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land, or for the storage of minerals in the open.</p>	<p>(a) Where the area does not exceed 15 hectares, £190 for each 0.1 hectare of the site area;</p> <p>(b) where the site area exceeds 15 hectares £28,500 and an additional £100 for each 0.1 hectare in excess of 15 hectares, subject to a maximum in total of £74,800.</p>
<p>12. The making of a material change in the use of a building or land (other than a material change of use coming within any of the above categories).</p>	<p>£380</p>

Schedule II

<p>1. Advertisements displayed on business premises, on the forecourt of business premises or on other land within the curtilage of business premises, wholly with reference to all or any of the following matters –</p> <p>(a) the nature of the business or other activity carried on the premises;</p> <p>(b) the goods sold or the services provided on the premises; or</p> <p>(c) the name and qualifications of the person carrying on such business or activity or supplying such goods or services.</p>	<p>£100</p>
<p>2. Advertisements for the purpose of directing members of the public to, or otherwise drawing attention to the existence of, business premises which are in the same locality as the site on which the advertisement is to be displayed but which are not visible from that site.</p>	<p>£100</p>
<p>3. All other advertisements.</p>	<p>£380</p>

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 15 JANUARY 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.

Mr Chris Ball c/o Llysworney Garage, Church Road, Llysworney, Vale of Glamorgan, CF71 7NQ
Andrew Parker Architect, The Great Barn, Lillypot, Bonvilston, Vale of Glamorgan., CF5 6TR

Llysworney Garage, Church Street, Llysworney

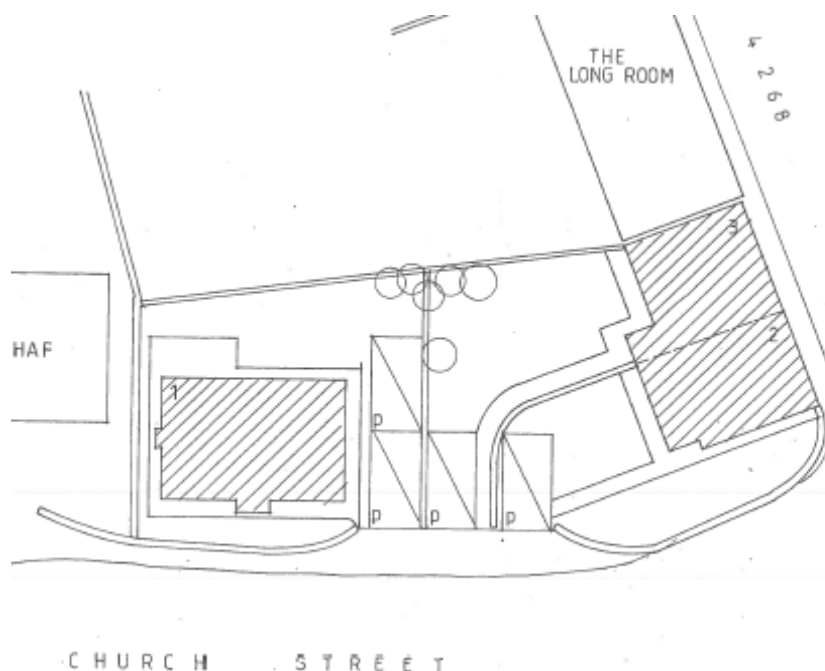
Proposed demolition of existing garage and proposed three dwellings

SITE AND CONTEXT

The application site sits on the corner of Church Street and B4268 within the settlement of Llysworney as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. The site is currently occupied by a car repair garage with buildings of varying functional form and design. The site also sits within the Llysworney Conservation Area and is noted as a negative factor within the Conservation Area appraisal as a '*building where improvements would be beneficial.*'

DESCRIPTION OF DEVELOPMENT

The application as revised is for the erection of three no. dwellings following the demolition of the various garage buildings within the confines of the site. A pair of semi-detached houses are proposed to front the B4268 and one no. detached dwelling to the west of the site fronting onto Church Street. Each of the dwellings would be served by individual garden areas and accessed by a shared access from Church Street to the south of the site. A site layout plan of the proposals is shown below:



The proposed pair of 2 no. bedroom semi-detached dwellings would have a width of approximately 10.7 metres and an eaves and ridge height of approximately 5 metres and 7.4 metres respectively. The main dwelling would have a span of approximately 6 metres with a two storey projection of 1.7 metres. They would predominantly be finished in a white rough cast render with a stonework plinth below. Elevation drawings from the B4265 and the junction of Church Street are shown below:



Elevation drawing of semi-detached pair from the B4265 (l) and Church Street (r).

The 3 no. bedroom detached dwelling to the west of the site would have a footprint of 8.7 metres by 5.7 metres and an eaves and ridge height of 5 metres and 7.4 metres respectively. Elevation drawings of the proposed dwelling are shown below:



PLANNING HISTORY

There is no relevant planning history at the property.

CONSULTATIONS

Llandow Community Council provided comments with regard to the amended submission indicating that the children of Llysworney currently use the garage to shelter from the weather whilst waiting for a bus and query if this could be secured through a section 106 agreement. They also raise issue that the occupier of the neighbouring property of The Long Room would have difficulty maintaining the pine end of their property.

The Council's Highway Development section was consulted with regard to the application and raise objection with regard to the substandard level of parking proposed within the confines of the site and that pedestrian footways provided adjacent to the site are substandard and therefore there is no safe means of pedestrian access to the site.

Environmental Health Pollution Control section was consulted with regard to the application and provide comments with regard to the removal of the petroleum/diesel petroleum tanks from the site and the requirement for an Environmental Report. They indicate that they are satisfied that issues relating to the above are dealt with by condition.

The Llandow-Ewenny Ward member was consulted although no comments had been received at the time of writing this report.

Dwr Cymru Welsh Water were consulted with regard to the original application and in October 2012 raised no objection subject to conditions and advisory notes being attached to any planning consent relating to foul and surface water discharging separately from the site and no surface or land drainage connecting directly or indirectly to the public sewerage system

The Council's Building Control Section was consulted although no comments had been received at the time of writing this report.

Glamorgan Gwent Archaeological Trust was consulted and comment that given the evidence of medieval and early post-medieval occupation in the area (and despite the existing garage potentially impinging on the archaeological resource), there is potential for archaeological finds on the site and recommend that an archaeological watching brief should be attached to any planning consent given.

The Council's Ecology Officer was also consulted and indicates that 'the site is of low potential to support roosting bats or breeding birds. Therefore we do not recommend any species surveys.'

Comments were also received the **Council's Highways and Engineering Section** indicating that the applicant should consider the floor/threshold levels for the proposed development and indicate that the applicant should consider alternatives such as soakaways or SUDS.

REPRESENTATIONS

The neighbouring properties were initially consulted on 22 October 2012, a site notice was also displayed on 08 November 2012 and press notice also displayed on 8 November 2012, four letters of representation were received with regard to the proposals raising the following concerns:

- Inadequate level of parking provision
- Lack of adequate recreational space

- Design of the houses not in keeping with the Conservation Area
- Concern with regard to impact upon amenity of neighbouring properties
- Supportive of principle of development of the site to provide starter homes
- Safety of fuel storage tanks
- The requirement to move Royal Mail post box

Further consultations were sent on 10 December 2014 and a site notice was also displayed on 23 December 2014 although no further comments 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 18th April 2005, and within which the following policies are of relevance:

Strategic Policies:

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

Policy:

POLICY ENV 17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT

POLICY ENV 18 – ARCHAEOLOGICAL FIELD EVALUATION

POLICY ENV 20 – DEVELOPMENT IN CONSERVATION AREAS

POLICY ENV 21 – DEMOLITION IN CONSERVATION AREAS

POLICY ENV 26 - CONTAMINATED LAND AND UNSTABLE LAND

POLICY ENV 27 – DESIGN OF NEW DEVELOPMENTS

POLICY ENV 29 – PROTECTION OF ENVIRONMENTAL QUALITY

POLICY HOUS 2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

POLICY HOUS 8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2

SETTLEMENTS

POLICY 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 relates specifically to housing and is of key relevance to this proposal.

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 (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:

- Amenity standards
- Conservation Areas in the Rural Vale
- Llysworney Conservation Area Appraisal and Management Plan

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:

- Sustainable Settlements Appraisal Review (2013)

Issues

The primary issues in the consideration of this application are the impact of the proposed development on the character of the Llysworney Conservation Area, the visual amenities of the surrounding area, the residential amenity of the neighbouring properties, provision of amenity space and level of parking provision.

Principle of Development

The site falls within the settlement boundary of Llysworney as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. Policy HOUS2 of the adopted UDP permits housing infill, small-scale development and redevelopment and rounding off within rural settlements including Llysworney. Within defined settlements boundaries such development will be permitted subject to the provisions of policy HOUS8. Criteria i) and ii) of this policy are of particular relevance noting that development will be permitted which:

- (i) the scale, form and character of any proposal is sympathetic to the environs of the site
- (ii) the proposal has no unacceptable effect on the amenity and character of existing or neighbouring environments by virtue of noise, traffic congestion, exacerbation of parking problems or visual intrusions

An assessment of the acceptability of the proposals in line with the provisions of this and other policies will be made within the report, however, the proposed development is considered acceptable in principle in this location.

Layout, visual impact, scale of development and impact on the character of the Conservation Area

The application site is situated within a central position within the defined settlement boundary of Llysworney. As noted the site is currently developed and devoid of any particular architectural merit. Given its position on the corner of the B4265 and Church Street the site holds a prominent position within the Conservation Area and is clearly visible from a number of vantage points. Although there are no Listed Buildings within the immediate street scene, it is however noted that the site falls within an ensemble of attractive buildings with a number (including the adjoining Long Room and Escot House) being identified as positive buildings within the Conservation Appraisal and Management Plan. The Carne Arms and Corner House opposite are locally designated as County Treasures.

Significant concern was raised with regard to the initially submitted scheme in relation to the quality of the design and the fact that proposals to include four no. dwellings would represent over-development of the site. Following extensive negotiation the number of dwellings proposed was reduced from four to three and the layout and design of the dwellings have been substantially altered to better reflect the constrained nature of the site and the vernacular of adjoining buildings.

Policy ENV17 of the Development Plan is therefore of relevance noting that the Environmental Qualities of the Built and Historic Environment will be protected and that '*development that has a detrimental effect on the special, character, appearance or setting of:*

- i) *A building or group of buildings, structure or site of architectural or historic interest, including listed buildings and conservation area;*
- ii) *Scheduled ancient monuments and sites of archaeological and/or historic interest*

... will not be permitted.'

Furthermore Policy ENV20 of the UDP notes that '*development... within Conservation Areas will be permitted where they preserve or enhance the character of the Conservation Area.*' The policy is a criteria based policy which details that such proposals should reflect; i) the scale, design, layout, character, materials and setting of those buildings which establish the character of the area; iii) important open space within and adjoining Conservation Areas.'

The Llysworney Conservation Area Appraisal and Management Plan (CAAMP) provides further guidance with regard to the Llysworney Conservation Area, noting as one of the negative factors affecting the character of the area is that *'buildings where improvements would be beneficial include ... the former Texaco garage on the corner of Church Street/B 4268;*'. This is elaborated within the Management Plan stating that *'The Former Texaco Garage on the Corner of Church Street/B 4268. This is made up of an assortment of buildings, of limited architectural merit. The long term replacement and upgrading of these buildings would be welcome'*.

It is apparent that the existing garage buildings do little to either preserve or enhance the character of the Conservation Area and it is clear that the appropriate redevelopment of this site is therefore supported within the provisions of relevant policies and CAAMP. The revised scheme proposes three no. dwellings within the confines of the site which are relatively simple in terms of their form and design, but this reflects the vernacular of local buildings within the immediate vicinity. One example of this detailing is the positioning of the windows directly below the eaves which is prevalent along Church Street to the south of the site and therefore reflecting local vernacular. The revised dwellings towards to the east of the site, respect the general scale and form of the adjoining dwellings and visually continue the form of the Long Room and Elston House, and appear sympathetic in relation to their elevated position above the neighbouring dwellings. The dwelling at plot 2 on the corner of the B4268 and Church has been redesigned to provide a degree of dual frontage to provide interest both to the gable end and the main thoroughfare through the village, allowing the proposals 'to turn the corner' on what is a prominent site within the Conservation Area.

In addition, the roof pitch of the dwellings has been amended to be made steeper, which is more reflective of the form of neighbouring buildings. The dwellings would provide a strong sense of enclosure to the highway and this would reflect the characteristic pattern of development in the wider area.

Overall therefore, it is considered the dwellings as revised will reflect the design and form of buildings within the Llysworney Conservation Area and are considered to preserve and enhance the setting of the area through the beneficial re-use and redevelopment of a site which currently detracts from the historic and visual amenities of the host area. As such the proposals are considered to accord with the provisions of policies ENV20, ENV27, HOUS2 and HOUS8 of the Development Plan.

Amenity Provision

The Council's adopted Amenity Standards SPG indicates that new dwellings should be served by 1m² of amenity space per 1m² of gross floor area (including garage space). It is acknowledged that in terms of the amount of amenity space provided that the amount provided does not accord with the requirements of the SPG as aforementioned, particularly with reference to dwelling 1 to the west of the site.

Notwithstanding this each of the proposed dwellings will still be served by an individual area of amenity space that are together considered to provide future occupiers with an adequate area of usable outdoor amenity space for everyday functional and leisure uses of future occupiers. It is also considered that the benefits of developing the site efficiently and providing a strong sense of enclosure to the highway outweigh the deficit in amenity space.

Impact upon Amenity of Neighbouring Residential Properties

Given the lack of projection to the rear of The Long Room and lack of side facing windows in this adjoining property it is considered that the proposed dwellings on plots 2 and 3 will cause minimal detriment to the amenity enjoyed by the neighbouring occupiers of the Long Room to the north. It is also noted that the proposal would introduce a third dwelling adjacent to the foot of the rear garden of the Long Room set at its closest point, just 3.8 metres from the boundary. Notwithstanding this it is considered that given the lack of proximity with the dwelling itself (i.e. dwelling 3 is towards the rear of their garden), the pattern of fenestration on the rear elevation of the proposed dwelling and its relative orientation, the proposal would not result in an unacceptable degree of detriment to the amenity enjoyed by occupiers of the neighbouring dwelling by reason of overlooking or loss of light/being overbearing. While the rear of dwelling 3 would be relatively close to the garden of The Long Room, only one of the first floor windows on the rear would serve a habitable room and this would not face directly towards the house. There would be some overlooking of the garden, however, it would not directly overlook the part of the garden closest to the house and it is considered that it would not unacceptably reduce the level of privacy enjoyed by the neighbour.

There is a substantial garage building to the west of the site that sits immediately adjacent to the adjoining dwelling of Maes Yr Haf, and this garage building is proposed to be demolished as part of the works. The proposal would result in the erection of a dwelling within approximately 1.4 metres of the boundary with the neighbouring dwelling projecting forward of the neighbouring dwelling by approximately 3.6 metres. Whilst noting that the proposal would introduce a two storey building in this position, it is considered that the proposal would not cause unacceptable detriment over and above the existing relationship with the existing garage building. Notwithstanding the existing relationship, it is considered that the introduction of a dwelling of this form in this position would not cause undue detriment by reason of loss of light or being overbearing.

On balance therefore, whilst the proposals would introduce three new dwelling houses on a relatively constrained site, it is not considered that the proposals would result in an unacceptable degree of detriment enjoyed by occupiers of neighbouring dwellings.

Highways Implications

The Council's Highways Department section raised concern in relation to the initial proposals by reason of the level of on-site parking provision proposed with only four no. spaces being shown to serve four no. dwellings (and also indicating concerns with regard to pedestrian facilities to the front of the site). The revised proposals indicate the provision of 4 spaces, 2 no. for dwelling 1 to the west of the site, and 1 no. each for each of dwellings 2 and 3 to the east. These spaces would all be shared via a shared access from Church Lane. It is acknowledged that the provision of four spaces within the confines of the site would represent a shortfall in the level of parking when assessed against the requirements of the CSS Parking guidelines for a residential development of the form proposed. However, whilst being mindful of the highways officer's comments it must be noted that the application site is physically constrained and would result in a substantial improvement in the form of urban fabric within this prominent position within the Llysworney Conservation Area. Parking requirements need to be balanced against the requirement to provide amenity space for future occupiers of the dwellings and the betterment that such a development would have within the street scene. It must also be noted that the current use of the building would result in a need for parking on local highways with limited on-site provision. Whilst noting concerns relating to the lack of pedestrian footways adjacent to the site it should be noted that the residential properties on Church Street and Heol Y Cawl do not have the benefit of pedestrian footways currently. Nevertheless it would be possible to provide a continuation of the existing footway to the front of the site, at least along the boundary of the site with Church Street and accordingly a condition has been applied requiring the submission of these details, and the construction of the footway. No highways objection has been raised in respect of the vehicular accesses to the parking bays, and these are therefore considered acceptable.

Contaminated Land

Whilst having no objection in principle, given the historic use of the site, the Council's Environmental Health Section have requested further information to be provided with regard of the underground petroleum/diesel storage tanks from the site and provision of an Environmental Report. Having discussed the matter further with the department, they are satisfied that these issues can be addressed by condition attached to any planning consent given.

Drainage

Dwr Cymru Welsh Water has been consulted with regard to the application and raises no objection with regard to the development subject to conditions. The Council's Engineering Section also raises no objection to the proposals subject to details of floor levels. Therefore the proposals are considered to accord with Policy ENV7 of the Development Plan.

Other Issues

It is noted that concern has been raised with regard to the proximity of the building to the pine end of the adjacent property of the Long Room as well as the current use of the garage building by children sheltering from the elements. Neither of these issues is considered to represent material planning reasons to prevent the grant of planning permission.

It is also noted that a Post Box would need to be moved as part of the works although the client would need to obtain permission from Royal Mail and this is therefore considered to be outside of the remit of the planning process.

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 Strategic Policies 1 & 2 – ‘The Environment’ and Policy 3 ‘Housing’ as well as Policies ENV17 ‘Protection of Historic and Built Environment’, ENV20 - Development in Conservation Areas, ENV21 ‘Demolition in Conservation Areas’, ENV26 ‘Contaminated Land and Unstable Land’, ENV27 - Design of New Developments, ENV29 ‘Protection of Environmental Quality’, HOUS2 - Additional Residential Development, HOUS8 - Residential Development Criteria , HOUS11- Residential Privacy and Space, TRAN10 - Parking , Supplementary Planning Guidance ‘Amenity Standards’ and the Llysworney Conservation Area Appraisal and Management Plan, it is considered that the proposed works are acceptable.

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 502/P/80, 502/P/81, 502/P/82 and 502/P83 received on 5 December 2014 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. 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 502/P/80 received 5 December 2014 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 prior to the commencement of development, (such a scheme shall include the provision of a stone faced wall onto Church Street) 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 Policies ENV20 and ENV27 of the Unitary Development Plan.

5. No development shall take place on site until such time as a scheme to deal with the removal of underground petroleum and diesel storage, contaminated land, asbestos and other contaminants on the site has been submitted to and approved in writing by the Local Planning Authority and the scheme for removal of contamination from the site shall be fully implemented in accordance with the approved scheme.

Reason:

In the interests of public safety, and to ensure compliance with Policy ENV7 of the Unitary Development Plan.

6. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the beneficial occupation of the 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 Policies ENV20 and 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 implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that neither surface water or land drainage run-off shall not discharge, either directly or indirectly, into the public sewerage system, unless otherwise approved in writing by the Local Planning Authority.

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.

9. 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) 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 the terms of Policy ENV27 of the Unitary Development Plan.

10. 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 the terms of Policy ENV27 of the Unitary Development Plan.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Orders revoking or re-enacting those Orders), no gates, fences, walls or other means of enclosure other than those agreed by other conditions of this 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 the terms of Policy ENV27 of the Unitary Development Plan.

12. Prior to the commencement of development, details of the finished levels of the site 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 are safeguarded, and to ensure the development accords with Policies ENV20 and ENV27 of the Unitary Development Plan.

13. Notwithstanding the submitted plans and prior to the commencement of any development, details of the setting back of the boundary of the property directly adjacent to Church Street and the B4268, and the continuation of footway around this boundary, shall be submitted to and agreed in writing by the Local Planning Authority, and the footway shall be constructed in accordance with the details thereby approved and maintained at all times thereafter.

Reason:

In the interests of highway and pedestrian safety and to ensure compliance with Policy ENV27 of the Development Plan.

14. 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.

15. 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

16. Prior to their use in the development, additional details (including plans at a scale of 1:20), cross sections and samples of all of the proposed windows, eaves, rainwater goods and doors have been 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 and so maintained at all times.

Reason:

To safeguard local visual amenities, as required by Policy ENV20 of the Unitary Development Plan.

NOTE:

1. **Where the proposal requires both Planning Permission and Listed Building Consent or Conservation Area Consent work must not be commenced until both consents have 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. You will note that a condition has been attached to this consent and refers to an archaeologist being afforded the opportunity to carry out a watching brief during the course of developments. It would be advisable to contact the Glamorgan-Gwent Archaeological Trust, at Heathfield House, Heathfield, Swansea, SA1 6EL. Tel: (01792 655208) at least two weeks before commencing work on site in order to comply with the above condition.**
- 4. The proposed works will require a post box outside of the application site to be moved. As such you are advised to contact Glynne Merrick at Royal Mail at the following address:**

**Glynne Merrick,
Collections Planning Manager,
Cardiff Mail Centre,
220 Penarth Road,
Cardiff,
CF11 8TA**

or by email: glynne.merrick@royalmail.com

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.

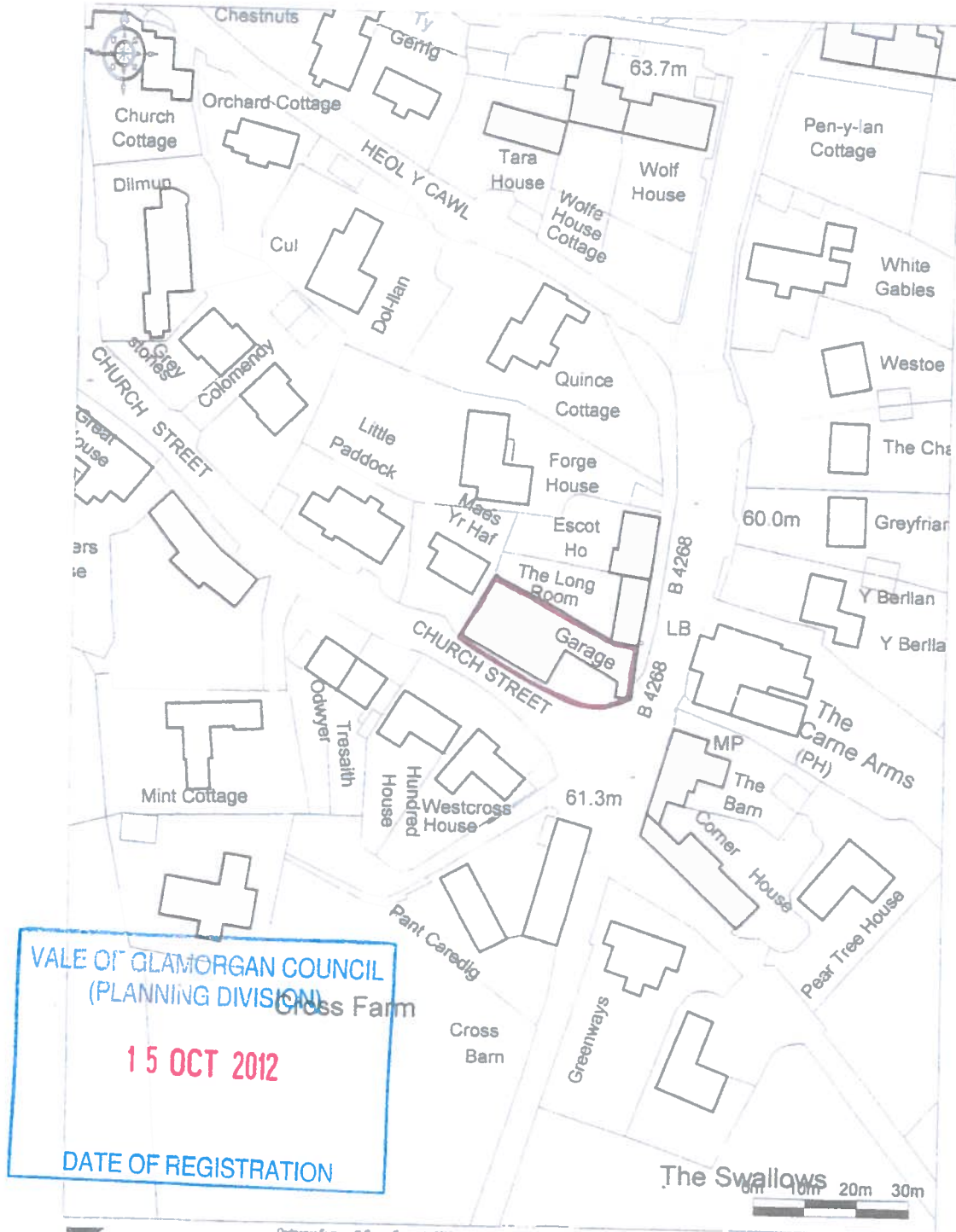
In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

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.

Llysworney Garage, Llysworney, Vale of Glamorgan, CF71 7NQ

Site Plan 1:1,250



1201095 RECEIVED FUL

15 OCT 2012

ENVIRONMENTAL
AND ECONOMIC
REGENERATION

Mr. Ahmed, Bedrix Properties Ltd, 55, Woodvale Avenue, Cardiff., CF23 2SP
Aspects of Construction. Tree Tops, Sully Road, Penarth, Vale of Glamorgan.,
CF64 2TR

Land North West of Bendrick Road, Barry

New build domestic housing (9 in total)

a) One set of three link houses (three bedrooms) :- 3 dwelling units; b) one set of two semi detached houses (three bedrooms):- 2 dwelling units and c) two sets of two semi detached houses (four bedrooms):- 4 dwelling units

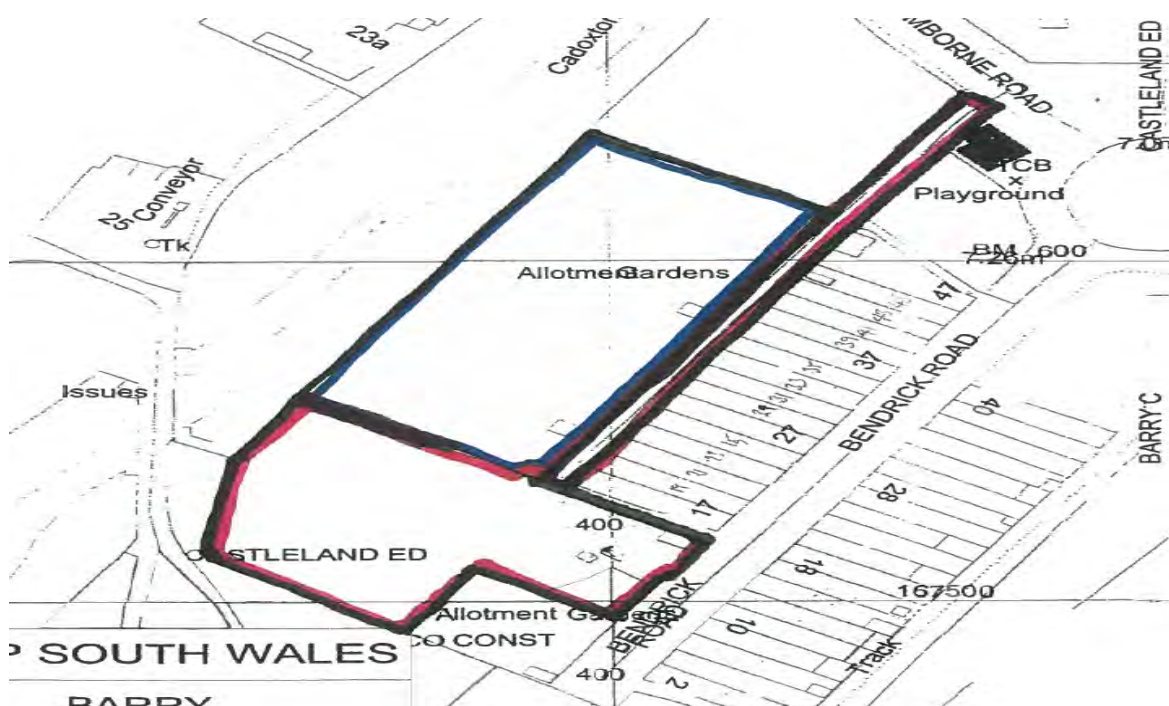
BACKGROUND AND CONTEXT

This planning application was submitted concurrently with planning application 2013/00936/RES, which related to a proposal for 14 dwellings on the adjacent land. While the applications are separate, the two sites would be served by the same access and, if approved, they would effectively function as a single continuous layout. That application has been approved- see planning history below.

SITE AND CONTEXT

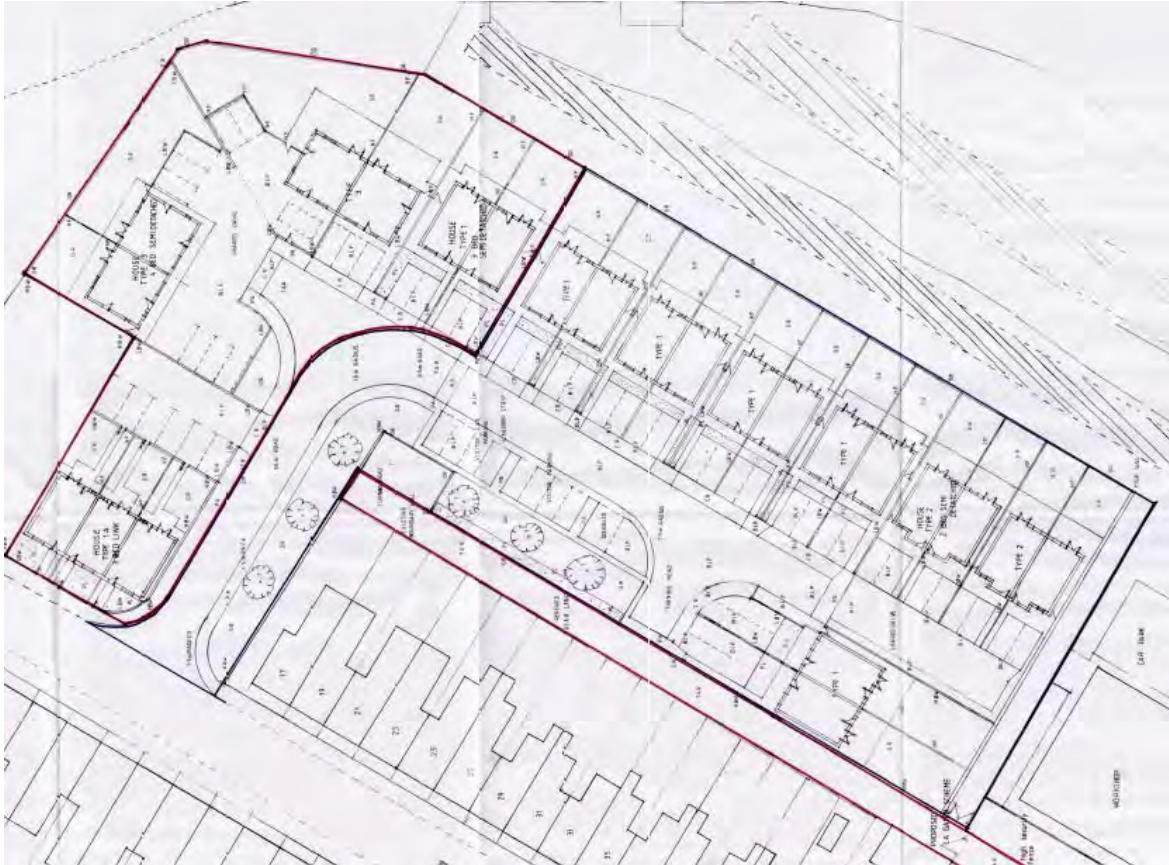
The application site is land adjacent to Bendrick Road, Barry, which fronts the road and is located adjacent to a vacant parcel of land that is the subject of planning application 2013/00936/RES (which in itself lies to the rear of a terrace of existing dwellings on Bendrick Road). The site measures approximately 45m wide x 75m deep and would be accessed via Bendrick Road, adjacent to No. 17 at the end of the terrace. The site lies outside of any defined settlement boundary.

The plan below indicates the sites area and context:



DESCRIPTION OF DEVELOPMENT

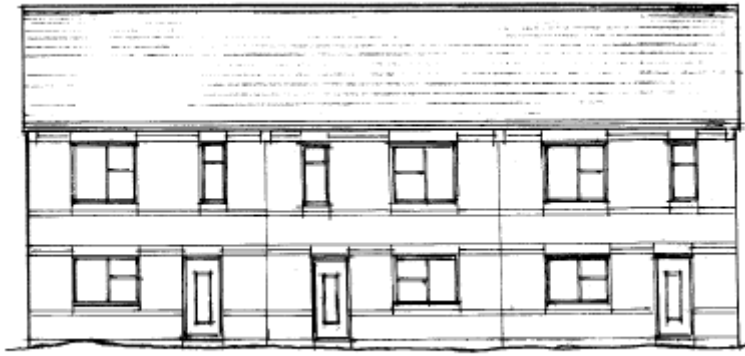
The proposal is in full, for 9 dwellings in the form of three semi-detached pairs and a row of three. The layout is shown below (NB the plan below also shows the 14 dwellings approved by application 2013/00936/RES).



The access road passes along the side of No. 17 Bendrick Road, then turns left into the site. There would be a row of three houses fronting Bendrick Road, with three semi-detached pairs to the rear. The row of three and one of the semi-detached pairs would comprise three bedroom dwellings, and the remaining two semi-detached pairs would comprise four bedroom dwellings.

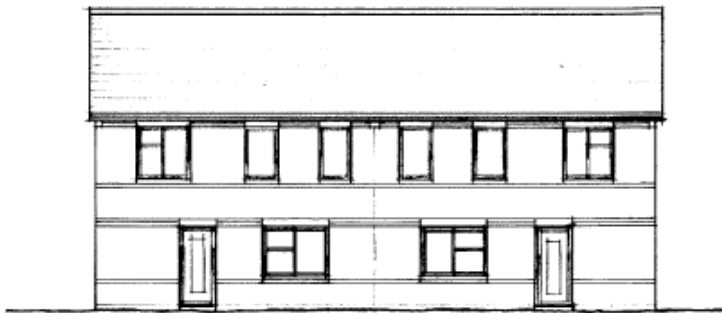
The four bedroom dwellings would be served by three parking spaces and the three bedroom dwellings would each have two parking spaces.

The dwellings are of a simple, conventional design, with pitched roofs and finished principally in brick. The elevations and artists impression below shows the appearance and design of the proposed dwellings:



FRONT ELEVATION TO BENDRIX RD (only)

Row of three fronting Bendrick Road.



FRONT



GABLE END / SIDE

Four bedroom semi-detached properties.



PLANNING HISTORY

2013/00936/RES- development of adjacent land for 14 houses- approved.

2009/00019/OUT : Site north west of Bendrick Road currently accessed off Wimborne Road, Barry Docks - Proposed residential development of 14 two/three bedroom houses - Approved

2005/00860/OUT : Site north west of Bendrick Road currently accessed off Wimborne Road, Barry Docks - Proposed 10,000 ft² assembly/manufacturing unit and 12 three bedroom residential units - Approved

The above 2009 application related to the site adjacent to this application site (i.e. the site that is now the subject of application 2013/00936/RES).

CONSULTATIONS

Barry Town Council - No objection, subject to a contribution being paid to enhance public open space in the area.

Glamorgan Gwent Archaeological Trust has requested a condition regarding a scheme of archaeological work.

Health and Safety Executive - No objection.

Highway Development - No objection, subject to a condition requiring engineering details of the access to be agreed.

The Director of Legal and Regulatory Services (Environmental Health) No representations received to date, however, in respect of application 2013/00936/RES, conditions were requested relating to the investigation of contaminated land, construction impacts and noise.

Local ward members - Councillor C. Elmore has called the application in to Planning Committee, citing concerns regarding parking.

Dwr Cymru / Welsh Water - No representations received to date.

Ecology Officer - No representations received to date.

Natural Resources Wales has raised no objection subject to conditions relating to flood risk, drainage and ecology.

Operational Manager (Highways and Engineering- Drainage)- A condition is requested for the comprehensive drainage of the site, including a declaration of responsibility for maintaining the system and as built drawings to be submitted.

South Wales Fire and Rescue Service has provided advice in respect of water supplies and access for fire service vehicles.

The Strategy and Supporting People Manager has requested the application be considered along side application 2013/00936/RES, and that there should be a requirement for 30% affordable housing for the two developments combined.

REPRESENTATIONS

The neighbouring properties were consulted and the application has been advertised on site and in the press. Five letters of objection have been received and the grounds are summarised as follows:

- Increase in traffic and unacceptable increase on pressure for parking.
- Obstruction to turning movements.
- Flood risk.
- Inadequate drainage infrastructure.
- No fire point in the plans.
- Loss of view and loss of green space.
- Concerns regarding the re-instatement of the lane to the rear of the existing terrace on Bendrick Road.

REPORT

Planning Policies

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 18th April 2005, and within which the following policies are of relevance:

STRATEGIC POLICY 1 - THE ENVIRONMENT

STRATEGIC POLICY 2 – SUSTAINABILITY

STRATEGIC POLICY 3- HOUSING

STRATEGIC POLICY 8 - TRANSPORT

ENV1- DEVELOPMENT IN THE COUNTRYSIDE

ENV6 - EAST VALE COAST

ENV7 - WATER RESOURCES

ENV 16- PROTECTED SPECIES

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29- PROTECTION OF ENVIRONMENTAL QUALITY

HOUS 2- ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS3- DWELLINGS IN THE COUNTRYSIDE

HOUS 8- RESIDENTIAL DEVELOPMENT CRITERIA

EMP6- DEVELOPMENT ADJACENT TO HAZARDOUS INDUSTRIAL USES

TRAN10 – PARKING

REC3 - PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS

REC6 - CHILDREN'S PLAYING 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 important as most other chapters of PPW refer back to it, part 4.2 in particular

4.4.3 Planning policies, decisions and proposals should:

- Contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems. In particular, planning should seek to ensure that development does not produce irreversible harmful effects on the natural environment and support measures that allow the natural heritage to adapt to the effects of climate change. The conservation and enhancement of statutorily designated areas and of the countryside and undeveloped coast; the conservation of biodiversity, habitats, and landscapes; the conservation of the best and most versatile agricultural land; and enhancement of the urban environment all need to be promoted.

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.

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

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.

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 12 – Design (2014)
- Technical Advice Note 15- Development and Flood Risk

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
- Barry Development Guidelines

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)

Issues

The main issues involved in the assessment of the application are considered to be:

- The principle of the development.
- The design, layout and form of the development and its impact on the character of the area.
- Flooding
- Ecology
- Highways Issues
- Impact on neighbouring dwellings.
- Amenity space provision

The Principle of the Development

The main issue in this regard is that planning permission has already been granted for a residential development on this site, which links to (forming one whole with) the adjacent plot of land that was approved most recently under application 2013/00936/RES. While the approved outline permission for this parcel of land (2005/00860/OUT) has now expired (hence the submission of a full application rather than a reserved matters application) it is considered that the land still appears and functions logically as the second half of the wider site. While the UDP and LDP policy situation has progressed since the time of the previous approval, it is considered that the policy situation hasn't changed so fundamentally to render the principle of development now unacceptable. The current housing land supply is also now different to what it was when the last application was approved, however, it is considered that this issue is not fundamental since the previous application was not found acceptable only based on a shortfall of housing land at that time, rather it was found to be acceptable generally, on its own merits, in planning terms.

It is clear from the assessment of application 2005/00860/FUL that the application was held to be acceptable given that the location, while outside of a settlement boundary, is relatively urban in character and the proposed development would have assimilated well with the existing residential development on Bendrick Road. That physical context remains the same and there has been no material change to that since the last application, other than the full approval of dwellings on the adjacent site.

Therefore, having regard to the character of the land and the wider area, the substantially similar policy situation (in terms of those policies relevant to this proposal) and the full approval of dwellings on the adjacent site (and the physical relationship with the adjacent site), it is considered that the residential development of this site remains acceptable and would not adversely impact upon the LDP process.

The design, layout and form of the development and its impact on the character of the area.

The proposal effectively seeks to create a continuation of the development approved by application 2013/00936/RES by continuing the main row, and constructing two further dwellings to the side to create a cul-de-sac and three dwellings fronting Bendrick Road. The development as a whole would be partially visible from the public highway when approaching the roundabout along Wimborne Road or Hayes Road, but would be screened to a large degree by the existing industrial unit closest to Wimborne Road and the dwellings on Bendrick Road. The development would be principally visible from Bendrick Road itself and in that context it would be viewed in the direct context of the adjacent site and the older terrace to the front. Accordingly, it is considered that they would appear as closely physically related to these neighbouring developments (as opposed to an isolated and detached group) and the predominantly linear layout would replicate the general pattern of development along Bendrick Road. The principal difference is that the dwellings would be in semi-detached pairs as opposed to forming a terrace, however, it is considered that this difference would not be demonstrably harmful to the character of the area. The pairs would be closely spaced, however, given the context and close relationship to existing terraces of dwellings, it is considered that this layout would not appear as unduly cramped or as an overly intensive use of the land.

Therefore, given that the principle of the development has been accepted and given the shape of the site, it is considered that a development of this layout represents the most appropriate and logical form of layout. The dwellings to the front would address Bendrick Road in the same way that the existing terrace does and this would therefore be characteristic of the predominant pattern of development along the highway.

The dwellings themselves are of a simple and uncomplicated design and, while they do not add significantly to the 'visual interest' of the street, they would be located in a context which is characterised by dwellings that are also of a relatively simple and traditional form. It is, therefore, considered that such a design, while not of particular architectural merit, would be compatible with this context and would not adversely impact upon the street scene. The plans indicate yellow brick, however, given the predominance of red brick along Bendrick Road, it is considered that red brick would be more appropriate. Notwithstanding this, the colour of brick can be controlled by condition.

The proposed dwellings would measure approximately 8m to the ridge and this would not appear as over scaled in the context of the existing dwellings and buildings around the site.

The proposed layout comprises a relatively significant amount of hard surfacing around the fronts of the dwellings (parking areas and the street itself), however, it is considered that a mixed palette of hard surfacing materials would serve to 'break up' the overall area visually. Furthermore, areas of landscaping would punctuate the hard surfaced areas and there is space for small trees to be planted along the row, to further soften the appearance of the development. Notwithstanding this, the layout would not be highly visible from outside the site, given its screened location to the rear of the existing terrace.

For the reasons above, it is considered that the proposed layout is acceptable and would comply in design terms with the above listed policies and guidance.

Impact on Neighbours

With the exception of the row of 3 at the front, the proposed dwellings would be sited further away from the existing houses on Bendrick Road than those approved under application 2013/00936/RES and in a location that would not appear as overbearing to existing residents and would not adversely impact upon privacy.

The dwellings at the front of the site would be situated between 16m and 17m away from the fronts of dwellings opposite, however, this replicates the pattern all along the road. Therefore, while this is less than the 21m specified by the Council's SPG on Amenity Standards, it is characteristic of the street as a whole and the impact in terms of privacy would be mitigated by the intervening highway. It is therefore considered that the aims of the SPG would be respected and the development would not unacceptably impact upon privacy.

It is also considered that the vehicle movements associated with this number of dwellings, and the use of the parking area adjacent to the access drive would not unacceptably impact upon residential amenity in terms of noise and nuisance. While the vehicles movements may be audible to neighbours, it is considered that the distance from the road and parking spaces to these properties (and the number of dwellings in question) is such that these activities would not be demonstrably harmful.

It is, therefore, considered that the development would preserve the residential amenity of existing residents, in compliance with Policy ENV 27 of the UDP and the guidance contained within the Council's SPG on Amenity Standards.

Flooding

The application site lies within Flood Zone C2 (an area without significant flood defence infrastructure) as defined within the Development Advice maps accompanying TAN 15.

TAN 15 states that in order for a development to be justified in Zone C, it must be demonstrated that:

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,

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

It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

In addition, Policy ENV7 of the UDP states that development will not be permitted where it would potentially be at risk from flooding or increase the risk of flooding locally or elsewhere to an unacceptable level.

In this case, a Flood Consequences Assessment (FCA) was submitted with the previous outline application which states that the development would not be at an unacceptable flood risk. The Environment Agency (EA) (now NRW) concurred in response to this application to state that the 'risks and consequences of flooding could be acceptably managed'. The outline application, accompanied by a Flood Consequences Assessment, demonstrated satisfactorily that the proposed development would not be at an unacceptable risk of flooding (subject to the finished floor levels of the dwellings being set at no lower than 7.40m above Ordnance Datum).

Notwithstanding the fact that permission has previously been granted on this site and very recently on the adjacent land, it is considered that the proposal would assist in regeneration and would assist in sustaining the settlement. It is unclear exactly what use the land was previously put to, however, it either formed part of the allotment or was sited directly adjacent to it. The site is surrounded by industrial uses and it is considered that it has the appearance of previously developed land, as does the surrounding context. As noted above, it is considered (and has been confirmed by the EA) that the consequences of flooding have been considered and found to be acceptable.

Having regard to the above assessment and the planning history of the site and adjacent land, it is considered that the development would not be at unacceptable risk of flooding and would not result in unacceptable flood risk elsewhere in the catchment, in accordance with the aims of TAN 15 and policies ENV 7 and ENV 27 of the UDP.

Ecology

The outline planning permission from 2005 was conditioned to require a mitigation strategy to deal with the presence of reptiles to be submitted, approved and implemented and while specific comments have not been received from the ecology officer in this case, it is considered that there remains a requirement for such a condition. A further condition required compliance with the findings of the David Clements Ecology Ltd Ecological Assessment submitted with the 2005 outline application, and this also remains relevant to the development. The EA have requested a further condition in respect of a buffer zone alongside the River Cadoxton, and this is also recommended here.

Having regard to the above, it is considered that impacts on ecology can be adequately mitigated through the use of conditions and, therefore, the proposal would comply with the aims of Policy ENV 16 of the UDP.

Highways Issues and Parking

The Council's Highways Engineer has raised no objection to the proposal from a parking or highway safety perspective. The access point benefits from adequate visibility along the road and there is sufficient space for vehicles to turn within the site, in order that they would not have to reverse out onto Bendrick Road.

Each of the dwellings would be served by two or three off street parking spaces which is considered to be sufficient to serve 9 units of this size. This is particularly important given that on street capacity on Bendrick Road is usually taken up, and it is considered that the amount of parking available to serve the development would mean that there would not be undue additional pressure for the spaces on Bendrick Road.

Objections have previously been raised in respect of highway safety along Bendrick Road as a result of the additional traffic that would be generated by the development. However, notwithstanding the additional number of vehicles that would be linked to the 9 dwellings, given that site access and egress can be secured safely, it is considered that the proposal would not represent a material danger to pedestrian or highway safety. It is also considered that the development would not result in such additional levels of vehicle movements to unacceptably impact upon the free flow of traffic along Bendrick Road.

Whilst it is acknowledged that a degree of noise and disturbance may be caused by construction traffic, this is an inevitable result of a development such as this and it is considered that these temporary impacts alone would not render the development unacceptable. A construction environmental management plan condition is recommended to ensure that these impacts are minimised.

Amenity Space

While some of the gardens would not provide the 1m² of amenity space per 1m² of floor space as required by the Council's SPG, it is considered that each of the dwellings would nevertheless be served by gardens of an acceptable size that would meet the outdoor functional and relaxation needs of the occupiers. The development would, therefore, comply with the aims of the Council's Amenity Standards SPG and the amenity aims of policies ENV 27 and HOUS 8 of the UDP.

Section 106 Issues (including Affordable Housing)

Affordable Housing

While affordable housing is now normally sought on all developments of 10 units or more, the outline application on the adjacent site was approved when the threshold for affordable housing set out in the Council's SPG was 50 units. Consequently affordable housing could not be sought as part of that consent.

The Council's Housing Section has requested that this development should be considered alongside the other 14 units (23 units in total), however, it is considered that would be unreasonably onerous in this instance, given that would require 7 of 9 units to be affordable. While it is unfortunate that the adjacent scheme was initially approved at a time when the threshold was higher (50 dwellings), it is considered that the Council could not reasonably use this application as a means to claw back affordable housing units as a proportion of the wider site, in an attempt to catch an older development that benefitted from a higher threshold. Therefore, and given that this application is for 9 units, the affordable housing threshold is not met or exceeded. Consequently, it is considered that affordable housing units cannot be sought as part of this application.

While the proposal falls just under the threshold of ten, it is considered that the application does not amount to an unacceptable underdevelopment of the site. The dwellings are served by a deficit of amenity space relative to the SPG (but still an acceptable amount as outlined above) and the provision of off street parking is critical given the on street pressure in the area. Consequently, it is considered that the development makes efficient use of the land and none units fits appropriately within the site area.

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 and TAN 18 which emphasise the important relationship between land use planning and sustainability in terms of transport.

The Council has developed formula to calculate reasonable levels of contributions for off-site works to enhance sustainable transport facilities. The formulae 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 use of formula ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan. It requires a contribution of £2000 per dwelling.

In this case a contribution of £18,000 has been agreed with the developer, to reflect the nature of the site's location and the need to mitigate the sustainable transport impacts of the development. For viability reasons, this is considered acceptable, whereas a contribution based on £4000 per unit has been sought previously in the area, given the nature of the location.

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 24.3m² per person or 55.40sqm 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.

Given the size of the site and the type of development proposed, it is not practical to provide the required amount of public open space on site. The supporting text to UDP Policy REC 3 states: "In certain circumstances where application of the Council's standards is impractical (e.g. the site is too small to provide a meaningful area of open space) or where existing open space provision is deficient in quality in the immediate locality, the Council may be prepared to negotiate alternative arrangements i.e. off site contribution payments." Therefore it is appropriate in this case to accept a financial contribution to provide or enhance public open space off site, which would need to be secured through a Section 106 Agreement.

The Council has developed formula to calculate reasonable levels of contributions for off-site works to enhance existing area of public open space. The formulae has been derived from an analysis of the costs associated with providing and maintaining public open space and recreational facilities, 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 ensures a fair and consistent approach to development proposals throughout the Vale of Glamorgan. It requires a contribution of £1,000 per person (or £2,280 per dwelling based on average household size) for those not catered for through on site provision. In this case, the public open space contribution equates to £20,520, which the developer has agreed to pay.

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 (paragraph 12.1.1 refers). 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 (paragraph 3.3.2 refers).

It is anticipated that the development will generate one four nursery/primary and two secondary age pupils. Current trend data for the schools near to the development indicates insufficient capacity to accommodate the anticipated pupil yield arising from the development at nursery, primary and secondary level. Therefore, it is necessary to seek a contribution to mitigate this impact. The applicant has challenged proposals to require full contributions to create additional places in the catchment schools, however,

The local English Medium primary school is Sully Primary School, which is expected to be at capacity when the development would be constructed. However, this is in part due to the fact that pupils from outside the catchment area attend the school under parental preference. Therefore, in the longer term, as this housing development becomes occupied children would have priority for school places over pupils from outside catchment and sufficient places would be available to meet the additional demand.

In the interim period, older children moving into the development will not have an automatic right to a place if capacity is already used up. Therefore, these pupils would need to attend school elsewhere and a contribution for school transport has been calculated to cover the cost of this short-term issue. This is considered to be a pragmatic and more sustainable approach to local school provision.

The overall Education contribution therefore totals £16,900, based on 4 children for 5 years at primary level and 2 children for 3 years at secondary level (based on £650 per annum per pupil). The applicant has agreed to this amount and it is considered that this would adequately mitigate the impacts in respect of education provision.

Public art

During negotiation on the above matters the applicants have provided evidence to show that it is not viable to provide the full levy of planning obligations required to fully comply with the Council's requests which are based on the Planning Obligations SPG Policies and consideration of the site specific proposals. The applicant has advised that if they are required to make further contributions beyond those listed above, it would undermine the viability and deliverability of the development. Officers are satisfied that the evidence provided does support the above conclusion.

Therefore, a balanced judgement must be made as to whether the planning merits of the development proposal are such that an absence of public art can be accepted. In this case, given the contributions above and the housing that the proposal would deliver, it is considered that the development is not rendered fundamentally unacceptable by an absence of public art.

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 Strategic Policies 1 - The Environment; 2 – Sustainability; 3- Housing; and 8 - Transportation, and Policies ENV1- Development in The Countryside; ENV6- East Vale Coast; ENV7- Water Resources; ENV16 – Protected Species; ENV27 – Design of New Developments; ENV29- Protection of Environmental Quality; HOUS 2- Additional Residential Development, HOUS3- Dwellings in the Countryside; HOUS 8- Residential Development Criteria; EMP6- Development Adjacent to Hazardous Industrial Uses; REC3 - Provision of Open Space Within New Residential Developments; REC6 - Children’s Playing Facilities; and TRAN10 – Parking, of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, and the Council’s Supplementary Planning Guidance on Sustainable Development, Planning Obligations, Affordable Housing, Amenity Standards and Public Art, and the advice within Planning Policy Wales and Technical Advice Notes 1, 12 and 15, it is considered that the proposed scheme is considered acceptable in respect of the principle of residential development, the relationship to neighbouring uses, density, indicative layout, highway considerations and environmental issues.

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 eighteen thousand pounds (£18,000) to the Council to improve Sustainable Transport Facilities serving the site.
- The developer shall pay the sum of twenty thousand, five hundred and twenty pounds (£20,520) to the Council to provide or improve public open space serving the site.
- The developer shall pay the sum of sixteen thousand and nine hundred pounds (£16,900) to the Council to meet school transport costs.
- The Legal Agreement will include the standard clause requiring the payment of a fee to monitor and implement the legal agreement (£1108,40 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 elevation and floor plans of house types 1, 1A, 2 and 3 registered on the 6 September 2013 and the amended site location plan and layout plan received on 3 October 2013.

Reason:

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

3. Notwithstanding the submitted plans and prior to the commencement of the construction of any of the dwellings hereby approved, further details of the finished levels of the site and new dwellings in relation to existing ground levels and the levels of adjoining land, 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. The finished floor levels of the dwellings shall be set no lower than 7.40m above Ordnance Datum (AOD), as stated in table 3.5.1 of the Flood Consequences Assessment submitted with planning application 2009/00019/OUT)

Reason:

To ensure that the amenities of existing neighbouring properties are safeguarded, to mitigate against flood risk and to ensure the development accords with Policies ENV7 and 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 and surface water drainage, 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. 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.

6. 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 their erection / construction on site, and the means of enclosure shall be implemented in accordance with the approved details prior to the part of the development they relate to 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.

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) the dwelling(s) 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.

8. 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.

9. 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.

10. 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 (including provisions for the maintenance of the system), 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.

11. 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 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.

12. 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.

13. 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. The scheme shall also include details of all hard landscaping throughout the site.

Reason:

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

14. 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.

15. 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 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.

16. Prior to the first beneficial occupation of any of the dwelling houses hereby approved, the lane at the rear of Nos. 17 to 47 Bendrick Road shall be blocked off at the point shown on the indicative 1:500 scale layout plan hereby approved, in accordance with a scheme that shall have first been submitted to and approved in writing by the Local Planning Authority, and the lane shall thereafter be permanently blocked in accordance with such approved details.

Reason:

In the interests of highway safety, in order to control the nature of vehicular movements to and from the site and to ensure compliance with Policies ENV27 and HOUS8 of the Unitary Development Plan.

17. The development hereby approved shall only be carried out in accordance with the approved Flood Consequences Assessment submitted by Blackburn Griffiths, dated December 2008 (in association with application 2009/00019/OUT)

Reason:

To reduce the impact of flooding on the proposed development and future occupants, and to ensure compliance with Policies ENV7 and ENV27 of the Unitary Development Plan.

18. The development hereby approved shall at all times be carried out in full accordance with the David Clements Ecology Ltd Ecological Assessment, dated July 2007, submitted with application 2005/00860/OUT.

Reason:

In order to protect ecology within and around the site, and to ensure compliance with Policies ENV11, ENV16 and ENV27 of the Unitary Development Plan.

19. Prior to the commencement of development, a mitigation strategy to deal with the presence of slow-worms/reptiles within the site shall be submitted to and approved in writing by the Local Planning Authority. The mitigation strategy shall thereafter be fully implemented in accordance with the approved details.

Reason:

In order to protect any slow worm within the site and to ensure compliance with the Wildlife and Countryside Act 1981 and Policy ENV16 of the Unitary Development Plan.

20. 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 (a-e), follow the guidance contained in 'Contaminated Land: A Guide for Developers' (available from the Local Planning Authority) and include the recommendations contained within the Terrafirma Geo-Technical and Geo-Environmental Desk Study Report, dated April 2009:

- (a) A Phase 1 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 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 order to ensure that any contamination within the site is remediated and to ensure compliance with Policies ENV27 and ENV29 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 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. Prior to the commencement of development, a scheme for the provision and management of a buffer zone alongside the River Cadoxton shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:

- plans showing the extent and layout of the buffer zone;
- details of the planting scheme;
- details demonstrating how the buffer zone will be protected during the development and managed/maintained following the completion of the development;
- details of any fencing.

Reason:

In order to protect ecology and to ensure compliance with Policies ENV 16 and HOUS 8 of the Unitary Development Plan.

23. 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 and ENV19 of the Unitary Development Plan.

NOTE:

1. The proposed development site is crossed by a public sewer/rising water main. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru / Welsh Water's Network Development Consultants on 01443 331155.
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 Countryside Council for Wales, 7 Castleton Court, Fortran Road, Cardiff; telephone number 02920 772400.
3. Where any species listed under schedules 2 or 4 of the Conservation (Natural Habitats, &c.) Regulations 1994 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.
4. 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. the developer is directed towards the risk management framework provided in 'CR11, Model Procedures for the Management of Land Contamination'.
5. 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.
6. 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).

- 7. 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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	The Vale of Glamorgan Council	
Department:		
Title: <i>2013/00937/FUL</i>		
Drawn By:		
	Scale	1:1250
	Time	09:49:14 AM
	Date	24 Dec 2014

2013/01095/FUL Received on 12 November 2013

Mr. Gwyn Davies, Calon Lodge LLP, Llanerch Vineyard, Hensol, Vale of Glamorgan., CF72 8GG
Andrew Parker Architect, The Great Barn, Lillypot, Bonvilston, Vale of Glamorgan., CF5 6TR

Llanerch Vineyard, Hensol

Proposed additional 19 No bedrooms including undercover walkway with drop off point to link farmhouse, cookery school/machinery store and accommodation

SITE AND CONTEXT

The site is an existing vineyard within the rural Vale, between Hensol and the M4 Motorway, with Junction 34 within a short distance to the northeast. The site is accessed via a driveway that meets with the highway to the western edge of the site. There are two access points side by side, forming an informal one-way access in and out of the site which is generally surrounded by agricultural land, though there is a parcel of woodland (Llanerch Woods) to the northwest. The nearest neighbours would include Gwaun Wen Farm to the south, Ty Hensol to the southwest (set within the Historic Parkland of Hensol Castle) and Hafod Lodge, also to the south. The site is within the designated Special Landscape Area of the 'Ely Valley & Ridge Slopes'.

The site relates to a vineyard and consists of an old farmhouse building, a visitor complex and a semi-detached pair of holiday-let cottages. The farmhouse would have been the primary accommodation at the site, though it is now been converted and extended to form a restaurant with reception at ground floor, with tourism accommodation at first floor. The main area of vines are to the south of the farmhouse. The visitor complex was originally a dairy building though this has been converted to a visitor centre, holiday accommodation, with a cookery school developed to the rear of the building. To the west of the farmhouse is a small marquee, though there is an application submitted to replace this with a permanent single storey building (2014/01137/FUL) which is yet to be determined at the time of writing. There is a large marquee that is approved for temporary use within the summer months, which is positioned towards the north of the complex. There is an existing car park to the north of the visitor complex with approximately 50 spaces.

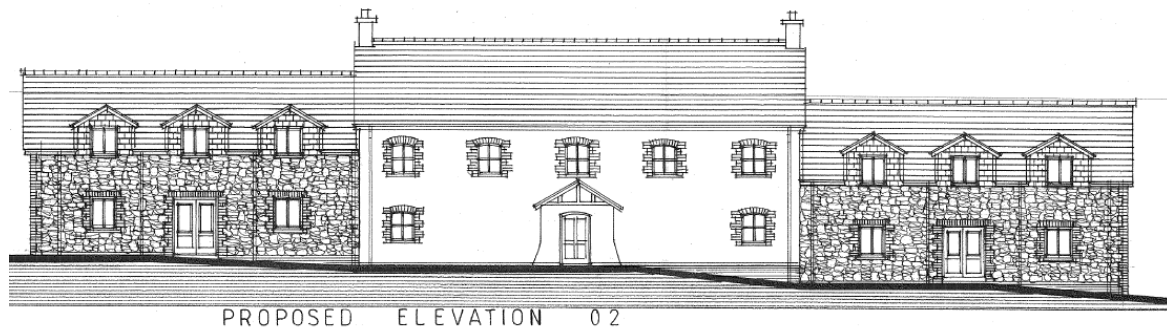
The vineyard has become involved with forms of tourism for some time, since the early 1990's, including tours and wine tasting, along with accommodation for visitors in the visitor complex studios and the holiday cottages. This has been developed alongside the vineyard use, as a form of diversification. In recent years, there has been further development, with the cookery school and café/restaurant use added to the site, with permission also granted for a large events complex adjacent to the former farmhouse.

DESCRIPTION OF DEVELOPMENT

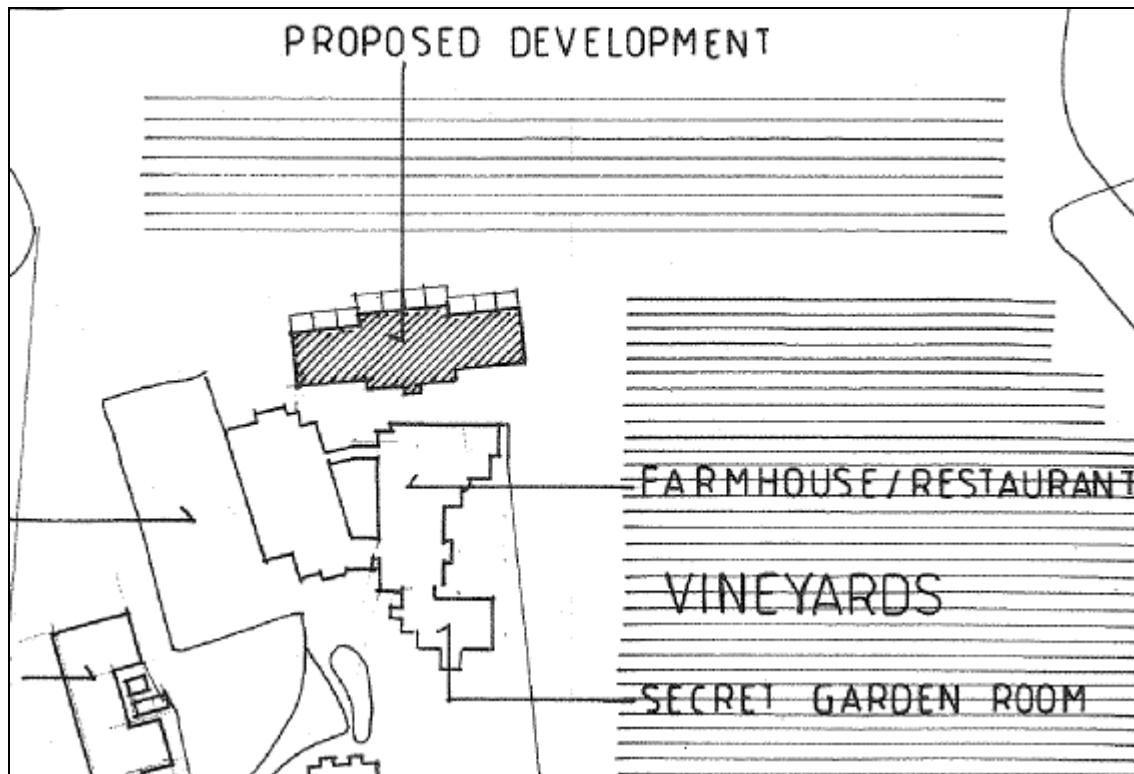
The proposal is for a guest accommodation building with 19 guest rooms to be positioned to the east of the existing building complex at Llanerch Vineyard. The area is currently a grassed area adjacent to commercially grown vines. The proposed two storey building would face towards the side of the former farmhouse with a separation distance between the two buildings of approximately 8-9m.

The proposed building has a taller central section, with an appearance that reflects the original farmhouse opposite the site. There are two wings to either side of this central section of equal size and height to each other, creating a symmetrical frontage. The proposals attempt a traditional farmhouse style appearance in terms of the design.

The central section is to be rendered, with a central porch, small windows (with brick dressing) to the front elevation. The central section has a slate pitched roof with a chimney at either end, with a double gable at the rear of this section. The side sections are set approximately 1.3m down from the height of the central section with the first floor accommodation mainly in the roof void, with dormers to front and rear. These side sections are to be stone clad. Each section steps down slightly in level, to reflect the existing varied ground levels. The whole building would be approximately 49m wide, with a maximum height of 10.5m and a maximum width of approximately 15m (though the side sections have a narrower width of 11m).



To the ground floor there would be a total of 10 ensuite bedrooms with each room having a terrace area to the rear. There are 9 rooms to the first floor, with one being double the size of the other rooms as this would be the 'honeymoon suite'. The building also includes the usual corridors, storage areas, lift shafts, staircases, plant rooms etc.



PLANNING HISTORY

- 2014/01137/FUL: Llanerch Vineyard, Hensol - Proposed secret garden room - Under consideration
- 2014/00634/FUL: Llanerch Vineyard, Hensol - Proposed retention of canopy linking main farmhouse to Visitor Centre and accommodation block - Approved 30/07/2014
- 2014/00633/FUL: Llanerch Vineyard, Hensol - Proposed retention of wine store and ancillary side marquee to main farmhouse - Approved
- 2014/00234/FUL: Llanerch Vineyard, Hensol - Proposed marquee for use between April to September. Marquee and ancillary structures to be removed between October to March - Approved 09/05/2014
- 2013/01095/FUL: Llanerch Vineyard, Hensol - Proposed additional 19 No bedrooms including undercover walkway with drop off point to link farmhouse, cookery school/machinery store and accommodation - Under consideration
- 2013/00038/FUL: Llanerch Vineyard, Hensol - Proposed extension to existing restaurant including new toilets, staffroom and first floor office accommodation. Retention of dry food store, cold store and refuse store (Constructed) - Approved 05/07/2013
- 2011/00680/FUL: Llanerch Vineyard, Hensol - Proposed single storey events complex on the site of existing poolhouse, with associated vehicle turning space and associated works. Also proposed is an additional car park area (approximately 64 spaces). Furthermore, existing unauthorised works such as the use of the ground floor of the farmhouse as a cafe/restaurant and the cookery school are included for their retention. - Approved 19/06/2013

- 2000/01258/FUL: Llanerch Vineyard, Hensol - Proposed conversion of part of the wine producing complex to 8 no. self-contained guest studios - Approved 21/12/2000
- 1998/01034/FUL: Llanerch Vineyard, Hensol - Extension to existing house - Approved 13/11/1998
- 1991/00869/ADV: Llanerch Vineyard, Hensol - Various signs - Approved 25/02/1992
- 1991/00212/FUL: Llanerch Vineyard, Hensol - New visitors centre/living accommodation - Approved 22/05/1991
- 1990/01229/FUL: Llanerch Vineyard, Hensol - Convert barn; ground floor visitor centre, 1st floor living accommodation, extend barn to form 2 w.c.'s (one disabled), convert stables to 2 holiday apartments - Approved 11/12/1990

CONSULTATIONS

The following were consulted on the 19th November 2013 and the following comments were received:

Pendoylan Community Council (reconsulted on the 13th November 2014) -

“Pendoylan Community Council is pleased to respond to this planning application for the provision of 19 further bedrooms and other facilities as Llanerch Vineyard. Whilst the Council has no objections to the on-site development and in fact it is very aware of the important nature of this development bringing additional employment opportunities and local recreational facilities.

Council wishes to reiterate continuing concern at the incremental increase of vehicle travel on the road past Hensol Villas community. Since the development of the Vale Hotel and Golf Course and the Hensol Castle development local traffic is now increasingly using this road as an alternative to the A4119 which at busy times is gridlocked. Recent traffic flow statistics indicate that as many as 300 vehicles per hour are using this road which because residents have to park on this road is little more than a single track highway. Future developments including this application, the Cardiff City Football Club Training Facility and the Renishaw factory are expected to contribute further to the problems experienced by residents.

Many of the homes are occupied by young families and Council is concerned that it is only a matter of time before a child is involved in an accident.”

Highway Development – No objection subject to recommended conditions relating to improving the access into the site and provision of suitable parking levels.

Environmental Health (Pollution) (reconsulted on the 13th November 2014) – No comment to make.

Peterston-Super-Ely Ward Member (reconsulted on the 13th November 2014) – No response to date.

Dwr Cymru/Welsh Water – No objections. Advised that there are no public sewers in the area. Advised on water main connection.

Ecology Officer – No comment to make.

Natural Resources Wales – Provided standard advice regarding issues such as flood risk, foul drainage and biodiversity etc.

REPRESENTATIONS

The neighbouring properties were re-consulted on 13 November 2014. A site notice was also displayed on the 26th November 2013 and the application was also advertised in the press on the 26th November 2013. No representations have been received from members of the public.

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 18th April 2005, and within which the following policies are of relevance:

Strategic Policies:

POLICIES 1 & 2 - THE ENVIRONMENT
POLICY 5 - BUSINESS AND INDUSTRIAL USES
POLICY 6 – TOURISM
POLICY 8 – TRANSPORTATION

Policy:

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE
ENV4 - SPECIAL LANDSCAPE AREAS
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
EMP7 - FARM DIVERSIFICATION
TRAN 10 – PARKING
TOUR 1 – NEW HOTELS IN THE COUNTRYSIDE

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:

7.3.1 Many commercial and light manufacturing activities can be located in rural areas without causing unacceptable disturbance or other adverse effects⁵. Small-scale enterprises have a vital role in promoting healthy economic activity in rural areas, which can contribute to both local and national competitiveness. New businesses in rural areas are essential to sustain and improve rural communities, but developments which only offer short-term economic gain may not be appropriate.

Regarding tourism development:

“The planning system should encourage sustainable tourism in ways which enable it to contribute to economic development, conservation, rural diversification, urban regeneration and social inclusion, recognising the needs of visitors and those of local communities.” (11.1.4)

“In rural areas, tourism-related development is an essential element in providing for a healthy, diverse, local and national economy. It can contribute to the provision and maintenance of facilities for local communities. Here too development should be sympathetic in nature and scale to the local environment and to the needs of visitors and the local community.” (11.1.7)

On the issue of agricultural diversification, the Planning Policy Wales states the following:

*“Local planning authorities should adopt a positive approach to development associated with **farm diversification** in rural areas, irrespective of whether farms are served by public transport. While initial consideration should be given to adapting existing farm buildings, the provision of a sensitively designed new building on a working farm within existing farm complexes may be appropriate where a conversion opportunity does not exist.” 7.3.3*

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) –

“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.” (3.7.1)

- Technical Advice Note 12 – Design (2009)
- Technical Advice Note 13 – Tourism (1997)

Supplementary Planning Guidance:

Also relevant are Supplementary Planning Guidance ‘Design in the Landscape’ and ‘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) 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 primary issues relating to this application are considered to the principle of development in this countryside location be the design and scale of the proposed development; the visual impact of the proposed building within the countryside, which is a designated Special Landscape Area; the developments' role in providing a source of farm diversification and economic benefit to the rural economy; any issues related to access and parking provision; and the potential impact to neighbour amenities;

Principle of the Proposed Development

Llanerch Vineyard has grown as a tourist attraction significantly in recent years. Members will recall the approval of application 2011/00680/FUL for an events complex, for weddings and functions etc. This has not yet been implemented though a large marquee has been temporarily approved (ref: 2014/00234/FUL) to provide for events until the events complex is built. The events complex was justified on the basis of its need to underpin the vineyard business.

For many years the predominant existing use of the site was as a vineyard, which is considered to be agricultural (viniculture). Financial justification was provided for the events complex with application 2011/00680/FUL (produced by Reading Consultancy - December 2011). The document contained financial forecasts and stated that the development was needed to safeguard the long term future of the vineyard, as a form of agricultural diversification.

Planning Policy Wales (2014)(section 7.3.3) states that Local Planning Authorities should adopt a positive approach to farm diversification in rural areas, and states that sensitively designed new buildings on a working farm may be appropriate where conversion opportunities do not exist.

Technical Advice Note 6 (Planning for Rural Communities) (section 3.7) also supports farm diversification projects and includes 'recreational facilities' as a possible appropriate use. The Unitary Development Plan Policy ENV7 (Farm Diversification) relates to this form of farm diversification development. As such, the notion of farm/agricultural diversification is supported as a form of development, to financially underpin existing working farm practices.

This formed the justification for the events complex and marquee. It is also considered that the proposed guest accommodation would also help financially underpin the vineyard business. However, it is considered that the combination of the marquee/events complex, existing guest accommodation, restaurant and cookery school function (all considered facets of the tourism/events orientated business at the site) have become the predominant feature of the commercial enterprise at Llanerch Vineyard, with the vineyard becoming only part of the wider business (albeit a big part). It is, though, accepted that the vineyard production would only be commercially viable on the basis of it being part of this larger tourism/recreation based business. It is also considered that the vineyard serves as an important visual setting for the events complex, restaurant and proposed accommodation, as part of the attraction of the site.

Whilst it is considered that the success of the tourism/leisure business is needed for the continuation of the vineyard operations, it would not be wholly accurate to describe this as purely a farm diversification proposal. The vineyard would already be supported by the existing leisure/tourism uses at the site and so the further accommodation would not be needed to financially underpin the viniculture at Llanerch. However, it is considered that there is justification for the expansion of the business with guest accommodation based on the economic benefits to the local rural economy.

As described in the submitted 'Design and Access Statement' (DAS), Llanerch Vineyard has become a "very significant tourist attraction accommodation provider and events destination", with there being "a strong desire to invest and build on the success of the business". Currently the business is stated to provide 12 full time and 14 part time staff, though if the proposed accommodation is built then this would rise to 14 full time and 16 part time staff. The additional employment and the general economic benefit that would be enhanced with the on-site accommodation is a significant consideration and would be a boost to the local rural economy. The additional proposed guest accommodation would mutually benefit the events complex, allowing more guests to stay on-site, which is a typical arrangement for such leisure/tourism business models. It is also noted that the DAS states that the capacity of the business would be "severely curtailed" by the lack of further guest accommodation within the site.

In terms of local policy, UDP policy TOUR 1 (New hotels in the countryside) allows for new hotels in the countryside if they are an extension or conversion of an existing building, subject to criteria. Whilst this proposal is for a new build guest accommodation it is not a stand-alone facility and instead would be integrated as part of a larger existing enterprise, which already includes some accommodation for guests. Members will also note that Strategic Policy 6 of the Unitary Development Plan supports tourism related development for the Vale where it would assist the local economy.

The proposed guest accommodation would relate well to the existing complex and its current permitted uses. The development would be within the countryside, though this development would relate to an existing established business. Indeed, it is the rural landscape and the vineyard that is a key feature of the development's attraction. It would not be in an isolated location, with good links to J34 of the M4 Motorway a short distance from the site, which is ideal for such a facility. There are also other similar facilities in the area, such as the Vale of Glamorgan Hotel, which has been successful within this locality.

Considering all the above, the principle of the proposed development is accepted as it would add to an existing and established leisure/tourism facility that would both underpin the continued viniculture at the site and more pertinently provide a significant economic benefit to the local rural economy, in accordance with Strategic Policy 6 and policy EMP 7 of the Unitary Development Plan and also the policies of Planning Policy Wales, which aims to promote rural economy diversification.

Design and Scale of proposed building

The proposed design and scale of the guest accommodation building has been significantly amended since originally submitted. The original scheme was not considered appropriate as it did not reflect the rural setting of the site nor relate well to the existing buildings, which are predominantly converted farm buildings, such as an old dairy and farm house. However, amendments have been received following extensive negotiations and the proposed building is considered to be more appropriate for its setting.

The revised proposal aims to use the design characteristics of the existing former farmhouse and the adjacent former dairy building (now guest accommodation) as the design approach for the new building. The larger central section has an appearance that reflects the main farmhouse, with the rendered walls and brickwork dressing around the windows. The front porch is also very similar to that existing to the front and rear of the farmhouse. The side sections would be subservient to the main central section, with lower pitched roofs and narrower widths. This is similar to the common arrangement of farmhouses with subservient additions which exists throughout the rural Vale. The side sections would be similar in appearance and design to the converted dairy building, with stone walls and low eaves. The side sections include dormers to the front and rear to allow for more accommodation space at first floor level.

The proposed guest accommodation building would be a comparable size to the approved events complex. However, it has been explained that to make this development viable 19 rooms would be required (including a 'Honeymoon Suite') which has been indicated with the submitted plans. Whilst a large building the breaking up of the ridge with lower and subservient side sections helps create a more suitable scale and massing for the proposed building. It is also noted that the plans show the building being stepped down using the current ground levels, with the side section to the south approximately 1m lower in level than the side section to the north. This also helps to reduce the visual impact of the proposed building and results in a more acceptable scale of development.

Visual Impact of the proposed development

Llanerch Vineyard is positioned within the open countryside and the designated Special Landscape Area of the 'Ely Valley & Ridge Slopes'. In such highly sensitive landscape areas the visual impact of the proposals within this setting is of significant importance. The accommodation building would be a large addition, though would be limited to two storeys. The ridge height of the central section would be approximately 10.5m, which would be slightly above the ridgeline of the existing farmhouse. Whilst clearly a large building it would be set close to the existing cluster of buildings at Llanerch Vineyard, including the main farmhouse and former dairy buildings. As such, the proposed building, which is of a rural design, would not be in an isolated position and would be viewed within the context of the existing development. The proposed building would also be comparable in size and height to some of the existing buildings and the approved events complex.

The position of the buildings is such that it would not be readily visible or prominent from the public highway and there are no public rights of way within close proximity. Its position is considered appropriate within Llanerch Vineyard in terms of mitigating its visual impact, whilst also avoiding the loss of existing vines (the existing plot is an area of lawn/unused land). The proposed development is set away from the Historic Parkland of Hensol Castle to the west, with the proposals being outside of the important setting of this parkland.

Overall, the proposed development, by virtue of its design, position and scale, would not have a significant detrimental impact to the character of the countryside or designated Special Landscape Area and is considered an acceptable form of development within this rural context, in accordance with policies ENV 1 and ENV 4 of the UDP. It is, however, considered that suitable landscaping should be required via condition to further soften the visual impact of the proposed development within this rural landscape.

Environmental Issues

The proposed development is not considered likely to impact any protected species as the building would be positioned on what is an area of grassland to the side of the existing buildings. As such, no survey work or mitigation is required. There are no trees that would have to be removed to make way for the proposed development, though suitable landscaping would be required via condition to enhance the setting.

The site is not within a flood plain and as such no survey work or assessment is required.

Drainage Proposals

The surface water of the proposed development is indicated to connect with soakaways as a form of sustainable drainage system. There is no objection to this method of drainage. However, there are no public sewers in the locality (confirmed by Welsh Water).

The applicant has stated that the foul drainage would connect with the existing system, though at this point no details have been provided. It is considered that details of the drainage would need to be required via condition to be agreed prior to implementation.

Traffic and Parking

The proposals constitute 19 bedrooms for guests within the complex. Whilst this may result in some additional traffic, it is not considered likely to result in any significant increase. This is because the accommodation would essentially be for those attending functions within the events complex or marquee, who would be visiting the site and using the local highway network in any case. There is likely to be some instances where guests visit Llanerch independent of an event, however this additional traffic would be relatively minimal. The 4 extra staff predicted as necessary would also not cause any significant increase in traffic levels to and from the site. On this basis there is no requirement for additional traffic survey work and it would not be considered reasonable on the basis of this development to require improvements to the access off the highway.

Parking levels have recently been increased within the complex and the proposed development should be accommodated for with the existing parking provision.

Neighbour Impact

The only near neighbour to the site is Gwaun Wen Farm to the south. However, with a separation distance of approximately 180m it is considered that the proposed development should not have any significant impact to this or any other neighbour's amenities.

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 full application for the development of a guest accommodation at Llanerch Vineyard in Hensol. 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.

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 twenty six thousand, seven hundred and sixty pounds (£26,760) 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.

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 £2400 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.

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, as a rule, public art should be provided on site integral to the development proposal. Where it is not practical or feasible to provide public art on the development site, the Council may accept a financial contribution in lieu of this provision to be added to the Council's Public Art Fund and held until such time as sufficient funds are available to cover the cost of an alternative work of art or until a suitable alternative site is found. This provision will be secured through the Section 106 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 ENV 1 (Development in the countryside), ENV 4 (Special Landscape Areas), ENV 10 (Conservation of the countryside), ENV 11 (Protection of landscape features), ENV 27 (Design of new developments), ENV 28 (Access for disabled people), ENV 29 (Protection of environmental quality), TOUR 1 (New Hotels in the Countryside), EMP 7 (Farm Diversification) and TRAN 10 (Parking) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, plus national guidance with the Planning Policy Wales, Technical Advice Note 6 (Planning for Sustainable Rural Communities) and Technical Advice Note 13 (Tourism), 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 countryside and the designated Special Landscape Area, or the amenities of neighbouring occupiers. The proposals therefore comply with the relevant planning policies and supplementary planning guidance.

RECOMMENDATION

Subject to a Legal Agreement to tie the events complex business into the existing vineyard enterprise to ensure these two aspects of the business would remain fully integrated and;

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 £26,760 to the Council to provide or improve sustainable transport facilities in the vicinity of the site.
- 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 two employees or alternatively pay the Council a contribution of £2400 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 (£1,188 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 plans reference 503/P/100, 503/P/101, 503/P/102, 503/P/103 and 503/P/104, all received on the 6th November 2014, plus the Site Location Plan and Design and Access Statement, both received 12th November 2013, 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. The premises shall be used for as guest accommodation in association with Llanerch Vineyard only, as described in the submitted information, and for no other purpose including any other purpose in Class C1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason:

To enable the Local Planning Authority to maintain control over the nature of the use of the guest accommodation building, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

4. Full details of a scheme for foul and surface water 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 prior to the first beneficial use of the guest accommodation hereby approved.

Reason:

To ensure a suitable drainage strategy, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

5. Prior to the beneficial use of the Hotel accommodation hereby approved a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority for the guest accommodation building hereby approved.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policies ENV 4 and ENV27 of the Unitary Development Plan.

6. 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, ENV 4 and ENV27 of the Unitary Development Plan.

7. Prior to the commencement of development, details of the finished levels of the site and the guest accommodation 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 the visual amenities of the area are safeguarded, and to ensure the development accords with Policies ENV 4 and ENV27 of the Unitary Development Plan.

8. 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.

NOTE:

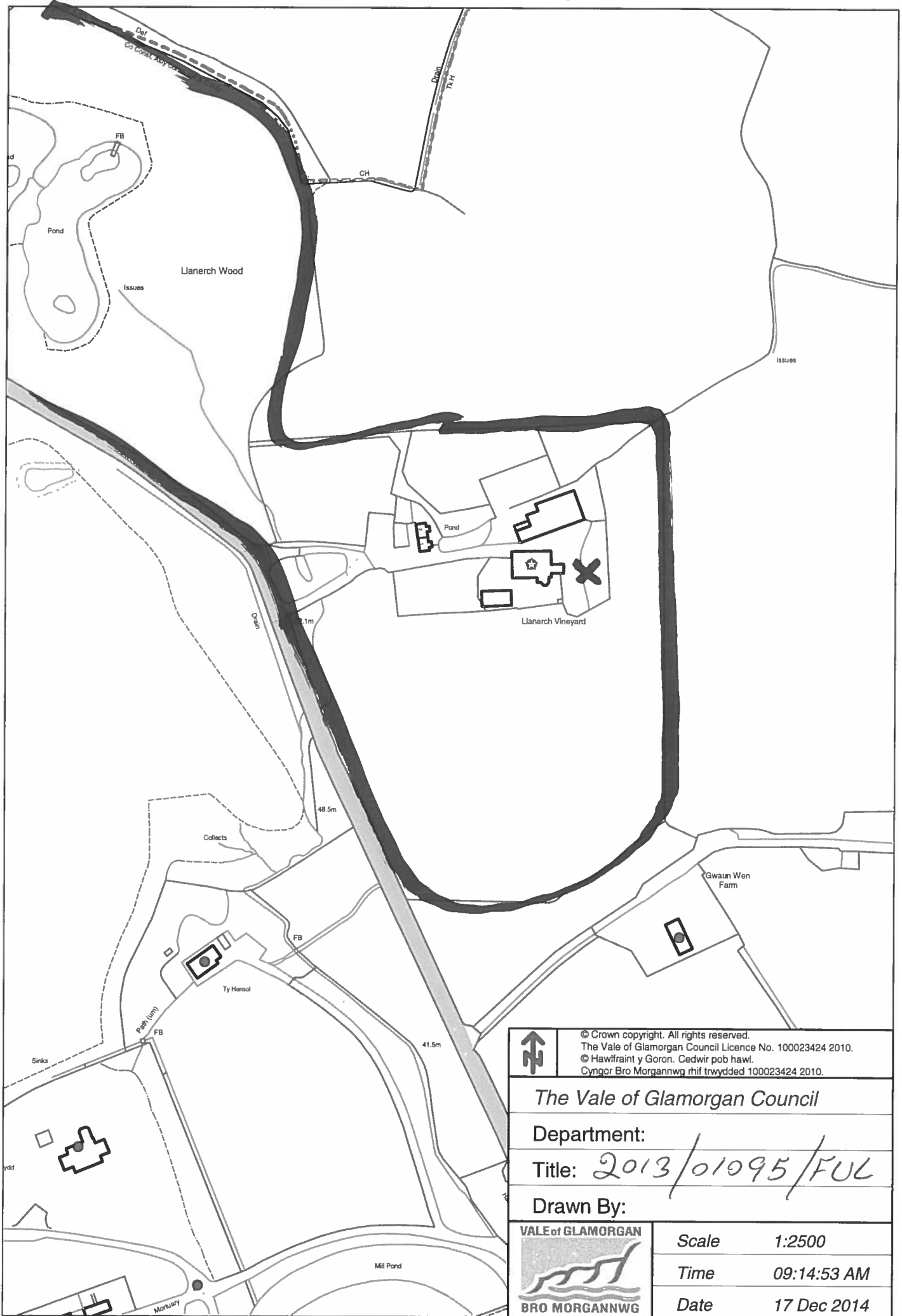
1. **Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**



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>2013/01095/FUL</i>		
Drawn By:		
	Scale	1:2500
	Time	09:14:53 AM
	Date	17 Dec 2014

2013/01257/FUL Received on 11 December 2013

Clearwater Property Company Ltd, Faridene, Windsor Walk, Waybridge, Surrey, KT13
Weightman & Bullen, 76, Rodney Street, Liverpool, Merseyside (Met County), L1 9AW

67-79, Dochdwy Road (Shopping Parade), Llandough

Renewal of application ref: 2007/00751/FUL; 18 self contained residential units over three storeys to replace demolished mix use building

SITE AND CONTEXT

The site relates to an area of land situated within a residential estate. The site adjoins a school and a play area exists to the rear of the site.

The site was until recently occupied by commercial (retail) units with flat accommodation above, believed to be six flats. These buildings were demolished as the units had been vacant for some time and were subject to vandalism. This building was approximately 6.5 metres high with two access points serving the site. A rear parking area and service area for the commercial use was included.

DESCRIPTION OF DEVELOPMENT

Renewal of consent for construction of a three storey block of residential accommodation. The accommodation to provide 6 x 1 bed flats and 12 x 2 bed flats. The materials of construction will include cedar cladding, white render, Blue engineering brick with zinc cladding. The roof will be generally a flat roof of single ply membrane

The building will have a maximum height of approximately 10 metres. The building will be set down below the road (Dochdwy Road), as was the original building on the site, by approximately 2 – 2.5 metres. The building will be approximately 3.8 metres higher than the original, now demolished building on the site.

Twenty three parking spaces are shown on site. A further two spaces are shown in a lay-by to the front of the site. Seventeen bicycle parking spaces are shown. These are not indicated as covered areas.

Access to the site would be via an 'in' and 'out' arrangement accessed off Dochdwy Road in approximately the same location as the current access points but with a reconfigured geometry.

Reason for report: as a renewal the matter has been considered under delegated powers however the new, developers are a Housing Association (RSL) and on the basis that the flats would now be 100% affordable units they have sought amendments to the planning obligations. As such given the original approval was made by Planning Committee, the need to vary the terms of the Legal Agreement has to be agreed by the Committee.

PLANNING HISTORY

2007/00751/FUL : 67-79, Dochdwy Road (Shopping Parade), Llandough. 18 self-contained residential units over three storeys to replace demolished mixed use building. Approved 22 January 2009. subject to a legal agreement for open space.

2005/00994/PND : Prior notification of demolition of the commercial and residential building on the site. The building has been demolished.

CONSULTATIONS

Llandough Community Council resolved that they have no objections but would seek a speedy re-development of the site, and that Section 106 money be sought for a bus shelter at the bus stop adjacent to the school.

The Council's Highway Development Team : no comments have been received to date.

Public Rights of Way Officer : "A Definitive Map Modification Order (DMMO) has been made in respect of a route that crosses the development site. The effect of the order, if confirmed, would be to record a public footpath on the Definitive Map that would be obstructed by the proposed housing. The planning applicant has submitted an objection to the Order.

Arrangements for an alternative route have been implemented on the ground and the process to achieve a Public Path Order (PPO) commenced that would allow the path to be diverted upon confirmation of the DMMO.

We have sought the planning applicants' agreement to withdraw their objection to the DMMO, which would allow us to complete the PPO process though have not yet received it. Without this agreement we will be required to refer the DMMO to the planning inspectorate for consideration on its own merits (disregarding factors such as amenity, desirability or usefulness)."

Dwr Cymru / Welsh Water : Conditions and advisory note including that no surface water connects either directly or indirectly into public foul sewerage system. system.

The Council's Ecology Officer : no comments have been received to date.

O M Parks and Grounds Maintenance : no comments have been received to date.

Estates (Strategic Property Estates) : no comments have been received to date.

Local Ward Member was consulted and advised that there is concern at the lack of progress on re-developing the site which results in the hoarding not being maintained and the site becoming overgrown.

Natural Resources Wales : planning advice note only.

Education Section do not require any section 106 obligations for the provision of education.

Waste Management : no comments have been received to date.

Transport Section : no comments have been received to date.

Fire Service : standard advice regarding adequate water supply for fire fighting and access for emergency vehicles.

Affordable Housing Enabler : “In the Vale of Glamorgan there is a critical shortage of affordable housing. The Local Housing Market Assessment commissioned by the Council in 2010 concluded that an additional 915 affordable housing units (for rent or low cost home ownership), of which 153 or 16.6% were in the Penarth Area, were required each year over the following five years. Llandough is located in the “Penarth Area” as defined by that report. The Rural Housing Needs Survey, also commissioned in 2010, identified a net need for 13 affordable homes per annum, in Llandough.

There are 2217 applicants on the current Homes4U waiting list and of these, 240 have specified Llandough as their preferred area:

1 bed – 165

2 bed – 46

3 bed – 21

4 bed – 8

Comments made originally in respect of general market housing were:

Therefore, we would support this application based on the need for Affordable Homes in the Vale of Glamorgan and the contribution of 6.3 units that this development would be required to make under a Section 106 agreement.

We welcome the opportunity to discuss mix of unit size, tenure and location on site with the developer at the earliest stage.”

Highways and Engineering advise DCWW be consulted re: surface water drainage and SUDS should be considered first.

REPRESENTATIONS

The neighbouring properties were consulted on 30 December 2013.

A site notice was also displayed on 7 January 2014 and press notice on 16 January 2014.

Eight representations were received. The comments generally relate to:

- Adverse impact on amenity of near neighbours.
- Adverse impact on neighbours' amenity from noise from the site.
- Concern at the scale three storey development and effect of three storeys on privacy of nearby occupiers.
- Loss of light from the scale of development.
- Traffic increase from the development and inadequate provision of onsite parking.
- Concern regarding use of wood cladding.
- Where would waste bins be sited?
- Loss of retail unit(s).
- Loss of access to a play area.

All letters are retained on file.

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:

PLANNING POLICIES

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

HOUS11 - RESIDENTIAL PRIVACY AND SPACE

TRAN9 - CYCLING DEVELOPMENT

TRAN10 - PARKING

ENV27 - DESIGN OF NEW DEVELOPMENTS

ADVICE CONTAINED IN PLANNING POLICY WALES 7 2014, ASSOCIATED TAN'S, AND SUPPLEMENTARY PLANNING GUIDANCE 'AMENITY STANDARDS, SUPPLEMENTARY PLANNING GUIDANCE ' SUSTAINABLE DEVELOPMENT' SUPPLEMENTARY PLANNING GUIDANCE 'PUBLIC ART'.

Technical Advice Note 12 – Design (2009)

Technical Advice Note 16 – Sport, Recreation and Open Space (2009)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 22 – Sustainable Buildings (2010)

CIRCULAR 13/97 - PLANNING OBLIGATIONS

Supplementary Planning Guidance:

Amenity Standards
Design in the Landscape
Model Design Guide for Wales
Planning Obligations
Public Art
Sustainable Development
Affordable Housing - contained within the Affordable Housing Delivery Statement (AHDS)

Background Evidence:

Affordable Housing Background Paper 2011
Affordable Housing Viability Study 2010
Housing Supply Background Paper 2011
Local Housing Market Assessment 2010
Open Space Background Paper 2011
Population and Housing Projections Background Paper 2011
Sustainable Settlements Appraisal Review
Affordable Housing Delivery Statement 2009
Vale of Glamorgan Housing Strategy
Delivering Affordable Housing Using Section 106 Agreements: A Guidance update (Welsh Government, 2009)
The Community Infrastructure Levy Regulations 2010
Manual for Streets and Manual for Streets 2 - Application of the Wider Principles

Issues

The site is considered to be a Brownfield site and lies within the settlement boundary as defined for Llandough in the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011. It is noted that this application relates to a re-submission of an, at the time of submission, extant consent. The site has been cleared of all buildings and is surrounded by a hoarding.

The planning history of the site is a material consideration. The application seeks to renew a planning permission that was extant at the time of submission, the Council can only refuse to grant such a renewal in the following three circumstances, i.e. a) where there has been a material change in planning circumstances since the permission was granted; b) where the application is premature as the planning permission still has a significant period to run; and c) where the continued failure to develop will contribute to unacceptable uncertainty about the future pattern of development in the area.

It is considered that circumstances b) and c) do not apply in this case and thus the primary issue is whether or not there has been a material change in planning circumstances since the original approval and the effect on the surrounding area of leaving a vacant site.

In terms of the planning circumstances relating to the area there has been no material change in planning policy or circumstances, other than noting that the Unitary Development Plan is now out of date. The emerging Local Development Plan carries little weight. The local planning authority is therefore considering development under the UDP. There is no reason not to renew the application on these grounds.

The site has been cleared of the former two storey mixed commercial and residential development, (believed to be 6 flats). In relation to the possible effect on the amenity of existing dwellings this was a matter fully considered in the original consent. However as a reminder the scheme incorporates balconies to only four flats, these being on the second floor to the rear elevation facing towards the rear of Waverley Close properties. The former building had a rear access/balcony area running the whole length of the rear of the building serving all the flatted development at first floor. There was an external rear staircase to access this balcony area. The position of this balcony and access staircase enabled views towards the rear gardens of the dwellings at Waverley Close. The distance of overlooking from the original building was approximately 15 to 19 metres. It should be noted that there is some screening between the site and the properties to the rear of the site which are themselves set at a slightly lower level. The development presents development that has a similar arrangement onsite and to ensure a satisfactory layout a condition regarding the pegging out of the building could be imposed.

Consideration should be given therefore as to the effect of this development over and above any overlooking that would have occurred with the balcony area at first floor level in the original building. Having regard to the pre-existing condition the development is not considered to diminish the amenity of these residents to any degree which would warrant refusal. The distance of the proposed building to the properties on Dochdwy Road at the front of the site remains at a similar distance to the original building i.e. approximately 29 metres.

In terms of the amenity of the occupiers of the flats, the proximity of the pavement to the flats at the front of the site reflects the arrangement found in the original building on the site. In terms of amenity space, the four units at second floor will have private balconies. Areas of amenity space are provided to the front of the site to serve the ground floor units albeit this will be overlooked from the pavement. Enclosure treatments may be able to provide a degree of privacy and will be required to be agreed by condition if approved.

The scheme seeks to erect a three storey contemporary design block of flats. Whilst the development will be higher than the original development on the site this was accepted in the previous consent.

In terms of the objections received from the neighbour, consideration of the impacts of the increase in height on the street scene, impact on highways and on the amenities and privacy of adjoining occupiers was undertaken. Whilst one writer refers to the extant scheme being for two storey development, this is not the case and the current scheme is to renew the approved scheme comprising three storey development.

Amended details have been submitted given that an end-user has been found for the site. The amended details relate mainly to external finishes and minor changes to fenestration/balcony types but are not alterations that have any significant or material impact on the overall scale, form or design which remains contemporary, nor on the amenities of adjoining occupiers. There is a change to the car parking due to the need for bin storage/bicycle parking areas to be provided to meet the Housing Association's requirements however given the location of public transport the alterations to the level of parking are not considered to result in a significant material change and the development remains acceptable.

The wider public interest regarding visual impact is a consideration noting that, as a vacant site with hoardings, the street scene is not enhanced and it is not considered to be in the interests of the general amenity of the area for the site to remain as a vacant, cleared site. Moreover it is considered that the development as proposed and previously agreed will be complimentary to the street scene and should not lead to any adverse impact.

The access arrangements as proposed were the subject of discussion with the highway development section at the time of the original application and approval. Since that time no material change has occurred to the highway itself although it is noted that the school and POS entrance arrangements have been modified to create separate access points and a bus stop is proposed in the vicinity of the site.

Section 106, Planning Obligations:

In considering residential development of this scale consideration is required as to the need for Section 106 contributions. The obligation previously required public art, public open space and public transport and affordable housing contributions.

In terms of the current position noting the developer would be a housing association (RSL) the level of contribution sought through the Section 106 Legal Agreement has been the subject of discussion with regard to the viability of the scheme. Members will note that the previous application 2007/00751/FUL was approved with the following Section 106 requirements:

- The Developer shall pay the sum of ten thousand pounds (£10,000) to the Council to improve Sustainable Transport Facilities serving the site.
- The Developer will provide public art on site to the value of at least 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. In this case the 1% for art has been calculated as £9,678.
- The Developer shall pay the sum of fifty thousand pounds (£50,000) to the Council to enhance access and provide improvements to public open space or recreation facilities likely to be used by the future occupiers of the site.

The Housing Association has advised that the scheme would not be viable if all the previous obligations were sought as part of this renewal application. This is due to abnormal construction and grant funding issues. The scheme will be financed by private finance and revenue grant supported by the local authority and supplied by the Welsh Government (WG). The WG have capped the grant equivalent amount for the scheme due to the funding requirement exceeding the total grant available. Additional finance has therefore to be provided by the RSL. In addition abnormal site works have also been identified including a sewer diversion, improvements to the retaining wall to the highway and new general retaining works.

Members will recall that the site is vacant and has been for some time, is the subject of complaints and if developed by the RSL would provide much needed affordable housing for Llandough. Furthermore, the RSL has advised that it is committed to securing public open space improvements, seeing them as an essential and appropriate requirement connected to their development. However noting that sustainable transport improvements are already well funded in the Llandough area through contributions from Llandough Hospital; and public art contributions would further render the scheme unviable, the local planning authority is of the view that the benefits of 100% affordable units on this vacant site would in this instance justify a relaxation on the planning obligation requirements and would not be seen as a precedent for other sites. The following obligation would however be required.

Public Open Space:

In accordance with the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 Policy REC 3, residential developments should provide 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). In accordance with Unitary Development Plan Policy REC 6, within new developments, children's play facilities should be provided at a standard of 0.2-0.3 hectares per 1000 population (falling within the provisions set down in Policy REC 3). The provision should be on site.

However if not provided in full on site the Council has developed a formula to calculate a reasonable level of contribution for off site works to mitigate the lack of provision onsite. This is usually calculated on the basis of £1000 per person of those not catered for through on site provision (based on an average population of 2.28 persons per dwelling). This accords with the latest guidance contained in TAN 16 (2009). In this case the sum would amount to £41,400.

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 20% of the application fee or 2% of the total level of contributions sought whichever is the higher. The fee would be based on the obligations contribution noting the planning fee was only £166 for renewal of an extant consent.

Overall the changes to the proposed Section 106 Agreement means that the Council would lose a £10,000 contribution for sustainable transport and a possible £9,678 for public art. Nevertheless it is considered that the overall contribution that would be made by the provision of 100% affordable housing would compensate for the loss.

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 HOUS2 'Additional Residential Development', HOUS8 'Residential Development Criteria', HOUS11 'Residential Privacy and Space', TRAN9 'Cycling Development', TRAN10 'Parking' and ENV27 'Design of New Developments' the design, scale and form of the development are considered acceptable. The access and level of parking provides a safe and adequate level of onsite parking and connection to the highway. The arrangement of the development is acceptable in relation to adjoining neighbours' privacy and amenity and does not affect the visual amenities or the character of the area and street scene.

RECOMMENDATION

Subject to the applicant first entering into a Section 106 Legal Agreement to include the following necessary planning obligations:

- Procure that 100% of the dwellings built on the site pursuant to the planning permission are built and thereafter maintained as affordable housing units
- The Developer shall pay the sum of £41,400 (forty one thousand four hundred pounds) to the Council to enhance access and provide improvements to public open space or recreation facilities likely to be used by the future occupiers of the site.
- The Legal Agreement will include the standard clause requiring the payment of a fee set at 2% of the value of the planning obligations contributions.

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. 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.

3. 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.

4. The development 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.

5. Prior to the construction of the access points with the public highway full engineering details of the access points, including levels and details, shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be brought into beneficial use until such time as that junction has been constructed in accordance with the approved details.

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.

6. No part of the development hereby approved shall be brought into beneficial; use until such time as that area of highway shown edged blue on drawing number 05075-SK105 attached to this consent has been formally stopped up.

Reason: To ensure a safe highway arrangement to meet the requirements of Policy ENV27 of the Unitary Development Plan.

7. All means of enclosure, including any gates or binstores, 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. Notwithstanding the submitted details, details of covered secure bicycle parking shall be submitted to and approved in writing by the Local Planning Authority and the approved bicycle parking facility shall be fully implemented on site prior to the first beneficial occupation of the development hereby approved and shall thereafter be so retained on site at all times for the parking of bicycles associated with the development.

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.

9. Prior to the laying of the slab of the building details of the finished floor levels in relation to existing ground levels and finished ground levels in relation to the highway level at Dochdwy road shall be submitted to and agreed in writing by the local planning authority and the development shall thereafter be carried out in accordance with the approved levels.

Reason: To safeguard local visual amenities and to comply with the requirements of policy ENV27 of the Unitary Development Plan.

10. Prior to their use in the construction of the development hereby approved, a schedule and samples of the proposed materials to be used in the external finish of the building, parking and access areas 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.

11. This consent shall only relate to the amended plans reference AE03, 04, AL00, AL01, 02, 03 AX01 all revision A and AS01 revision B and image 001 received on 19th August 2014 and the development shall be carried out strictly in accordance with these details.

Reason:

For the avoidance of doubt as to the approved plans and to meet the requirements of policies ENV27, TRAN9 and HOUS2 and HOUS8 of the Unitary Development Plan.

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

12. Notwithstanding the submitted plans and prior to the commencement of any development, the exact siting of the building shall be agreed on site by virtue of pegging out for inspection by and the written approval of the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure the amenities of adjoining occupiers are safeguarded to meet the requirements of policy ENV27 of the Unitary Development Plan.

NOTE:

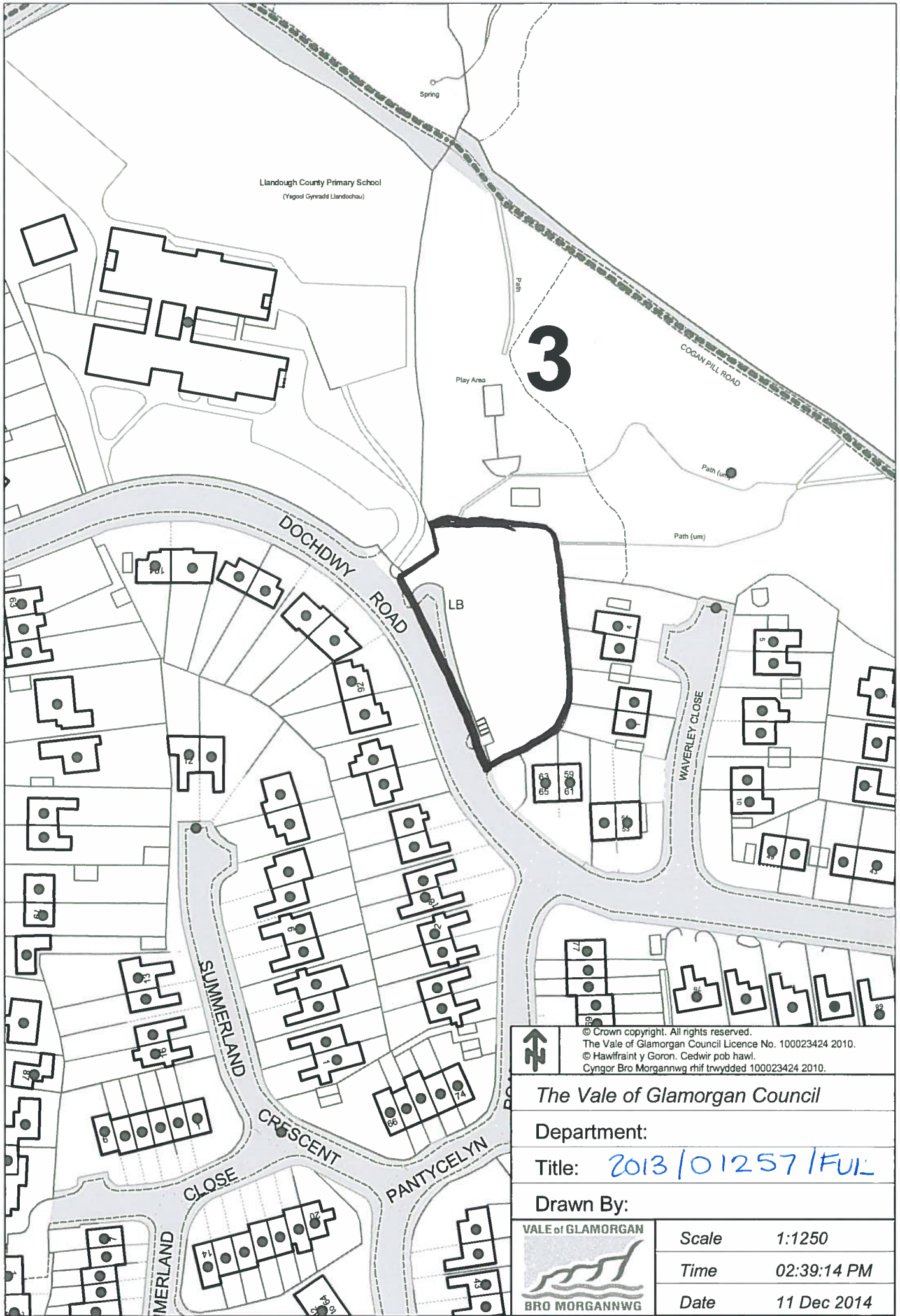
1. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.
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. This development is on adopted highway , for further details please contact the highways department, The Vale of Glamorgan Council, The Alps, Wenvoe, CF5 6AA :telephone 02920 673071



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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	The Vale of Glamorgan Council	
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	Date	11 Dec 2014

Redrow Homes (South Wales) Ltd
Nathaniel Lichfield and Partners, Helmont House, Churchill Way, Cardiff, CF10
2HE

Land to the rear of St David's Primary School, Colwinston

Development of 64 residential dwellings, open space, sustainable urban drainage, vehicular and pedestrian accesses, landscaping and related infrastructure and engineering works

SITE AND CONTEXT

The site comprises three field parcels enclosed by hedgerows, adjacent to the village of Colwinston, to the north and east of St Davids Church in Wales Primary School, outside of the settlement boundary as defined by the Unitary Development Plan 1996-2011 and as such falls in the countryside. The site is roughly rectangular in shape, with an area of approximately 2.5 hectares and is adjacent to residential development to the north and south, with the school to the west and agricultural land to the east. The application site has undulating levels, sloping downwards from north to south with a substantial dip towards the southern end of the site. The existing field access is from the west of the site between 1 Maes Y Bryn and St Davids Primary School. Public Right of Way C1/13/1 runs along the eastern boundary of the site.

DESCRIPTION OF DEVELOPMENT

The application as amended is in full for a residential development of the site for 64 dwellings, associated open space, landscaping, vehicular and pedestrian access onto the road to the west. The application comprises of a mix of detached, semi-detached and terraced dwellings and one bed apartments within the layout shown below:



As noted the layout will include the provision of a new access from the west, with a single primary route running through the centre of the site with a number of cul-de-sacs and private drives accessed from it. A small area of public open space is provided alongside the southern edge of the main access road towards the north-west of the site, while a larger area of public open space is also provided towards the south which also incorporates an attenuation pond and pumping station that form part of the drainage strategy for the site.

The development comprises of a mix of house types, which are generally traditional in terms of their form and character and following extensive negotiation with the applicant are now predominantly finished in a rough cast render with slate roofs. Example street scenes are shown below:



Street scene elevations showing plots 3-7.



Street scene elevations showing plots 22-25

The application proposes the disposal of all surface water via an infiltration basin soakaway located within the middle of the site, with foul drainage being managed by a foul pumping station that will discharge via a rising main to an adopted foul sewer that crosses the site.

The application is accompanied by a number of supporting and technical documents including:

- Planning Statement
- Design and Access Statement
- Transport Assessment
- Landscape and Visual Impact Assessment
- Heritage Desk Based Assessment
- Flood Risk Assessment
- Agricultural Land Quality Appraisal
- Landscaping Strategy
- Ecological Assessment
- Site Investigation Report

PLANNING HISTORY

2014/00141/SC1 : Land to the rear of St. Davids Church in Wales Primary School, Colwinston - 65 dwellings - Environmental Impact Assessment (Screening) – EIA Not Required

1988/01141/OUT : Land rear of St. Davids Church in Wales Primary School, Colwinston - Residential development of type and density (satisfaction of the Local Planning Authority) - Refused 6 December 1988.

CONSULTATIONS

Colwinston Community Council provided comments with regard to the application and lodge a 'strong objection' to the proposals. They object by virtue of the proposals being contrary to relevant plans within the Unitary Development Plan, Planning Policy Wales and Technical Advice Note 12; lack of need for housing projected by the LDP; impact upon the countryside/character of the village; impact upon Colwinston Conservation Area; housing density/layout inappropriate in this location; poor design of dwellings; impact upon neighbouring properties; impact upon highways safety and traffic generation; unsustainable location; flood risk/sewerage/water supply issues relating to development of the site; loss of agricultural land; impact upon biodiversity; prevention of expansion of school in the future; impact upon tourism.

Further reports were also received on behalf of the community council raising further points. The first report: revised population projection figures that indicate a lower requirement for housing provision within the Vale; objections from WAG relating to allocation of sites within rural villages and details relating to prematurity of the proposed development in the context of the LDP process. The second report indicates that the proposals contravene relevant legislation at both local and national level relating to Conservation Areas and objects in terms of the poor quality of design in relation to housing within the Conservation Area; scale of development; coalescence of the village with Maes Y Bryn to the north; impact upon historic linear settlement pattern; loss of rural aspect, open space and views; loss of agricultural land. These are included at Appendix A.

Highway Development Team has no objections in principle but will require full engineering details to be agreed by condition.

The Council's Public Rights of Way Officer commented on the application with regard to Public Right of Way C1/13/1 and its proximity to the eastern boundary of the site, and notes that no adverse effect should result to the Public Right of Way, no materials should be stored on the Right of Way and that any damage to the surface should be made good at the developer's expense.

The Director of Legal and Regulatory Services (Environmental Health Pollution Control) was consulted and has no objection.

Glamorgan Gwent Archaeological Trust was consulted and raise no objection to the positive determination of this application.

Llandow-Ewenny Ward Members were consulted although no comments had been received at the time of writing this report.

Dwr Cymru / Welsh Water (DCWW) initially indicated that they advised the developer that they should undertake a hydraulic modelling exercise due to local water supply issues and that the anticipated foul flows from the proposed development would overload the Cowbridge waste water treatment works and a feasibility study would be required, noting that no improvements are proposed by DCWW under the Capital Investment Programme to improve either situation. They noted that whilst the hydraulic modelling exercise had been completed they note that they were awaiting the outcome of the feasibility study in respect of the waste water treatment works. As such with regard to the original submission they had 'no alternative other than to object to the proposed development until such time as the outcomes of the feasibility study are known' and that they cannot suggest appropriately worded conditions at this point.

In a subsequent letter Welsh Water has confirmed that subject to appropriate controls within a Section 106 Legal Agreement which ensures the completion of a scheme to accommodate the extra flows to the Cowbridge Waste Water Treatment Works in advance of the communication of the flows to the public network we are content to remove our objection to this planning application (see Appendix B).

The Council's Ecology Officer was consulted with regard to the application as originally submitted and raised a holding objection by virtue of insufficient information being submitted in relation to bats, dormice, reptiles and amphibians.

Following the receipt of further information the Council's Ecologist withdrew the objection subject to two appropriately worded conditions being attached to any permission given. These conditions relate to the provision for a scheme for the protection of reptiles of a Bat Conservation Plan to be approved by the LPA prior to commencement of development and provision.

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

The Council's Principal Engineer (Coastal & Flood Risk Management) was consulted with regard to the application. As originally submitted they raised a number of concerns including the adequacy of the infiltration pond including but not limited to pre-treatment system, lack of account of overland flows, surface water flooding at plots 31 and 32 and adoption of surface water drainage system.

Following the receipt of the revised drainage strategy, the Council's Engineering Section confirmed that they were satisfied with the revised details, subject to confirmation of the proposed maintenance schedule, the requirement for a Construction and Environmental Management Plan and agreement with regard to the commuted sums.

The Council's Strategy and Supporting People Manager was consulted and raised concerns with regard to the layout, number and mix of units proposed on the originally submitted layout. No formal comments have been received subsequently in respect of the amended scheme at the time of writing this report.

Natural Resources Wales provided comment with regard to the application and indicate that they welcome the intention to dispose of surface water by sustainable drainage system. They also advise that they recommend consultation with DCWW and the Council's Drainage Engineer in this regard.

With regard to ecological constraints, they note and agree the findings of the submitted details and have no objection subject to enhancement and mitigation measures following consultation with the Council's Ecologist.

Comments were also received from **Jane Hutt AM** with regard to the application expressing concerns with regard to adequacy of sewerage and water supply to the village; the proposed development being out of scale with the village and detrimental to the Conservation Area; impact of increased traffic from proposed development; increased pressure on local services; design of the buildings being inappropriate. Please see Appendix C.

Comments were also received **Alun Cairns MP** raising concern that the proposals would be contrary to current development plan policies; exacerbation of flooding issues; negative impact upon Conservation Area; prematurity of proposals in LDP process. Please see Appendix C.

REPRESENTATIONS

The neighbouring properties were initially consulted on 14 and 26 March 2014, site notices were also displayed on 27 March 2014 and the application was also advertised in the press on 27 March 2014. Further neighbour consultations were sent out on **19 December 2014** and site notices erected on 23 December 2014. At the time of writing this report **86** letters of representation and a petition carrying 95 names have been received which raise a number of concerns as summarised below:

- Highway safety issues and lack of capacity of the local highway network
- Lack of public transport facilities and inaccuracies within the Transport Assessment
- Dangerous access to the site
- Proposals are premature and pre-empt the Local Development Plan process
- Lack of capacity of drainage and sewerage facilities
- Increased risk of flooding of existing and proposed dwellings
- Flood attenuation/drainage measures would be inadequate
- Lack of capacity in local schools
- Development may impact upon future expansion of school
- Ecological issues including protected species on the site

- Proposed development out of scale and would have a negative impact upon the character of the village
- Inappropriate density and design of the development
- Adverse impact upon the Conservation Area
- Adverse impact upon local landscape
- Lack of local community facilities including shop
- Lack of local housing need
- Loss of good quality agricultural land
- Negative impact upon local house prices
- Impact of construction and related traffic on locals
- Loss of privacy
- Lack of local need for affordable housing
- Inadequate consultation
- Lack of broadband/inadequate telephone infrastructure
- Lack of adequate electrical or gas infrastructure
- Does not meet WAG sustainability criteria
- Negative impact upon tourism
- Proposals contrary to emerging LDP policies
- Proximity of proposed trees from boundaries and likely detriment to walls

A sample of six letters of objection and the first page of the petition can be found at Appendix D.

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 18th 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

ENV10 - CONSERVATION OF THE COUNTRYSIDE

ENV11 - PROTECTION OF LANDSCAPE FEATURES

ENV16 - PROTECTED SPECIES

ENV20 - DEVELOPMENT IN CONSERVATION AREAS

ENV27 - DESIGN OF NEW DEVELOPMENTS

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS3 - DWELLINGS IN THE COUNTRYSIDE

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2 SETTLEMENTS

HOUS12 - AFFORDABLE HOUSING

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 majority of policies relevant to the consideration of the application subject of this report are not considered to be outdated or superseded.

However, for reasons later discussed in the report, it is considered that the proposal is too large to benefit from Policy HOUS2.

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.

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.

HOUSING –CHAPTER 9 – Following extracts relevant:

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.

9.1.4 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 (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 16 - Sport, Recreation and Open Space (2009)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 22 – Sustainable Buildings (2010)

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
- Barry Design Guidelines
- Design in the Landscape
- Model Design Guide for Wales
- Planning Obligations
- Public Art
- Sustainable Development –A developers Guide
- Trees and Development
- Biodiversity and development
- Colwinston Conservation Area Appraisal and Management Plan (CCAAMP)

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 2011
- Affordable Housing Viability Study 2010
- Findings of the Candidate Site Assessment Process (November 2011)
- Housing Supply Background Paper 2011
- Local Housing Market Assessment 2010
- Open Space Background Paper 2011
- Population and Housing Projections Background Paper 2011
- Sustainable Settlements Appraisal Review 2011
- Affordable Housing Delivery Statement 2009
- Designation of Special Landscape Areas 2008
- Joint Housing Land Availability Study 2012 (Published May 2013)
- Community Facilities Assessment (2013)
- Education Facilities Assessment (2013)
- Sustainable Transport Assessment (2013)
- Transport Assessment of LDP Proposals (2013)

Other Relevant Evidence or Policy Guidance:

Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update (Welsh Government, 2009)

Circular 13/97 – Planning Obligations

The Community Infrastructure Levy Regulations 2010

Issues

The primary issues to be considered with this application are considered to be the following:

- The principle of the development having regard to relevant Unitary Development Plan, National policies, prematurity, and agricultural land quality.
- Consideration of other material considerations that may outweigh Development Plan policies such as housing land supply, development viability, emerging planning policy etc.
- Visual impact of the development, which is currently an area of agricultural land in the open countryside.
- Considerations of the proposed access and junction arrangement, and highway safety issues.
- Issues related to the potential increased traffic levels as a result of the proposed development.
- Consideration of the potential impact to neighbour amenities.
- Parking
- Amenity Space Provision
- Amount and tenure of Affordable Housing to be provided on site; and
- Other issues that will be considered include the need to protect archaeology; flood risk and drainage (including the proposed attenuation pond); ecological and environmental impacts.
- S106 Planning Obligations to mitigate the impact of development

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 31st 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 proposals consist of the development of agricultural land (as defined by the Vale of Glamorgan Land Classification Maps), adjacent to the settlement of Colwinston for housing. As the site is outside of the defined Settlement Boundary of Colwinston it is therefore within the countryside for the purposes of the Development Plan. 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, the proposed development would be contrary to Policy ENV1 in principle.

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 (64 dwellings) and the size of the site are such that the development could not be considered as “small scale” rounding off for the purposes of this policy. Accordingly, it is considered that the proposed development could not be considered as compliant with the terms of Policy HOUS2. Furthermore, policy HOUS3 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 dwellings proposed under the current application 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 and out-weigh the UDP policy objections.

The application is supported by a planning statement, which highlight reasons why the proposals should be considered favourably. These relate principally to the ongoing Local Development Plan (LDP) process and the need for more housing development in the Vale of Glamorgan (highlighting housing land supply figures). These points are considered in detail in the sections below.

Housing Land Supply

Paragraph 2.2 of TAN1 states that '*Local planning authorities must ensure that sufficient land is genuinely available to provide a **5 year supply** of land for housing*'. In cases where supply is below 5 years, paragraph 5.1 of the guidance suggests that '*The results of the Joint Housing Land Availability Studies should be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply **below the 5 year requirement**, the need to increase supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with national planning policies*'. This guidance is supported in part 9.2 of PPW, in particular paragraph 9.2.3.

The Council has published its Joint Housing land Availability Study 2014 (JHLAS 2014) which presents the housing land supply for the Vale area at the base date of 1st April, 2014. The statement indicates that the Council has a 7.3 year supply of housing land that has been calculated using the past house completion figures, in accordance with the TAN1 guidance. Accordingly, the Council presently has a sufficient supply of housing land to comply with paragraph 2.2 of TAN1. Whilst acknowledging this it should, however, be noted that the Council must maintain a supply of housing land in excess of 5 years at the next JHLAS for 1 April, 2015, and when the LDP is adopted. It is, therefore, considered that the current housing figure cannot be relied on in perpetuity and does not imply that all further residential developments at this time should be resisted, given the need to maintain sufficient supply at all times. However there 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 if a development is considered harmful in these other respects. Rather the need to maintain a TAN1 compliant housing supply is a single 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.

Local Development Plan Context

The Deposit Local Development Plan (DLDP) has been considered by the Council's Elected Members and was placed on Deposit on 8 November 2013, with a subsequent public consultation. In early 2015 the Council's Cabinet Members will consider its responses to the representations made to both the Deposit and Alternative Site Plan Stages. The LDP will then be submitted to Welsh Government where an independent Planning Inspector will be appointed to conduct an Examination into the soundness of the Plan. Until these stages have been completed the DLDP will remain an un-adopted document and is not envisaged to be adopted until 2016.

The supporting planning statement acknowledges that the deposit LDP allocates the site for residential development under policy MG2(38), noting that it has been included within the original and most recent Deposit Plans arguing that this 'emphasises the suitability of the site within the emerging plan, whilst also highlighting that it has political support.' The statement goes on to argue that by allocating the site as a candidate site within the Deposit LDP that the Council has fully assessed the site against the Spatial Strategy, a site assessment of the suitability and deliverability of the site, including location, environmental impacts, physical constraints and infrastructure and with regard to the sustainability of the site. In light of this and the expiration of the UDP they point to the requirement of PPW to give decreasing weight to superseded policies in favour of other material considerations.

Prematurity

As the LDP is in draft form, consideration should be given as to whether the proposals would be premature, considering that the site is allocated within the plan for residential development. Within their Planning Statement the developer argues that the development of the site for 64 dwellings would not be premature given that that inadequate provision has been made within the west of the Vale during the first part of the plan period.

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 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.

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 Colwinston, whilst defined as a "Minor Rural Settlement" is neither considered as a Service Centre Settlement or Key Settlement. Furthermore and of particular note is that this allocation is not one of the Strategic Housing Sites within the Draft. Members should note that the Strategic Housing Sites, of which there are seven, relate to Barry, St. Athan and Llantwit Major. Noting this it is therefore not considered that the proposed development would have a significant impact upon on an important settlement for the purposes of PPW. Furthermore, on the basis that the allocated site forms part of a "Minor Rural Settlement", it is not considered that bringing this site forward for 64 dwellings would 'go the heart' of the overall LDP strategy, given that this relates to a very small percentage of the overall housing land requirement for up to 9,950 new dwellings over the plan period (0.64% of the total).

Paragraph 2.6.4 of PPW also advises that *'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.'*

Notwithstanding the fact that the site has been allocated for residential development within the Draft Local Development Plan, it is recognised that this Draft Plan remains un-adopted and as such relatively little weight can be given to the plan itself, which may be subject to change before it becomes the adopted Development Plan for the Vale of Glamorgan, which under the revised timetable is anticipated to be in October 2016. However, having regard to the advice within PPW as above whilst the plan may not be at pre-deposit stage, the plan is not considered to be so advanced that the development would be considered premature in these terms.

Whilst it is anticipated within the draft LDP that the site would be developed within the third and final phase of the Plan (between 2021-26), as this is not a Strategic Housing Site, it is considered that bringing it forward within the plan period would not undermine the deliverability of the allocated strategic housing sites or wider strategy of the plan, in line with the guidance set out in PPW (paragraph 2.6.3).

Having regard to the above, it is considered that the proposed development is not premature as defined in PPW, in that it would not undermine the deliverability of the LDP, go to the heart of the plan or have a significant impact on an important settlement.

PPW and Sustainability

The guidance above also refers to section 4.2 of PPW relates to planning for sustainability.

The key sustainability principles and the key policy objectives of PPW are clearly a set of guidelines that set out the Welsh Government's *'vision for sustainable development and the outcomes [they] seek to deliver across Wales'* (paragraph 4.41). The development can be considered to accord with the principles and objectives.

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).'*

As discussed above, the 'Findings of Candidate Site Assessments Process Paper' (2013) background paper for the LDP concludes that the site would be sustainable for reasons such as minimising causes and managing effects of climate change. This assessment broadly reflects the sustainability objectives set out in section 4.4.3 of PPW particularly as the proposed development would secure the provision of infrastructure to the community as the developer is proposing to connect the development to mains gas, a facility not currently available in Colwinston, whilst also ensuring sufficient good quality housing is provided within the area.

The village of Colwinston is also identified as one of twenty four sustainable rural settlements within the 'Sustainable Settlements Appraisal' which also forms part of the background evidence for the LDP. The appraisal indicates that such settlements '*offer a more limited but important range of key services and facilities. These can be considered as being the functional rural villages.*' Noting this, the location of the site is immediately adjacent to key facilities of the village and within easy walking distance to the school and services contained within the village including the community hall, Public House and existing playground to the west of the site, allowing access for future occupiers of any such development to a number of key services and facilities.

Overall the site is considered to be sufficiently sustainable and is in accordance with the sustainability principles and objectives as set out in Part 4.2 of PPW. With the presumption in favour of sustainable development, which is set out as a key principle within PPW, it has to be considered that the proposals are in accordance with the national policy as set out within PPW in this regard.

Conclusion on the Principle of the Development

The proposals consist of a residential development of the site of undeveloped land on the edge of Colwinston. In terms of the adopted Unitary Development Plan 1996 – 2011 (UDP), the site is immediately adjacent to the Settlement Boundary of Colwinston, though is actually outside of this designated area.

Given the relatively limited weight to be given to the emerging LDP itself, and since the proposals are not in accordance with the adopted UDP, it is necessary to consider if there are other material considerations which would justify the proposed residential development, contrary to those adopted Development Plan policies. With the above guidance in mind, the background evidence gathered in preparation of the LDP should be afforded weight considering the development proposed.

The inclusion of the site as an allocated site within the Draft Local Development Plan indicates that this is considered to be in principle a suitable site for development, due to the significant level of assessment that has been undertaken that has led to its inclusion to this stage. A relevant background paper on this issue is the 'Findings of the Site Assessments Process Paper' (2013). This includes the 'Land to Rear of Colwinston School' site and then assesses it from a sustainability perspective. The background paper includes a matrix which colour codes each site under different sustainability indices.

The application site shows a generally very positive outcome to the sustainability appraisal, including positive scores to 'provide opportunity to meet housing need'; 'maintain, promote and enhance local facilities'; 'maintain and improve access for all'; 'minimise causes and manage effects of climate change'; and 'provide a high quality environment within all new development'.

In the Local Development Plan (LDP) Draft Deposit of 2013 the application site has been included as a housing allocation site, under policy MG 2 (38), indicated for 65 dwellings with 35% affordable housing. As stated above, the LDP has not been adopted at the present time, being in draft form. However, the background papers are considered to be a significant material consideration and issues such as sustainability are fundamentally assessed through these documents.

As such, although the development is not in full accordance with UDP policies, the LDP background papers and national policies, especially those within PPW are of weight, have been fully considered in assessing these proposals. In this context, the proposed dwellings would be considered a sustainable form of development, contributing new housing (including much needed affordable housing) that would be well integrated within the village, due to both the location of the site immediately adjacent to the settlement and existing residential development to the north and south and the school to the west whilst also being within close proximity to the services and facilities within the village. Given this, it is considered that the proposals are an appropriate form of sustainable residential development.

As discussed above, the Council currently has in excess of 5 years housing land supply, however, this must be maintained and the Council must have careful regard to how that will be maintained. As indicated 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, the proposal is supported by a raft of information within the LDP background documents, and while the LDP itself is of limited weight, that information is relevant to the application and demonstrates why the site has been included within the draft LDP. In this context and in light of the background information that has led to its inclusion, (and the need to maintain adequate housing land at all times) it is considered on balance that the development of the land is acceptable in principle. 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 consideration.

Whilst the principle of the development is not considered acceptable or unsustainable, noting that this application has been submitted in full, issues such as quality of agricultural land, layout, design, neighbour impact and access will all need to be considered and these issues will be discussed further within this report.

Density and Layout of the Development

As noted the application relates to a site of 2.5 hectares and the proposed dwellings would be built at a density of approximately 25 dwellings per hectare. Although the deposit LDP can be given little weight at this point given its status, the site has been identified for residential development for a total of 65 dwellings. The application as amended proposes the development of the site for 64 dwellings, representing a shortfall of 1 from that proposed within the deposit LDP. Given that the LDP is in draft form, the reference to 65 units is not definitively prescriptive to the site however, it provides a basis to consider the appropriate density for the site. 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 adjacent to a minor rural settlement in a semi-rural location on the edge of an historic town 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 current status of the LDP, the proposed density of approximately 25 dwellings per hectare is not considered to be inappropriate and the shortfall of one unit, relative to the LDP allocation is not significant.

The application proposes the development of the largely rectangular site for 64 dwellings, with a variety of house types with a central spine road with some units enjoying direct access whilst others would be accessed by a number of private drives accessed from the central spine. A change in materials on the main spine road is proposed between plots 4, 6, 16 and 63 and between 30-45 which extends towards the south of the site as well as other traffic calming features along the main spine road.

Sixteen no. affordable housing units are proposed within the scheme and proposed within two distinctive blocks. 6 no. units are proposed to the north-east of the site (2 no. 1 bed apartments, 3 no. 2 bed dwellings and 1 no. 3 bed dwellings) and a further 10 units are proposed to the west of the site (4 no. 1 bed apartments, 4 no 2 bed dwellings and 1 no. 3 bed dwelling). Whilst it is noted that the affordable units are not strictly 'pepper potted' throughout the site, they are split into two distinct areas. It is acknowledged that the provision of 25% on site affordable housing falls below the 35% envisaged within the LDP allocation, however it has been agreed that this shortfall in numbers can be met through an off-site contribution, as discussed later in the report.

Given the shape and physical constraints of the site it is considered that a single access from the north-west of the site and a single main access road running through the development is the only viable and practicable option for the internal layout. As such the principle of such a layout is considered to be acceptable.

In the site and contextual analysis contained within the submitted DAS the applicant notes that '*The majority of the immediate local layout is based on building frontages being served by the distributor lane that bisects the village*' (Paragraph 2.18). Despite this analysis, the originally submitted scheme orientated a number of the units away from the spine road. Following further negotiation with the applicant, the layout of the site was substantially amended to ensure that the majority of units adjacent to the access road were re-orientated towards the main spine road and a number of dual frontage house types were introduced at prominent corner positions (such as at plots 2, 16, 54/55 and 63). This would provide a more significant degree of active frontage onto the main spine road which is considered to more sensitively respect its context and provide a more visually pleasing form of development.

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 houses. 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, which is considered to accord with CSS Parking guidelines. The affordable flats are shown to have one space each, which is considered to be acceptable given that car ownership amongst occupiers of affordable housing schemes is typically lower.

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.

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 1m² of amenity space per 1m² of the gross floor area for new dwelling houses, whilst 20m² 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 the dwelling houses it is noted that in some instances there is a slight shortfall in private amenity space for a number of the proposed units.

Within the amenity standards SPG it states that the detailed amounts are not intended to be a prescriptive standard and whilst recognising the shortfall in some instances it is acknowledged that 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.

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.

Design and type of dwellings

Within the submitted Design and Access Statement the applicant states that '*this area of the Vale of Glamorgan exhibits a strong architectural context with a varied local vernacular although the use of certain materials has been defined*' (Paragraph 2.8). It adds that '*this historic village offers typical stone and render fronted dwellings with decorative window frames and doors, traditional features of the old village centres in this area. The use of brick is limited but there are instances of its use*' (Paragraph 2.9). Having assessed the contextual analysis provided within the Design and Access Statement it is noted that the dwellings photographed within this section are more contemporary dwellings that do not contribute positively to the Colwinston Conservation Area which includes a substantial part of the southern part of the village.

The proposed dwellings are standard house type designs including 'the Cambridge', 'the Warwick' and 'the Canterbury', which are strongly 'Arts and Crafts' inspired in terms of their design with the majority of the proposed dwellings are detached. The majority of market housing are 4 bedroom dwellings.

All houses proposed are two storeys. It is considered that the scale, massing and height of the houses proposed are generally acceptable and would be similar in proportion to existing developments within Colwinston. The limitation in height to two storeys would ensure that the dwellings are considered to appear as an appropriately scaled development when viewed in context with Colwinston and would not appear as oversized or alien to the existing scale and massing of buildings within the village when viewed from outside of the site.

As originally submitted, the proposed dwellings were proposed to be predominantly finished in brick with a mix of grey and russet colour roofs, with some timber cladding on some property types and the limited use of render and no use of local stone. As such there was significant concern that the proposed palette of materials combined with the style of dwellings proposed would result in a form of development that would have related poorly to the vernacular and materials predominantly found within the village of Colwinston. Following extensive negotiation with the applicant, a revised scheme was submitted which, whilst retaining the arts and crafts style dwellings, proposed an overhaul of the materials with render becoming the predominant material throughout with forticrete slate grey colour roofs.

The amended palette of materials better reflects that predominantly found within the village of Colwinston and whilst standard house type dwellings are retained in their entirety through the site, the revised palette of materials would allow these dwellings to appear more in keeping with the wider vernacular and appearance of Colwinston. The dwellings do not directly reflect the vernacular and form of the more historic part of the village and when efforts have been made to request more bespoke house designs, the applicant has retained their standard house types. However, where a bespoke scheme of houses would have been preferred, it is acknowledged that much of the most closely related built form to the site is less historic/traditional in character. It is therefore considered that it would have been reasonable to impose upon the development a requirement to be wholly reflective of the historic core of the village. The house types are clearly more suburban in appearance than that, however, they still have a traditional character and it is considered that the use of an appropriate palette of materials would ensure a sufficiently sensitive transition to the existing village.

On balance therefore it is considered that the revised house types and finish would not unacceptably detract from the character of the village as a whole and would more readily assimilate into the village than a similar scheme predominantly finished in brick.

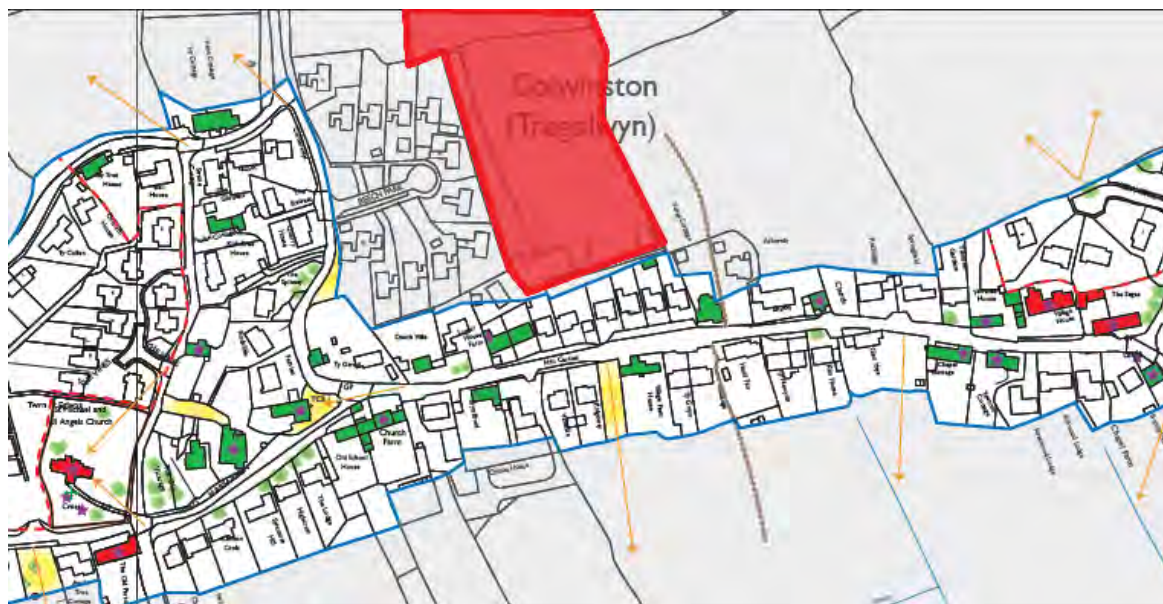
With regard to the affordable housing units proposed, the design and materials palette reflects the approach taken for the market value housing designs. There are three types of social rented houses and also two storey one-bedroom apartments, which have the form and appearance of a house. The social rented houses have either 2 or 3 bedrooms. Overall it is considered that the design and materials proposed for the affordable units is acceptable, with a suitable mix of sizes and types, which reflects the character of the wider development.

Furthermore a revised scheme of enclosures has been submitted indicating a mix of 1.1 metre and 1.8 metre high render of walls with Cock and Hen coping in more publicly visible areas and the predominant enclosure of rear gardens with 1.8 metre close boarded fencing. As noted previously the majority of houses front onto the highway with open front gardens although where there is a side boundary adjacent to a highway a rendered wall with appropriate coping is considered to be an acceptable and appropriate form of enclosure in this context. Therefore in summary, it is considered that the layout and house designs are acceptable, in accordance with policy ENV27 of the UDP and the principles of policy HOUS8.

Notwithstanding this, the Conservation Area Appraisal and Management Plan notes that modern infill housing of no particular architectural merit has substantially added to the earlier settlement pattern and that within the Conservation Area it notes that '*Local lias stone is the most prevalent historic building material, commonly now under Welsh slate roofs*' and that '*Lime-washed exteriors are common.*' Whilst it is acknowledged that the site falls outside of the Conservation Area it must be noted that much of the charm and character comes from the vernacular and setting of the historic part of the village, and as such the following section seeks to assess the potential impact of the development upon this area.

Impact upon Colwinston Conservation Area

The Conservation Area northern boundary lies just south of the site with properties within the area backing onto this area, with no physical features providing a buffer between the development site and the Conservation Area. As such the development would be viewed within the context of the Conservation Area as adjoining it. The CAAMP indicates that Colwinston is a small village of linear form within a rural setting. A plan indicating the relative position of the site with the Colwinston Conservation Area is shown below:



Application site highlighted in red showing position relative to Colwinston Conservation Area (outlined in blue)

As indicated within the previous section, the revised finishes and house types and schedule of enclosures, are considered to relate better to the predominant finish of dwellings within Colwinston including those within the Conservation Area, incorporating high degrees of render with stone coping on the proposed enclosures. The Conservation Appraisal and Management Plan indicates that the *'village is prominent in the wider landscape when viewed at a distance from the south, south-west and south-east from where its linear east-west orientation appears as a strong horizontal line of built development.'* The development is proposed to the north of the village with views across fields from the east although would not be visible from the south.

With regard to the development within the northern side of the Conservation Area, the appraisal notes that this is densely packed and there are few opportunities for views out of the Conservation Area. As previously noted the development proposed is of a linear form that would lie adjacent to the northern boundary of the existing dwellings of Armancy, Trewirgie, Isis, Bradgate and Glynfaes. These modern dwellings are relatively tightly packed with only modest gaps in the frontage between them, affording little opportunity for views towards the application site from within the Conservation Area as noted within the appraisal. Noting the lack of substantial views from within the Conservation Area it is considered that the development would not detract from the character of the Conservation Area from this location.

Views from the north of the rear of the aforementioned properties would be obscured although these are modern dwellings of little architectural merit, whilst views across the fields to the east are of dwellings within Beech Park and St Davids Primary School. As such it is not considered that the proposed development would unacceptably alter or obscure views of the buildings within the Conservation Area but instead would be read against modern development that predominantly falls outside of this designation. Neither would the proposed development impact upon the significant views outside of the Conservation Area as identified within the appraisal, whilst with the exception of the County Treasure of Lower House Farm, the development would be significantly detached from designated Listed Buildings and County Treasures within the Conservation Area.

Noting the above, it is considered that the development would not unacceptably impinge upon the historic interest of the Colwinston Conservation Area, being appropriate in terms of the choice of materials and not impacting upon identified significant views in and out of this area. On balance, therefore it is considered that it would not cause unacceptable detriment to the historic interest of the adjacent Colwinston Conservation Area, in accordance with policies ENV17 and ENV20 of the UDP.

Wider Visual and Landscape Impact

The site lies outside the settlement boundary of Colwinston and as such falls within the countryside as defined by the Vale of Glamorgan Unitary Development Plan. 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.

To support the application a 'Landscape and Visual Impact Assessment' (LVIA) has been received (prepared by Anthony Jellard Associates-February 2014). The LVIA has been carried out to assess the likely landscape and visual effects of the proposed residential development. The study has been carried out in accordance with nationally agreed best practice standards of landscape assessment. It has involved an examination of various data about the site, including historic maps, aerial photographs and planning background information and the following conclusions have been drawn:

- The site will developed in a way which works with the existing grain of the land and topography
- Retention of hedgerow and additional planting results in a 'significant gain of new native planting along the eastern boundary and a long term defensible landscape created for this edge of Colwinston.'

- Residential receptors are amongst the most sensitive to visual impact. A number of properties in immediately adjoining residential properties are significantly affected but generally housing in the settlement is unaffected.
- Road users will not experience any significant visual impacts except adjacent to the proposed entrance north of the school
- Views from the proposed footpath immediately to the east of the site are limited by hedgerows and additional planting, and new housing will be seen in existing adjoining areas of housing.

It is noted that the site is bordered by residential properties to the north, west and south. Given the existing pattern of development it is considered that the proposed development would not appear as an arbitrary incursion into the countryside as it is viewed against the backdrop of existing development within Colwinston, the school and dwellings in Maes Y Bryn to the north. In this regard it is also considered that the revised palette of materials also allows the proposed dwellings to be read more in context with the backdrop of existing development within the village. The application is also supported by a landscaping scheme for the site, to include reinforcing the vegetation at the site boundaries to further mitigate the visual impact of the development. It is considered that the retention and reinforcement of existing hedgerow boundary features particularly to the eastern boundary is welcomed which would assist in softening the visual impact that the development may have.

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 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.

While the character of the land would change, the harm associated with that must be balanced against the strategic benefit associated with the development. In this case, given the contribution that the development would make to housing supply, and the landscape assessment carried out above, it is considered that the harm to the character of the wider area would not be significant and is outweighed by the factors in favour of the development.

Trees and hedgerows

The application has been supported by a Tree Survey prepared by Treescene dated January 2014. The submitted Tree Survey indicates a total of 14 no. trees and one group of Hawthorn, Holly and Sycamore on the site, all of which vary in condition from 'Fair' to 'Poor'. None of the trees in question benefit from statutory protection. The submitted survey indicates varying levels of intervention/management to the trees on the site, with 3 no. trees indicated as being removed.

Notwithstanding this it is also noted that the application is supported by a landscaping plan which indicates the provision of a number of structural trees such as lime and oak throughout the development (particularly within the areas of Public Open Space adjacent to the access and to the south-west of the site), smaller garden and native trees and fruit trees. The provision of such planting is considered to more than compensate for the loss and management of the trees identified within the submitted survey as being of fair to poor condition, that have little amenity value.

The application is also supported by an additional Hedgerow Survey prepared by Ecological Surveys. This provides details of the existing hedgerow within the confines of the site and indicates that the loss of this hedgerow will be restricted to approximately 42 metres, with this loss predominantly due to the requirement for a widened access to the site, to the north of the school with approximately 23 metres being lost in this position. With regard to this hedgerow (H1) the submitted survey indicates that this hedgerow is essentially a line of scrub and its loss would be compensated through the planting of new tree planting adjacent to the access and elsewhere within the site. Predominantly the existing hedgerow will be retained, while further hedgerows to gardens are also proposed throughout the development. The proposal is therefore considered acceptable in these terms.

Impact of the Development on the Amenities of Existing Properties

As noted previously, the application site is bound by residential properties to the north, west and south, with St Davids Primary School also to the western boundary and open countryside to the east.

The dwellings proposed at plots 1-12 will introduce two storey dwellings adjacent to the boundaries with 1-10 Maes Y Bryn to the north, with the dwelling at plot 1 being located within 1 metre of the boundary with 1 Maes Y Bryn. However, in general the dwellings along the northern part of the proposed layout have been sited sufficiently far away from the rear boundaries of the existing dwellings to ensure that the new dwellings would not be overbearing or unneighbourly, and whilst the dwelling at plot 1 would be nearer to the boundary it is not considered that it would cause an undue overbearing impact when viewed from the neighbouring property.

The properties at 2-10 Maes Y Bryn are served by relatively long gardens and dwellings proposed at plots 3-12 of the development are also served by ten metre long gardens. Given this it is considered that the introduction of these properties will not result in an unacceptable impact upon privacy of these dwellings by virtue of overlooking or overbearing. Whilst plot 1 of the development will be situated closer to the boundary and within approximately 14 metres of the rear of 1 Maes Y Bryn and a bathroom window is proposed in the side elevation, this does not serve a habitable room and as such would not result in undue overlooking. A condition requiring the side window to be obscured glazed will however be attached to any planning consent given.

Dwellings to the south of the site are set in excess of 25 metres from the rear of the neighbouring dwellings adjoining the site. In light of this separation it is considered that there would not be an unacceptable impact upon the amenity of the neighbouring properties to the south.

A buffer has been provided to the west of the site where the pumping station is proposed to be built. On the most part the proposed dwellings are set in excess of 21 metres from the rear of the neighbouring properties, although it is noted that the dwelling proposed at plot 42 would be within 17 metres of the rear of 6 Beech Park.

Notwithstanding this it is noted that the proposed dwelling at plot 42 would have a blank elevation fronting onto the existing property with the exception of an en-suite window which could be obscure glazed to minimise potential detriment by virtue of overlooking. Plots 44 and 45 would also be set approximately 20 metres from the boundary with existing properties and in light of this separation would not result in undue detriment by virtue of overlooking.

Overall therefore it is considered that the proposed dwellings would not cause undue detriment to the amenity of existing neighbouring residential properties and would accord with policy ENV27 of the Development Plan and the aims of the Council's SPG.

Agricultural Land Classification

The proposed site for the residential development is primarily agricultural land which is made up of four agricultural fields, divided by important hedgerows, with the fields currently being grassed. When visiting the site it appears that the fields are currently being used for the grazing of horses and are not being actively farmed.

Technical Advice Note 6 notes that agricultural land within Grades 1, 2, and 3a that are considered to be the "most flexible, productive and efficient" land in terms of output (Technical Advice Note 6).

Planning Policy Wales 2012 states the following on this matter:

4.10.1 In the case of agricultural/and, land of Grades 1, 2 and 3a of the Department for Environment, Food and Rural Affairs (DEFRA) Agricultural Land Classification system (ALC) is the best and most versatile, and should be conserved as a finite resource for the future....Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in Grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

The application has been supported by an Agricultural Land Classification Survey prepared by Kernon Countryside Consultants dated February 2014. The report has assessed Site and Climatic Conditions including general features, land form and drainage, climatic conditions, Geology and soil types and Agricultural Land Quality including soil survey methods and agricultural land classification and soil resources.

Noting that the agricultural land classification map (MAFF 1977) classifies the site as Grade 2 agricultural land although the submitted report indicates that the application site is a mix of Grade 2 (24%), 3a (60%) and 3b (16%).

It indicates that the grade 2 land covers a small area (0.6ha) to the north of the hedgerow within the field to the east of the school grounds, with moderately deep well drained medium loams of a depth of between 45cm-60cm whilst Grade 3a covers about 1.5ha of the site with Grade 3b land is constrained to the convex slopes of the valley on the site. With regard to the mix of the land the submitted assessment indicates that *'In practical terms the mixed distribution of grades across the site means that the Grade 2 land will never be able to be fully exploited as it has to be farmed in conjunction with areas of Grade 3a and 3b.'* In conclusion they note that *'that loss of this small area of "best and most versatile quality agricultural land" is not significant'.*

Policy ENV2 states 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.' In this case, it is considered that the requirement to maintain adequate 5 year supply to meet housing need, to be met by a residential development is a significant justification. While the Council currently has in excess of 5 years, this site forms part of the LDP allocations and in that respect, it is considered to be necessary to meet strategic housing need over the next 15 years, irrespective of the current housing land supply. Furthermore, it is noted that the land in question is not actively being farmed whilst also considering that the best grade land does not cover the whole of the site and acknowledging the applicant's assertion with regard to the difficulty of exploiting the best graded land. It is further considered that the relief of the land, particularly to the south of the site, would limit its potential utility for some forms of farming.

Though it is considered that the loss of good quality land is regrettable, this is outweighed by the need to provide housing within the Vale of Glamorgan. This is in accordance with PPW, which allows for development of such land where there is "an overriding need for development". Considering the need to maintain adequate housing supply within the Vale of Glamorgan, the loss of this small amount of Grade 2 and Grade 3a agricultural land is not considered to be significant in its own or so harmful as to warrant the refusal of this proposal. Furthermore, Members should have regard to the allocation of this land for 65 dwellings in the DLDP under Policy MG2 (38).

Ecology and Biodiversity

The application was accompanied by an Ecological Assessment prepared by Ecology Solutions (February 2014), which indicates that there are no statutory or non-statutory sites within the application site, noting that the nearest statutory site and non-statutory sites are 2.5km and 0.4km distant respectively. The report notes that the habitats within the application site are generally not considered to be of particular ecological importance, although the hedgerows on the site have some limited value.

Policy ENV16 of the adopted development plan indicates that permission will only be given for development that would cause harm to or threaten the continued viability of a protected species if there are exceptional circumstances; no satisfactory alternatives and effective mitigation measures are provided by the developer.

The submitted report notes that the retention of some grassland, creation of attenuation area and retention of hedgerow and provision of additional planting, 'will help to increase biodiversity post-development and achieve an overall ecological enhancement.' As originally submitted an objection was raised by the Council's ecologist requesting further details to be submitted requesting clarification on a number of omissions from the ecological information as submitted to support the planning application whilst further survey work and information including details relating to bats, dormice and reptiles was requested prior to the determination of the application.

Further details were submitted to the Local Planning Authority in this regard resulting in the withdrawal of the Ecologist's objection to the application as originally submitted subject to two suitably worded conditions being attached to any planning consent granted. Conditions relating to the provision of a strategy for reptiles and bats will therefore be attached to any consent given. It is also of note that no objection was received from Natural Resources Wales.

Given the above, it is considered that the proposed development of the site would be in accordance with policy ENV16 of the Development Plan.

Drainage Issues

The application has been accompanied by an updated and amended Drainage Strategy Report by Phoenix Design (September 2014) which seeks to demonstrate how the drainage for the development will be dealt with and how flows will be managed to prevent increased flood risk.

- Due to favourable soakaway test results, all surface water will discharge to ground.

- All surface water from the main highway, shared drives and private hard paved and roof-top areas will be managed via an infiltration basin located within the middle of the site, at its lowest point. The basin has been designed for a 1 in 100 year event + 30% climate change. This will be offered to the Vale of Glamorgan Council for adoption as part of SUDS scheme and a wider open space allocation through the site.
- All piped surface water upstream from the basin will be designed to meet the hydraulic design and construction standards for adoption by Welsh Water and will be offered to Welsh Water for adoption.
- Foul drainage will be managed via a foul pumping station that will discharge via a rising main to an adopted foul sewer that crosses the site.

As initially submitted the Council's Drainage Engineer indicated that there were a number of concerns with regard to the proposed drainage scheme and as such following further discussions, a revised drainage strategy was submitted to the Local Planning Authority. Following the submission of the revised strategy the Council's Drainage Engineer has confirmed that he is satisfied with the revised drainage strategy provided, subject to conditions ensuring that the development is carried out in accordance with the amended drainage strategy, the submission of the details of maintenance and responsibility of the proposed drainage system and the submission of a suitable Construction and Environmental Management Plan (CEMP). Such conditions are recommended here.

They also indicate the requirement for a commuted sum for the adoption and maintenance of the drainage solution proposed on the site and this will be secured through a legal agreement, with the exact nature and amount of any such contribution to be agreed.

As noted previously, Dwr Cymru Welsh Water (DCWW) were consulted with regard to the application, and initially noted that prior to the submission of the application that the developer was advised to undertake a hydraulic modelling assessment to ascertain whether there was an adequate supply of potable water to serve the development. They also note that concern was raised prior to the submission of the application with regard to capacity of the local sewerage network and that the anticipated foul flows from the development may overload the Cowbridge waste water treatment works. A feasibility study has requested therefore be to ascertain if the foul flows could be accommodated at the waste water works.

In light of these concerns, the developer commissioned a study of the Cowbridge Waste Water Treatment Works, to identify a solution to accommodate the flows from the site and thus has now been provided. Accordingly subject to the agreed scheme being required to be completed in advance of the occupation of any dwelling, through a requirement of the Legal Agreement, Welsh Water has now removed any objections.

Flood Risk

Policy ENV7 of the UDP states that development will not be permitted where it would potentially be at risk from flooding or increase the risk of flooding locally or elsewhere to an unacceptable level and this is supported by TAN 15 on Development and Flood Risk.

The site lies entirely within Zone A, as defined by the flood risk Development Advice Map (DAM) referred to in TAN15; therefore the site is considered to be at little or no risk of fluvial or tidal flooding.

A number of the consultation responses from neighbours have referred to concerns regarding flooding within and beyond the site. Drainage and flood risk is understandably an issue of great concern to residents in the area, given the apparent history of flooding within the village. However, that history in itself does not render the development unacceptable, provided the developer can demonstrate that the development would not cause unacceptable risk of flooding. However, noting the designation of the site within Flood Zone A, no objection has been received from Natural Resources Wales. Following receipt of an additional revised drainage strategy, the Council's Drainage Engineer has been satisfied that the amended strategy has adequately demonstrated that the risk of flood risk would not be exacerbated by the development. While the matter clearly remains of concern to local residents, it is considered that a rigorous assessment of the issues has been carried out and an agreeable drainage strategy has now been submitted. It is considered that conditions attached to any planning consent granted would ensure that the development does not exacerbate flood risk in the area.

Having regard to the above, it is considered that the development complies with Policies ENV 7 and ENV 27 of the UDP.

Archaeology

The application is also supported by a Heritage Desk-Based Assessment (November 2013) prepared by Cotswold Archaeology. The submitted report notes that there are no designated or undesignated historic environmental features recorded at the site and that due to its historic agricultural use that there 'is a low potential for previously unrecorded medieval and post-medieval archaeology to exist with the site, probably as remains of farming or as findspots.' Glamorgan Gwent Archaeological Trust was consulted with regard to the application and raised no objections to the proposed application and as such it is not considered that an archaeological constraint represents a reason to refuse planning permission.

Traffic and Highways Issues

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 Colwinston.

The application is accompanied by a Transport Assessment (TA) prepared by Vectos dated February 2014 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, based on the 62 dwellings originally proposed that *'the development will not have any adverse impact on the local highway network within Colwinston or on the A48. The local highway network in the vicinity of the site currently operates with significant spare capacity in the peak periods.'* With regard to the level of traffic development impact the assessment indicates that *'there is forecast to be negligible increase in traffic across the local network with only a minor increase in traffic at the site access junction and in the vicinity of the neighbouring school.'* The TA also confirms that *'operational analysis has confirmed that in the Design Year (2025), the addition of the development traffic to the local highway network will have a negligible effect in capacity terms on the junctions/highway links assessed, with both the site access and surrounding highway network forecast to operate within capacity and with no queuing.'*

Following consultation with the Council's Highways Department, it is considered that the trip generation generated by the development would not be excessive, and although the surrounding rural lanes are single lanes in places, it is considered that there is adequate capacity to cope with the additional traffic generated by the development. In this regard, therefore, the proposed development is not considered to have any significant adverse impact to traffic flows along the local highway network.

The Council's highways traffic engineer has assessed the submissions and while accepting that the development is relatively large in comparison to the existing village, concludes that trip generation is actually relatively low. He concludes, as noted above, that the existing road network does have capacity to accommodate the development. He has also raised no further concerns based on the traffic issues raised the Community Council's submissions.

Furthermore as detailed previously Colwinston is considered a sustainable settlement within the Sustainable Settlements Appraisal that forms part of the background evidence of the LDP, with a public house, community centre and school all within walking distance from the proposed development. Furthermore, 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.

In terms of highway safety and the geometry of the proposed junction into the site, the Council's Highways Engineer has raised no objections subject to the submission of full engineering details including vision splays, which will be secured by condition to ensure an acceptable and safe form of development. During the course of the application concern was raised by highways officers with regard to the junction arrangement between plots 4-6 and 16 & 63 with regard to priority and traffic calming features proposed in this location. The most recently submitted layout, indicates a change in surface materials and a raised table although does not indicate the priority given to road users. Notwithstanding this the internal road layout is considered to be acceptable and the exact details including the treatment of this junction and priority afforded to road users of the development can be secured through conditions attached to any planning consent given.

Given the linear nature of the site, the applicant has introduced shared surfaces to the south of the site, traffic calming and a raised shared surface area with rumble strips at the internal junction to the north of the site. The provision of a raised/shared surface area would assist in controlling vehicle speeds at the junction to the north of the site as would the use of shared surfaces elsewhere within 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 spine road. The shared surfaces would also encourage pedestrian movements and give more of a sense of place to this part of the highway.

The Highways Engineer has raised no objections with regard to the internal layout of the site as a whole, whilst they are also satisfied that the positions of private driveways and shared driveways accessed from the main spine road would not result in conflict between road users.

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.

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 64 dwellings (including 16 affordable units) at land to the rear of St Davids Church in Wales Primary School, Colwinston. 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.

Development Viability

During negotiations on the planning application the applicant argued that the Council's requirements for planning obligations threaten the economic viability of the development. This is largely due to site specific development constraints that create abnormal development costs, including the presence of shallow rock across the site, Dwr Cymru Welsh Water requirements, the need to supply mains gas to the site and the topography of the site.

Welsh Assembly Government advice contained in "Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update" (2009) makes it clear that development viability is a material consideration in determining planning applications. The burden of proof in such cases falls with the developer to prove that viability is an issue for their development. Therefore, in this case, officers requested evidence of the development costs and anticipated revenues over the life of the development. The developers appointed Cooke & Arkwright to prepare a Development Appraisal report which has been submitted (on a confidential basis as it contains commercially sensitive information) and appraised by officers with comparison to other viability reports which have been accepted on similar recent schemes.

Having been satisfied that economic viability is an issue for the development, officers have entered negotiations with the applicant to secure a package of planning obligations to be secured through a Section 106 Agreement. The package proposed now represents, in your officer's view, the minimum acceptable package of measures to mitigate the impact of the development. The reduced planning obligations offer is only considered acceptable in view of the development viability issues balanced against the benefits that the development would bring to the area such as much needed affordable and market housing.

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. It concluded that in Colwinston, affordable housing should be provided at a ratio of 35% (draft LDP policy MG5 refers). Hence, officers sought to negotiate the delivery of 35% affordable housing on this development site.

It is clear that there is a strong need for affordable housing in this part of the Vale, which has only been made worse by low build rates and under-provision of affordable housing in recent years. In light of the evidence of housing need, negotiations commenced with officers seeking provision of 35% affordable housing on this site (equating to up to 23 units on the revised scheme of 64 dwellings) with a tenure split in favour of social rented properties.

In response to the requirement for affordable housing the applicant has stated that the affordable housing requirements, together with other planning obligations and site specific constraints, would render the proposed development unviable as noted above. Following discussions with the applicant they have forwarded an offer which would meet the 35% affordable housing requirement. However based on the viability of the scheme and the options considered, the most appropriate mix was for the provision of 25% affordable housing being delivered on site (still satisfying the 80:20 tenure split in favour of social rented properties) with the remaining 10% being delivered off site, by way of a contribution.

Whilst it would be the usual requirement to provide all of the affordable housing requirement on site, in light of the viability issues raised by the applicant, it is considered that the provision of an off-site contribution equivalent to 10% is an acceptable solution, as this would still provide an overall provision equivalent to 35% of affordable housing for the site.

In terms of layout, 16 affordable housing units are proposed within the scheme and proposed within two distinctive blocks, which is considered to be acceptable in terms of the requirement to disperse affordable housing to integrate it with the market housing.

Six units are proposed to the north-east of the site (2 no. 1 bed apartments, 3 no. 2 bed dwellings and 1 no. 3 bed dwellings) and a further 10 units are proposed to the west of the site (4 no. 1 bed apartments, 4 no 2 bed dwellings and 1 no. 3 bed dwelling). It is noted that this figure would fall short of the level of affordable housing provision that would usually be expected on this site and as such it was agreed that an off-site contribution would be made by the developer to provide for the equivalent of 7 units off-site.

Regarding the off-site Affordable Housing contribution, the Council's Housing Department have confirmed that it should be the equivalent of 7 units off-site, comprising 6 social rented and 1 LCHO, resulting in a contribution of £519,124 to provide affordable housing off-site in the Vale of Glamorgan, to meet housing need.

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 64 houses would generate demand for 6 nursery, 16 primary and 14 secondary pupil places. These are split proportionally between English, Welsh and denominational provision.

Having regard to existing parental preference for schooling in the area, as set out in the LDP Education Facilities Background Paper (2013) 13% of primary pupils (2 pupils) would attend Welsh Medium education at Ysgol Iolo Morgannwg which does not currently have sufficient capacity to meet such demand. The local English Medium primary school is St Davids Primary School, which lies immediately adjacent to the site. Whilst capacity has been reduced at the school since the formation of the nursery, it is noted that the remaining English medium places (14 pupils) could be accommodated at the school adjacent to the site. Therefore, a contribution of £28926.52 (including 18% fees) is required to provide the 2 Welsh medium places.

With regard to secondary education 14 secondary pupils would be generated by such a development with 12 pupils aged 11-16 and 2 pupils post-16. Of these pupils generated by the development it is envisaged that 13 would go to Cowbridge Comprehensive (93%). The remaining 1 pupil is likely to attend Ysgol Bro Morgannwg Welsh Medium secondary school where there is available capacity.

Taking into the account the findings of the LDP Background Paper with regard to the development of the proposed site alongside other sites allocated for residential development within the LDP it is noted that there is no capacity within Cowbridge Comprehensive for the pupils generated by the proposed development. It is however noted that issues of capacity particularly with Cowbridge Comprehensive School is in part due to the fact that pupils from outside the catchment area (e.g. Barry and Cardiff) attend the school under parental preference. Through administration management, some spare capacity will be available to meet the demands generated by new development in the Cowbridge catchment area. However, in the interests of fairness and to ensure that the LDP strategy for housing growth is deliverable, it is considered appropriate to share this capacity across major housing sites coming forward in the Cowbridge area in the next few years in accordance with the LDP strategy. Officers have calculated that the remaining need for additional pupil places will equate to 64% of those English medium secondary aged pupils generated from each development site in the catchment area. In this case, that equates to 8 pupils at £21,793.42 each (including 18% fees) which totals £174,347.36.

Therefore a contribution to pay for the school places has been calculated in accordance with the Planning Obligations SPG which equates to £203,273.88 in this instance and has been agreed by the developer. This amount has not been reduced in light of viability constraints as it has been prioritised over other matters.

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 £128,000, which has been agreed by the developer.

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 3545.6 sq metres. The applicant indicates within the revised scheme that two areas of Public Open Space will be provided within the site, one to the north adjacent to the main access to the site which is shown to incorporate benches and a public art feature and the other to the south of the site which will 'be more informal in nature, offering an area of green space, whilst also provided for the infiltration basin for the site.'

The area to the north of the site has an area of approximately 160m² (not including the thin strip of landscaping immediately adjacent to the entrance to the site given that this is not considered to be useable or meaningful area of amenity space). This provides a small green space adjacent to the front of the site which serves to soften the entrance to the scheme. The area to the south of the site would also serve to provide an area of attenuation due to the flooding and drainage issues associated with the site but also functions as Public Open Space.

The LDP Open Space Background Paper (2013) identified that Colwinston has an overprovision of outdoor sport space (0.95ha) and a slight over provision of children's play space (0.027ha). Therefore, whilst the development fails to provide adequate open space to meet the Policy requirements, some of this is mitigated by an existing overprovision in the area and will be further mitigated by a payment to enhance the existing children's play facilities nearby, which can be secured through a section 106 agreement. In light of the viability constraints set out above, having regard to the need generated and the cost of open space facilities, a contribution of £41,008.12 has been negotiated and agreed by the developer to provide or enhance children's play facilities off site in Colwinston.

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 adequate community facilities available in Colwinston and the surrounding area to meet the needs arising from this development, therefore no contribution has been sought in this case.

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, as a rule, public art should be provided on site integral to the development proposal. Where it is not practical or feasible to provide public art on the development site, the Council may accept a financial contribution in lieu of this provision to be added to the Council's Public Art Fund and held until such time as sufficient funds are available to cover the cost of an alternative work of art or until a suitable alternative site is found.

In view of the viability constraints outlined earlier, the developer contends it is not viable to provide this level of public art. Instead, they have offered that public art will be provided on the site to the value of £15,000 and this is considered to be acceptable in light of the viability constraints and the priority given to other community infrastructure set out above (e.g. Affordable Housing, Education and Transport).

S106 Administration fee

The Council requires the developer to pay an administration fee of £18,218.16 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 ENV1 (Development in the Countryside), ENV2 (Agricultural Land), ENV10 (Conservation of the Countryside), ENV11 (Protection of Landscape Features), ENV18 (Archaeological Field Evaluation), ENV19 (Preservation of Archaeological Remains), ENV20 (Development in Conservation Areas), ENV27 (Design of New Developments), ENV28 (Access for Disabled People), ENV29 (Protection of Environmental Quality), HOUS 2 (Additional Residential Development), HOUS3 (Dwellings in the Countryside), HOUS8 (Residential Development Criteria), HOUS12 (Affordable Housing), ENV16 (Protected Species), TRAN9 (Cycling Development), TRAN10 (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, 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, 16-Sport, Recreation and Open Space, 18-Transport, and 22-Sustainable Buildings; it is considered that the proposals are acceptable, subject to conditions, by virtue of the appropriate layout, design and scale of the development, with suitable means of access and parking, and no significant impact on neighbours impact and overall constitutes an acceptable form of residential development. Furthermore, the proposals include acceptable levels of ecological mitigation and the development would not unacceptably impact upon the adjoining Colwinston Conservation Area or countryside. The proposals therefore comply with the relevant national 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:

- Procure that 25% (16) 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.

- Pay an off-site Affordable Housing Contribution equivalent to the developer subsidy for 10% (7) of the total number dwellings permitted by the planning application, on the basis of at least 80% social rented properties and the remaining 20% intermediate properties (£519,124 in this case).
- Pay a contribution of £203,273.88 for the provision or enhancement of education facilities to meet the needs of future occupiers.
- Pay a contribution of £41,008.12 to provide or enhance children's play facilities off site in Colwinston.
- A scheme to ensure appropriate provision for future maintenance for the on-site open space.
- Provide public art on the site to the value of £15,000 in accordance with details to be submitted for approval.
- Pay a contribution of £128,000 to provide or enhance sustainable transport facilities in the vicinity of the site.
- The developer shall pay a contribution which will allow for the provision and completion of an upgrade to the Cowbridge Waste Water Treatment Works to accommodate all of the dwellings hereby approved and shall agree that none of the dwellings will be sold or occupied until such time as the solution has been implemented.
- Pay a contribution towards the adoption and maintenance of the drainage solution proposed (sum to be agreed).
- Pay the Council's standard administration fee for negotiating, monitoring and implementing the terms of the s106 agreement (£18,216.16 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 14-007-05 received 12 December 2014, 14-008-002, 14-007-003, 14-007-004, 3946-15-06-001-03 C received 15 December 2014 and 14-008-006A, 14-008-007A, 14-008-009A, 14-008-010A, 14-008-011A, 14-008-012A, 14-008-013A, 14-008-014A, 14-008-015A, 14-008-016A, 14-008-017A, 14-008-018A, 14-008-019A, 14-008-020A, 14-008-021A, 14-008-022A, 14-008-23A, 14-008-024A, 14-008-025A, 14-008-0 A, 14-008-027A received on 17 December 2014 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 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 site and amenities of neighbouring residential properties are 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 off-site highways works including improvements to 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.

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 Construction and Environmental Management Plan to include such matters as the control of noise, vibration, dust, drainage, interception of flows and other deposits (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. 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(s) 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.

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 (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.

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. 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 garages hereby approved shall only be used for the parking of private vehicles and for purposes incidental to the enjoyment of the dwellinghouse as such, and shall not be used for any business or commercial use and shall not physically altered or converted without first obtaining the formal consent of the Local Planning Authority.

Reason:

To ensure the satisfactory development of the site and that adequate off-street parking provision and garaging facilities are retained and in accordance with Policies TRAN10 and ENV27 of the Vale of Glamorgan Unitary Development Plan.

15. 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.

16. 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 and at all times maintained 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.

17. 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.

18. Prior to the commencement of construction of any of the dwellings, a scheme for the provision and maintenance of the Public Open Space 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 ENV27 and REC3 of the Unitary Development Plan.

19. 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.

20. Prior to commencement of development on the site, a strategy for the protection of reptiles before and during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times thereafter be carried out in accordance with the approved strategy.

Reason:

In the interests of ecology and to ensure compliance with Policies ENV16 and ENV27 of the Unitary Development Plan.

21. Prior to the commencement of development, a Bat Conservation Plan shall be submitted to, and approved in writing by the Local Planning Authority. This plan shall include, but not limited to details of dark flight corridors and protected commuting routes (hedgerows), details of the positioning of bat entry points/bat roosts in the new units on site; and the site lighting plan. The development shall thereafter be carried out and maintained in accordance with the agreed details.

Reason:

In the interests of ecology and to ensure compliance with Policies ENV16 and ENV27 of the Unitary Development Plan.

22. Notwithstanding the submitted plan, further details of the proposed hard landscaping materials (including the roads and raised table and including details of the proposed location and design of all 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 ENV27 of the Unitary Development Plan.

23. The drainage of the site, shall be in accordance with 'Drainage Strategy September 2014 revision B' prepared by Phoenix Design and received by the Local Planning Authority on 12 December 2014, unless otherwise agreed 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.

24. The information submitted in accordance with the requirements of Condition 23 of this consent shall include full details of the proposed perpetual management and maintenance of the drainage system serving the whole development, including provisions to be put in place in respect of individual dwelling houses and including a written declaration and plan 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.

25. Notwithstanding the submitted details, 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.

NOTE:

1. **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.**
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.**

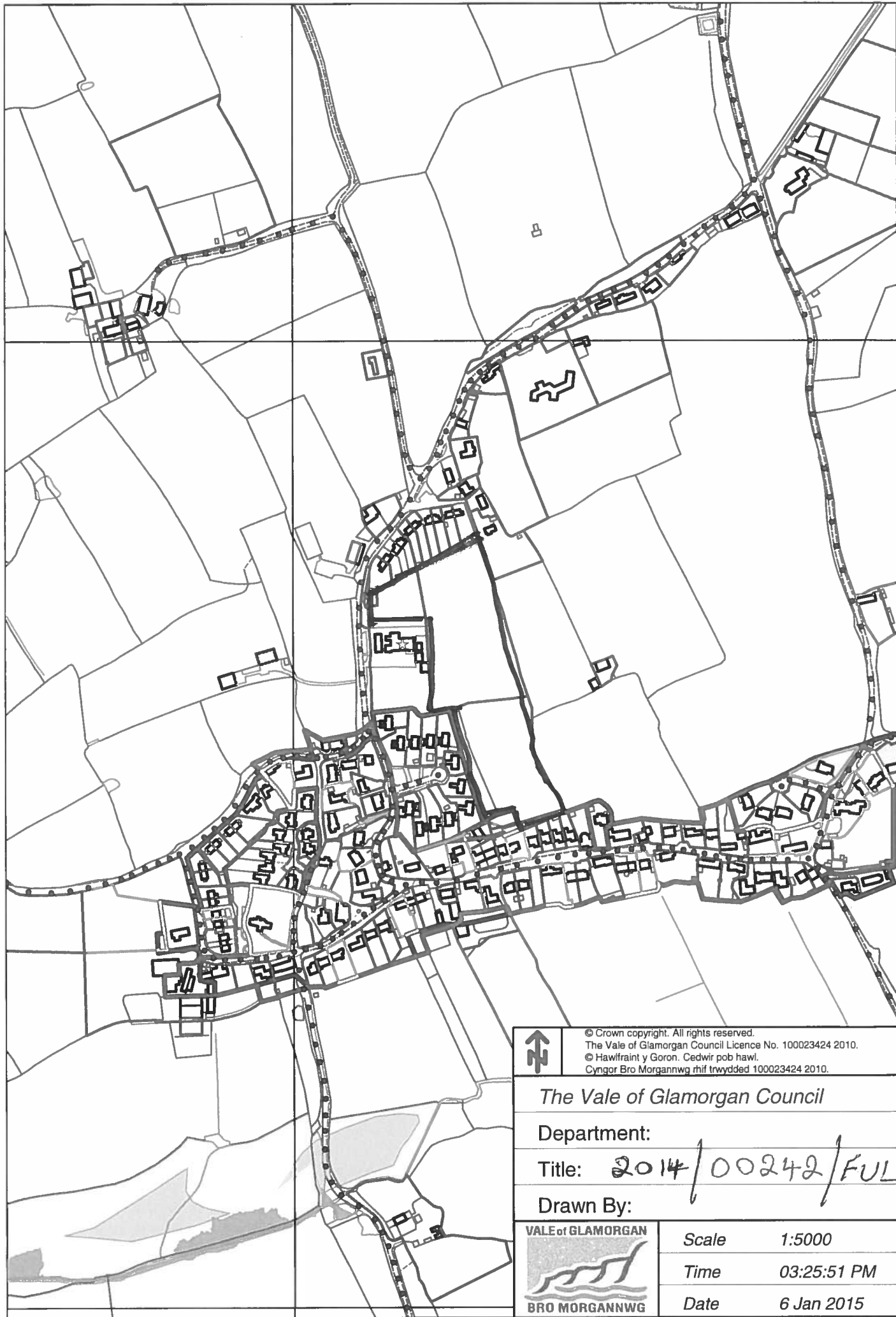
- 3. This development is on adopted highway and therefore a Highway Extinguishment under the Highways Act 1980 will be required before work can commence. For further details please contact the Highways Department, The Vale of Glamorgan Council, The Alps, Wenvoe, Cardiff; CF5 6AA. Telephone No. 02920 673051.**
- 4. 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>2014/00242/FUL</i>		
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	Date	6 Jan 2015

2014/00465/FUL Received on 29 April 2014

Mr. Guy Thornton, Cruiskeen Lawn, Love Lane, Llanblethian, Cowbridge, South Glamorgan., CF71 7JQ
Spring Design Consultancy, Unit 3, Chapel Barns, Merthyr Mawr, Bridgend, Mid Glamorgan., CF32 0LS

Cruiskeen Lawn, Love Lane, Llanblethian, Cowbridge

Demolition of attached garage with accommodation above and rebuilt on opposite side of dwelling with erection of detached 4 bed dwelling

SITE AND CONTEXT

The application site is located on a corner plot at the junction of Love Lane and Cae Rex. Although Council's records identify the site as 'Craiskeen Lawn', the applicant's agent has confirmed that it is now 'Cruiskeen Lawn'.

The application site comprises an existing detached dwellinghouse with an integral double garage and first floor accommodation wing on its western side. Vehicular access to the site is to the front of the garage off Love Lane.

The site is located within the residential settlement boundary for Cowbridge with Llanblethian as defined in the Unitary Development Plan, but lies just outside of the Llanblethian Conservation Area which is located approximately 15m to the west. The Upper Thaw Valley Special Landscape Area is also located just to the west of the site on the opposite side of Constitution Hill. There is also a recently made Tree Preservation Order on the site TPO No. 8 2014 – Lime.

DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission for the alteration and extension of the existing dwelling and the construction of a new detached, four bed dwelling. The proposal entails the following:

- Demolition of the existing west wing comprising the ground floor double garage, utility room and garden store, plus the first floor master suite with ensuite facilities.
- Construction of a new two storey, pitched roof extension on the opposite east side elevation. The proposed extension will measure approximately 3.9m x 6.15m, to a ridge height of approximately 6.7m. The extension will accommodate a ground floor single garage with first floor master bedroom and ensuite.

- Construction of a detached, two storey, pitched roof dwelling in place of the west wing. The proposed dwelling will have a footprint of approximately 6.5m x 9.1m, to a ridge height of approximately 7.8m. The dwelling will be positioned approximately 9.6m back from the front boundary and approximately 1m off the boundary with the neighbour Hook Hill. On the opposite side a new boundary line will be defined between the proposed house and the existing. This will be a distance of approximately 0.6m at the rear of the new dwelling, widening to approximately 2.4m at the front edge of the new dwelling, and kinking back in along the driveway/parking area at the frontage. The external finishes will include through colour render and concrete interlocking tiles.
- Creation of a new vehicular access onto Love lane, approximately 4.6m to the east of the access to serve the proposed dwelling. The proposed dwelling will utilise the existing entrance, albeit slightly altered, and which will give access to two on-site parking spaces within the forecourt. The new entrance will measure approximately 3.7m wide, with a new driveway passing across the front of the site giving access to the new garage.



The application is accompanied by a Design and Access Statement (DAS).

PLANNING HISTORY

1990/00143/FUL : Convert existing garage to games room, attic over to bedroom and bathroom, and construct new single garage - Approved 30 March 1990 subject to conditions, including, incidental use of the garage, and reinstatement of footway.

1999/00670/FUL : Conservatory to rear - Approved 23 July 1999.

CONSULTATIONS

Cowbridge with Llanblethian Town Council – Initial comments - The Committee objects on the following grounds:

1. That the proposal is over development of the site.
2. Concerns about the access to the site given its close proximity to a dangerous corner.

3. It is understood that there is a history of sewerage and drainage problems involving neighbouring properties.

Comments on amended plans – The Committee objects on the following grounds:

1. That the proposal is overdevelopment of the site.
2. Concerns about the access to the site given its close proximity to a dangerous corner.
3. It is understood that there is a history of sewerage and drainage problems involving neighbouring properties.

Dwr Cymru/Welsh Water has requested that their standard Conditions and Advisory Notes be attached to any consent relating to foul, surface and land drainage. Also note that the site is crossed by a public sewer and that no development will be permitted within 3m either side of the centreline. They also request that the applicant be advised on the new Welsh Government legislation concerning communication with the public sewerage system.

The Council's Legal, Public Protection and Housing Services Directorate - Environmental Health – Pollution Section has no adverse comment to make regarding this proposal. However, the applicant's attention should be brought to the Council's advisory notes for demolition and construction.

The Council's Highway Development Team – Initial comments – The parking numbers must confirm with the Council's standards and the access must be at right angles to the adopted highway.

Comments on the amended schemes – The Highway section were consulted on amended plans on 24 September and 4 November 2014. No objections have been received.

REPRESENTATIONS

The occupiers of neighbouring properties were initially notified on 9 May 2014 and re-notified of amended plans on 24 September 2014 and 4 November 2014. In addition a site notice was posted on 2 June 2014.

To date representations have been received from the occupiers of 'Hook Hill' and No. 6, Love Lane, 5 Cae Rex, 7 and 9 Constitution Hill, and 'Porth y Green House'. Whilst all of the representations are available on file for Committee Members inspection, the following is a summary of the objections raised:

- The size of the site is inappropriate, being narrower than any existing properties, including the cottages opposite on Love Lane. It will therefore visually clash with the area.
- Over development.

- New access would be a highway danger.
- Impact on privacy with overlooking of neighbouring windows and gardens.
- Overshadowing with proposed house not in alignment with front and rear of the neighbour.
- History of sewerage and drainage problems which will be exacerbated.
- Existing trees on site will be affected.
- Encroachment on neighbour from the construction of the side elevation of the proposed house.
- Discrepancies in description and the DAS inaccurate reference to views.

To date these objections have been reiterated following notification of the amended plans by the occupiers of 'Hook Hill' Love Lane, 'Porth y Green House', and 7 Constitution Hill.

REPORT

The application was reported to the Planning Committee on 18 December 2014 at which Members determined to defer the application for a site visit.

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:

ENV4 - SPECIAL LANDSCAPE AREAS (SLA). THE SITE IS LOCATED CLOSE TO THE UPPER THAW VALLEY SLA

ENV11 - PROTECTION OF LANDSCAPE FEATURES

ENV20 - DEVELOPMENT IN CONSERVATION AREAS

ENV27 - DESIGN OF NEW DEVELOPMENTS

HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA

HOUS11 - RESIDENTIAL PRIVACY AND SPACE

TRAN10 - PARKING

Strategic Policies 1 and 2-The Environment, 3-Housing and 8-Transportation

Planning Policy Wales (Edition 7, July 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.

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

National Planning Policy:

Planning Policy Wales (Edition 7, July 2014) – Including Chapter 5 – Conserving and Improving Natural Heritage and the Coast, in particular paragraphs 5.1.1, 5.5.13 and 5.5.14-trees; Chapter 6 – Conserving the Historic Environment, in particular paragraphs 6.1.1 and 6.1.2; and Chapter 9 – Housing, in particular paragraph 9.3 – Development management and housing.

Technical Advice Notes:

TAN12 – Design, including paragraphs 2.6 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 (SPG):

Amenity Standards SPG
Design in the Landscape SPG
Trees and Development SPG
Cowbridge with Llanblethian Appraisal and Management Plan

Background Evidence:

Housing Supply Background Paper (2013)
Designation of Landscape Character Areas (2013 update)
Designation of Special Landscape Areas (2013 update)
Designation of SLAs Review Against Historic Landscapes Evaluations (2013 update)

Issues

In assessing the proposal against the above policies and guidance it is considered that the main issues relate to the acceptability of an additional dwelling in this location, and the likely impact on the character and appearance of the area; the effect on neighbouring and general residential amenities; and highway safety.

Justification

In policy terms the site lies within the residential settlement boundary for Cowbridge with Llanblethian, where Policy HOUS2 of the Council's Unitary Development Plan (UDP) allows for additional dwellings. This is in line with national guidance, including Planning Policy Wales (PPW), which states at paragraph 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.”

In addition paragraph 9.3.4 of PPW states:-

“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.”

Thus it is considered that there is no objection in policy terms to the principle of additional residential development in this location. In addition it is recognised in the background papers to the emerging LDP that 'windfall sites' such as the application site can contribute to the supply of housing required to meet future demand. Notwithstanding this, the acceptability of an additional dwelling will depend on the likely impact on the character of the area, neighbouring amenity and highway safety. These are assessed below bearing in mind the residential development criteria of Policy HOUS8 and Policy ENV27 of the Unitary Development Plan.

Design and Visual Impact

Criterion (i) of HOUS8 requires that the scale, form and character of the proposed development is sympathetic to the environs of the site. On this point it is noted that a number of the objections received refer to the proposal being an overdevelopment of a narrow plot. The objections include concerns over the proposed size of the dwelling, which would be visually intrusive being out of keeping with the existing properties, even bearing in mind the cottages opposite.

It has already been noted that the site lies close to both the Llanblethian Conservation Area and the Upper Thaw Valley SLA, which lie to the west. Policies ENV4-Special Landscape Areas and ENV20-Development in Conservation Areas acknowledge that a site does not have to be within a designated area to have an impact on either a SLA or the setting of a Conservation Area. Criterion (iii) of ENV20 refers to the need to consider important open space within and adjoining Conservation Areas, with paragraph 3.4.81 of the supporting text noting that the landscape adjoining Conservation Areas and spaces between buildings form the context for Conservation Areas and complement the quality of the built environment. The Cowbridge with Llanblethian Appraisal identifies the nearby Porth y Green House as a County Treasure and a 'Positive Building'. Also the view from Castle Hill north over the open space of the SLA is identified as a 'Significant View'. As for the character of the SLA important features are identified as its rural character, and hedgerows and walls. In the background papers to the emerging LDP the SLA is earmarked for extension to the west to reflect cultural, landscape habitats and geological landscapes data.

Thus in terms of the context of the site, consideration must be given to the likely impact on the characteristics of the nearby designated sites. On this issue it is considered that the position of the proposed house should not have an adverse impact on the spaciousness of the area. There is an existing garage and first floor accommodation wing on the site of the proposed dwelling, and it is noted that there are linked cottages on the opposite side of Love Lane. It is appreciated that there is a difference in scale and form between a new house and an annexe to an existing dwelling, however, the amendments to the siting of the new dwelling further back into the site, should serve to reduce the visual impact. As for the new extension to the existing house, the initial scheme was considered to be unacceptable in size and scale. The introduction of such a large side extension, at an angle to, and close to the boundary with Cae Rex, would appear as an intrusive feature within that street scene. A subsequent amended scheme has reduced the extension to a single as opposed to a double garage, along with a reduction in the ridge height. It is considered that this is sufficient to reduce the overall impact of the development to such a degree that a refusal would not be justified.

Although the application form and DAS indicate that no trees or shrubs on the site will be removed (paragraph 5.31), it is considered that there is an impact as a result of the proposal. There was a concern over the initial proposal, not only in relation to its impact on the street scene, but also as a result of its proximity to a Lime in the rear, north east corner of the property. Whilst the loss of a number of other trees on the site was considered acceptable, the Lime was assessed as being of significant amenity value within the wider area. As such, the Council have now served a Tree Preservation Order in order to give the tree statutory protection, bearing in mind the likely implications of the current planning application. In addition the proposal for the new extension has been reduced in size to ensure that there should be no adverse effect on the long term health and vitality of the tree.

Thus it is considered that the extension to the existing dwelling, and the introduction of a new house on the site, should not have any adverse impact on the setting of the nearby SLA or Conservation Area.

Neighbouring and Residential Amenity

In relation to the neighbouring impact, it is noted that a number of the objections raise concerns over loss of privacy and overshadowing. On the issue of overshadowing the occupier at the neighbouring Hook Hill is correct to point out that the proposed new dwelling will project beyond the rear elevation of their house. This will be by approximately 3.5m, as shown on the proposed site layout plan. Whilst this will have some impact on the neighbouring occupiers, it will not be so significant bearing in mind the position of the new dwelling to the east, and extending north. Hook Hill also sits within a generous curtilage so that a refusal on the grounds of any overbearing impact would also not be justified.

As for the issue of privacy, a number of the objections refer to the overlooking of neighbouring windows and gardens from the proposed new dwelling. The proposed new dwelling will result in first floor habitable room windows in a position closer to the neighbours to the north at Cae Rex and Constitution Hill than any existing windows at either Cruiskeen Lawn or Hook Hill. However, these windows will not directly overlook any habitable room windows in the neighbouring properties as required in the SPG on Amenity Standards. As for any overlooking of the private gardens, the proposed windows will be a distance of around 14m or more to the boundaries, and in the case of the houses on Constitution Hill, the properties are separated by a public right of way, lane access. As such it is considered that the proposed new dwelling will not affect the privacy of neighbouring occupiers to such a degree as to justify a refusal in planning terms.

The proposed extension, will also introduce a new first floor window on the rear north elevation closer to the neighbour at 1 Cae Rex, a distance of approximately 13.9m. However, this is identified as a non-habitable window to ensue accommodation. There is a habitable room window to the new bedroom but this is positioned in the side elevation of the extension which directly overlooks the public highway. As such, the proposed extension should not cause any significant harm to the existing levels of privacy enjoyed by the neighbouring occupiers.

On the question of the amenities of the proposed house and the existing Cruiskeen Lawn, it is noted that the Town Council have objected to the application on the grounds of overdevelopment. Council's Amenity Standards SPG requires a level of 1m² of amenity space for every 1m² of gross floor area of the dwelling. The proposed dwelling meets this minimum requirement with the majority provided in the rear garden area. As for the existing dwelling, even allowing for the extension, the size of the garden will remain generous when compared with some other properties in the immediate vicinity. Thus it is not considered that the proposal represents the overdevelopment of the site.

Highways

The application entails the creation of an entirely new vehicular access to serve the existing dwelling whilst the proposed dwelling will utilise the existing entrance off Love Lane, albeit altered slightly. Both the Town Council and neighbours have objected to the creation of a new access close to the road junction, and have maintained their objection to the amended scheme.

The Council's Highway Engineer did raise concerns over the initial scheme to provide the new access onto Cae Rex, which related to the angle of the access and the proposed car parking numbers. Whilst no comments have been received to date on the amended plans, it is considered that the formation of a new access onto Love Lane, close to the existing, represents a safer arrangement.

With regard to the car parking provision, it is noted that the proposed arrangement for the existing dwelling will meet the Council's car parking standards, with the provision of a minimum of three on-site spaces, including the replacement garage extension. The proposed new dwelling will provide for two on-site spaces in a front forecourt. The Council's car parking standards require a maximum of three spaces to serve a four bed dwelling. Thus it is not considered that the provision of parking spaces would justify a refusal in this instance. The site is located within the residential settlement boundary for Cowbridge with Llanblethian, which is a sustainable location in relation to access to services.

Other Issues

The Town Council has also raised an objection to the application on the grounds that there is a history of sewerage and drainage problems in the area. Indeed the neighbour objections have referred to the drainage problems noting that these will be exacerbated by the proposal. Despite this it is noted that Welsh Water has not raised an objection to the application. They have requested that their standard conditions and advisory notes be attached to any consent, and note that the site is crossed by a public sewer. Their comments are accompanied by a plan which shows that the position of the proposed dwelling extends over the line of the sewer. As such it is likely that the applicant will need to seek a diversion the sewer in order to undertake the proposal as submitted. This can be referred to in an informative on any consent as this a matter that the applicant will need to take up directly with Welsh Water.

Other concerns raised by neighbours relate to discrepancies in the submitted details and the potential problems of the construction of the side elevation of the proposed house so close to the boundary. Whilst there are some discrepancies in the description and inaccurate reference to views in the DAS, it is not considered that they have affected the proper consideration of the impact of the proposal. As for the potential problems of construction, this is not a planning matter, but is covered by other legislation such as Building Regulations and the Party Wall Act.

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 ENV4-Special Landscape Areas, ENV11-Protection of Landscape Features, ENV20-Development in Conservation Areas, ENV27-Design of New Developments, HOUS2-Additional Residential Development, HOUS8-Residential Development Criteria, HOUS11-Residential Privacy and Space, TRAN10-Parking, and Strategic Policies 1 and 2-The Environment, 3-Housing and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Amenity Standards, Design in the Landscape, Trees and Development, and the Cowbridge with Llanblethian Appraisal and Management Plan; and national guidance contained in Planning Policy Wales and TAN12-Design, it is considered that the proposal represents an acceptable form of residential development that should not detract from the character of the area, including the setting of the nearby Upper Thaw Valley Special Landscape Area or Llanblethian Conservation Area. In addition the proposal should have no significant 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:
 - Site edged red location plan, received 3 April 2014;
 - Existing Floor Plans and Elevations, received 3 April 2014;
 - Site Layout & Street Scene, Drwg. No. 2077/100/02 Rev C, amended plan, received 30 October 2014;
 - Floor Plans, Drwg. No. 2077/102/01 Rev A, amended plan, received 23 September 2014;
 - Elevations, Drwg. No. 2077/102/02 Rev C, amended plan, received 30 October 2014;
 - Proposed Floor Plans & Elevations, Drwg. No. 2077/101/02 Rev B, amended plan, received 15 October 2014; and
 - Design and Access Statement, received 29 April 2014;

and the development shall be carried out in full accordance with the approved details.

Reason:

For the avoidance of doubt as to the approved details and in the interests of the character and appearance of the area, neighbouring amenity and highway safety in accordance with Policies HOUS8-Residential Development Criteria and ENV27-Design of New Developments of the Unitary Development Plan.

3. Before their use on site a full schedule of the external finishes of the development hereby permitted, including samples, shall be submitted to and agreed in writing with the Local Planning Authority. The external finishes of the proposed extension shall match those of the existing dwelling. The development shall be implemented thereafter in accordance with the agreed details.

Reason:

In the interests of the character and appearance of the area in accordance with Policies HOUS8-Residential Development Criteria and ENV27-Design of New Developments of the Unitary Development Plan.

4. No part of the development hereby permitted shall be occupied until such time as the access and on-site parking provision has been implemented in accordance with the Site Layout plan, Drwg. No. 2077/100/02 Rev C, amended plan received 30 October 2014. The access and car parking associated with both new and existing dwelling shall thereafter be retained and maintained on-site to serve the associated property.

Reason:

In the interests of highway safety in accordance with Policies HOUS8-Residential Development Criteria, ENV27-Design of New Developments and TRAN10-Parking of the Unitary Development Plan.

5. The window to the first floor ensuite in the extension to the existing dwelling 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 extension hereby permitted and shall thereafter be so maintained at all times.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, in accordance with Policies HOUS8-Residential Development Criteria and ENV27-Design of New Developments of the Unitary Development Plan.

6. A scheme providing for the fencing of the protected Lime tree 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. No 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 the statutorily protected tree in accordance with Policies ENV11-Protection of Landscape Features and ENV27-Design of New Developments of the Unitary Development Plan.

7. The implemented drainage scheme for the site should ensure that all foul and surface water discharges separately from the site and that surface water or 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 of the Unitary Development Plan.

8. Prior to the commencement of development, details, including cross sections of the site, of the finished floor level of the dwelling 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:

To ensure that amenities of adjoining occupiers and the area are safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

NOTE:

1. **The proposed development site is crossed by a public sewer. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone and the implications for the development please contact Dwr Cymru Welsh Water's Network Development Consultants on 0800 9172652.**

- 2. Dwr Cymru Welsh Water (DCWW) have advised that new legislation in the form of a Mandatory Build Standard has been introduced which relates to development communicating with the public sewerage system. You are therefore advised to contact the DCWW Developer Services on 0800 917 2652 at the earliest opportunity.**
- 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. 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.**
- 5. The developer is advised to follow the Vale of Glamorgan Council's Advisory Notes for Demolition and Construction Sites which can be obtained from the Pollution Control team, Tel. 01446 709105 or email: regserv@valeofglamorgan.gov.uk.**

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.

RECEIVED
23 APR 2014

14 00 465 FUL



g2 Energy Renewable Developments Ltd, Olney Office Park, 25, Osier Way,
Olney, Bucks., MK46 5FP
David Lock Associates, 50, North Thirteenth Street, Central Milton Keynes, Milton
Keynes, Buckinghamshire., MK9 3BP

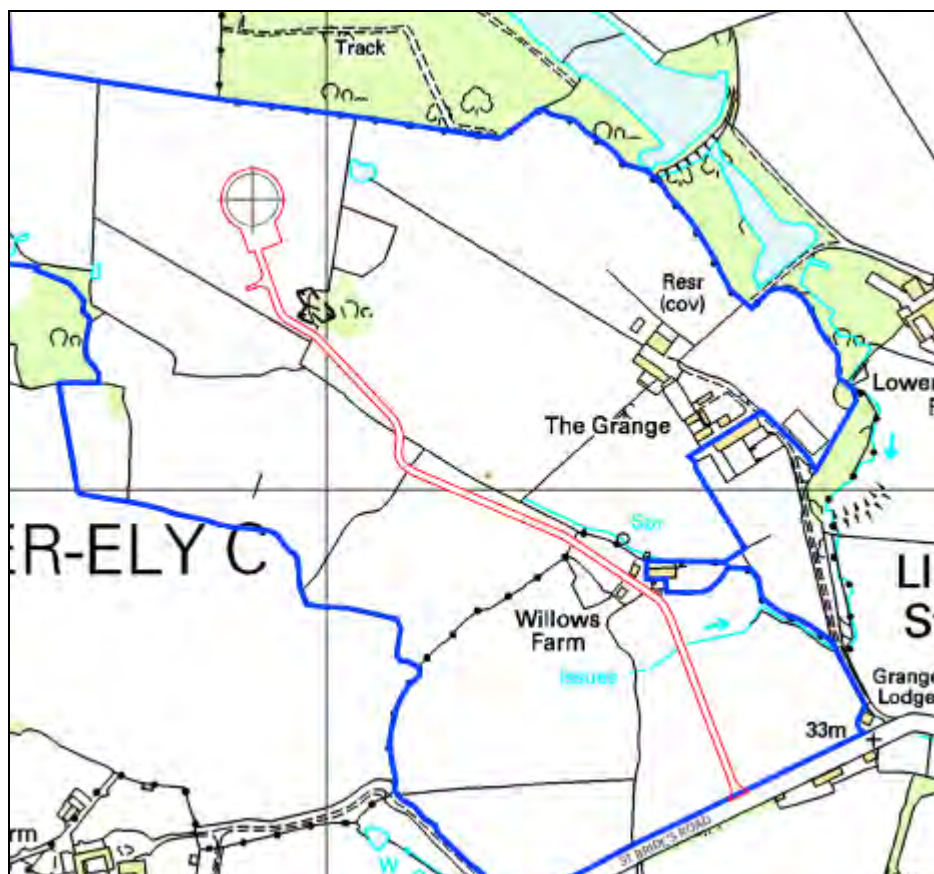
The Grange, St. Brides Super Ely

Erection of a single wind turbine, with a maximum blade tip height of 77m, along with accompanying access track, crane hardstanding, substation and temporary construction compound.

SITE AND CONTEXT

The site is a predominantly rural/agricultural area of the Vale of Glamorgan, north of the villages of both St Brides Super Ely and Peterston Super Ely. The site relates to a field, which currently accommodates livestock, which is part of The Grange farm. The land generally is characterised by rolling hills and an undulating topography. There is an area of woodland to the north of the site, though the area is predominantly made up of fields associated with various farms in the area, including The Grange.

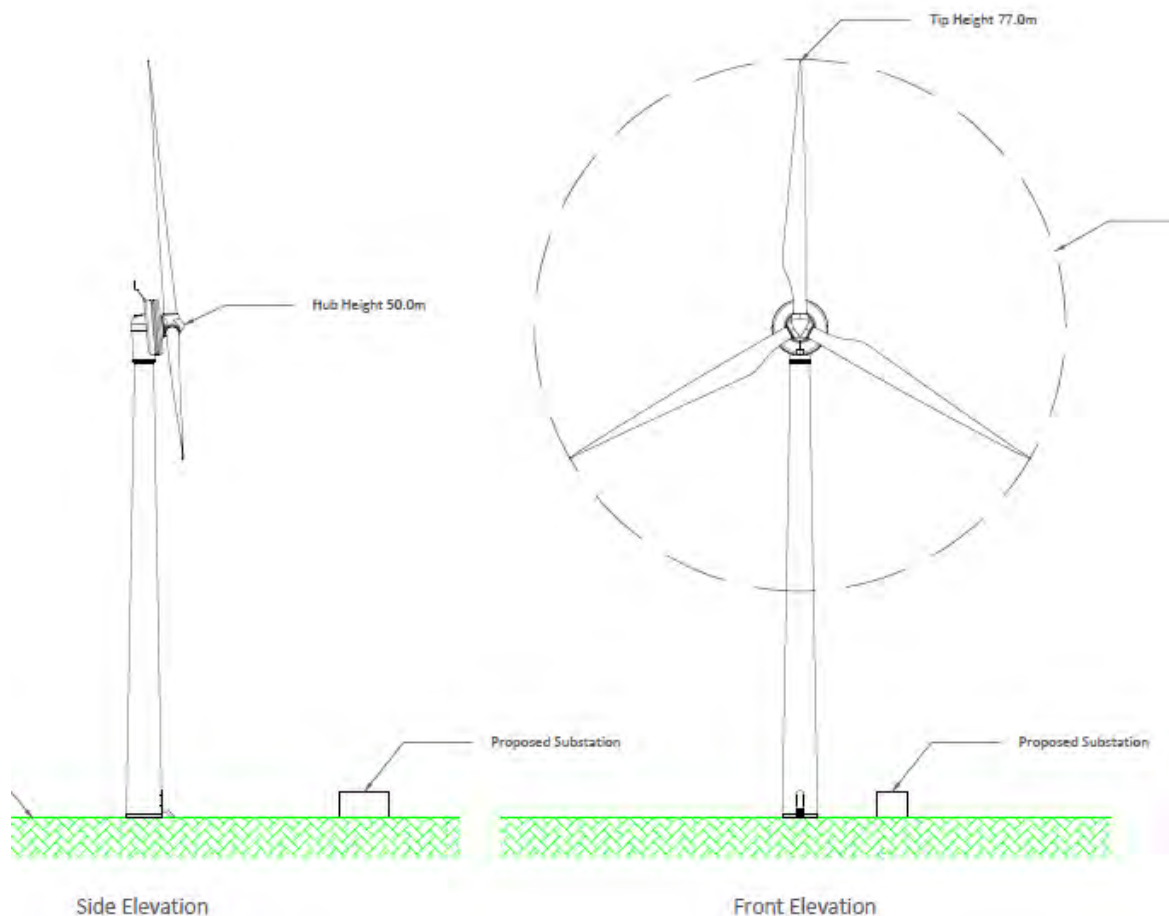
The main farm complex of The Grange is positioned approximately 460m southeast of the position of the proposed turbine. Willows Farm is approximately 470m to the southeast of the turbine. Public Right of Way No 11 runs north-south through the field adjacent to the proposed site of the turbine.



DESCRIPTION OF DEVELOPMENT

The proposal is for a single wind turbine within the field with a maximum blade tip height of 77m and a hub height of 50m. The turbine would have an installing capacity of 500kw and the applicants initially indicated that this is enough to supply 500 houses. Next to the turbine would be a crane hardstanding (20m x 35m). An access track (running approximately 295m to Willows Farm and then connecting with the existing track to meet with the highway to the south – total length approximately 514m) and substation (3m x 6m) would be created, and cabling would be underground. The access track would be 4m wide and comprise of crushed stone or gravel. The turbine would be light grey in colour with a semi-matt gloss finish.

Consent is sought for 25 years to allow for construction, operation and decommissioning. A temporary construction compound will be needed for about 20 weeks.



The application has been accompanied by a Planning Statement, Preliminary Risk Assessment (including Land Stability and Drainage), Design and Access Statement, Heritage Statement, Communications and Aviation Statement, Noise Assessment, Shadow Flicker Assessment, Ecological Statement, Landscape and Visual Impact Assessment and Transport Statement.

PLANNING HISTORY

2014/00051/SC1 – Construction of a single wind turbine (Screening Opinion) –

The Local Planning Authority would advise that in their opinion an Environmental Impact Assessment is not required for the following reason(s):

- Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, the Local Planning Authority is of the view that the characteristics, location and any potential impact of the development as outlined in the supporting documentation is not likely to be significant upon the environment for the reasons identified in the screening opinion attached.
- Accordingly, there is not considered to be a requirement for a formal Environmental Impact Assessment to be submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

CONSULTATIONS

The following were consulted on the 17th July 2014, with the following responses received:

Peterston-Super-Ely Community Council

“The Community Council has looked at these plans in detail and would like to comment. The Council supports the use of renewable energy technologies. However they cannot ignore the concerns of many of the residents of the neighbouring villages. There is great concern by some residents over the sheer size of the turbine and therefore the effect on the landscape which it is sure to dominate. There is also concern over the noise of the turbine.

Overall all questioned were worried about the precedent that this will set, is the local area likely to see more of these turbines and if so how will this effect the heritage of the landscape. The Community Council feels that the concerns of the local residents must be taken into account by the planning officers, it would also seem a must that a site visit be held in order for officers to fully see the implications on the landscape.”

St. Georges & St. Brides-Super-Ely Community Council advised members of the community to make their own comments as there are “many polarising views”.

Highway Development – No comments at time of writing.

Public Rights of Way Officer – On the basis of the further ‘risk assessment’ information submitted the Officer notes that the risks of the turbine to the adjacent Public Right of Way is negligible though required information relating to the decommissioning of the turbine after its life span is concluded.

Cardiff County Council – No comments received.

Rhondda Cynon Taff County Borough Council – No objections.

Environmental Health (Pollution) – After reviewing the submitted information a response was submitted covering the various environmental factors. In regards to the issue of potential shadow flicker the Environmental Health Officer (EHO) noted that the submitted information stated that the development would not cause a nuisance to residential properties. However, it is advised that the Planning Authority should ascertain how monitoring is to be carried out. Also, the EHO required that notification is received if the turbine is shut down.

In terms of the noise impact, the EHO notes that the submitted assessment states that there would be “negligible impact”, though the EHO advised that the noise levels as stated should be conditioned.

Example conditions have been attached to the Environmental Health Department comments.

Conservation (Planning) - No comments received.

Glamorgan Gwent Archaeological Trust – Found that the visual impact to archaeological heritage up to 5km away from the site would be “minimal” and that the proposals would be unlikely to have any adverse impact to the historical environment and therefore no mitigation is required.

Peterston Super Ely Ward Member – No comments received

Ecology Officer – Notes the submitted ecological information and has no further comment to make.

Ministry of Defence - Wind Turbines – No objections to proposals, though required information regarding height of construction equipment, construction dates and exact coordinates of the turbine if approved.

Natural Resources Wales – No adverse comments, though provided standard advice notes on issues such as flood risk and pollution control.

Civil Aviation Authority – Provided a clarification of procedural matters.

Cardiff Airport (Safeguarding) – Cardiff Airport has agreed with the developer a means of mitigation to remove the detrimental impact of the turbine on our radar. On this basis Cardiff Airport recommend conditional approval, requiring the mitigation (single cell blanking).

Landscape Section – Concurs with the conclusion of the submitted landscape assessment that there would be no significant adverse impact to the landscape or visual impact and therefore has no objection.

National Air Traffic Control Centre – Stated that the proposal “does not conflict with our safeguarding criteria”.

Cadw, Ancient Monument – Considered the scheduled ancient monuments within a 5km zone of the site and concluded that the “impact of the proposed turbine on the setting of the designated monuments will not be significant”.

REPRESENTATIONS

The neighbouring properties were consulted on 17 July 2014. A site notice was also displayed on the 24th July 2014. The application was also advertised in the press on the 22nd July 2014. There has been 14 representations received objecting to the proposed turbine, citing reasons including the following:

- Visual impact of proposed turbine
- Noise, flicker and overshadowing from the turbine would be detrimental
- The scale and height of the proposed turbine would be prominent and out of character with the rural setting
- The turbine would reduce house prices of neighbouring properties
- The proposals are profit driven, at the expense of neighbour amenities
- The turbine would block views from neighbouring properties
- The turbine would be a distraction to drivers on the nearby highway network
- The turbine would dominate the landscape skyline
- The turbine would have a detrimental impact to the nearby Special Landscape Area and Site of Importance for Nature Conservation
- Would set the precedence for further turbines to be developed

REPORT

Please note this application was initially deferred from the Planning Committee of the 18th November 2014 to allow for a Committee site visit. This application will now returned to Planning Committee on the 15th January 2015 after the Committee 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 18th April 2005, and within which the following policies are of relevance:

Strategic Policies:

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 14 COMMUNITY AND UTILITY FACILITIES

Policy:

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE

ENV10 - CONSERVATION OF THE COUNTRYSIDE

ENV11 - PROTECTION OF LANDSCAPE FEATURES

ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT

ENV27 - DESIGN OF NEW DEVELOPMENTS

ENV29 - PROTECTION OF ENVIRONMENTAL QUALITY

COMM7 - WIND GENERATORS AND WIND FARMS

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 (Planning for Sustainability) in paragraph 4.3 considers the principles that underpin the approach of planning policy including:

“putting people, and their quality of life now and in the future, at the centre of decision-making”

Also, with Chapter 12:

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 (see Section 4.4.3) to help to tackle the causes of climate change (See Section 4.7.3). 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 control 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.*

12.8.10 At the same time, local planning authorities should:

- *ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are observed;*
- *ensure that mitigation measures are required for potential detrimental effects on local communities whilst ensuring that the potential impact on economic viability is given full consideration; and*
- *encourage the optimisation of renewable and low carbon energy in new development to facilitate the move towards zero carbon buildings (see 4.11 and 4.12).*

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 11 – Noise (1997)
- TAN8 – Planning for Renewable Energy.

2.12 The Assembly Government expects local planning authorities to encourage, via their development plan policies and when considering individual planning applications, smaller community based wind farm schemes (generally less than 5MW). This could be done through a set of local criteria that would determine the acceptability of such schemes and define in more detail what is meant by “smaller” and “community based”. Local planning authorities should give careful consideration to these issues and provide criteria that are appropriate to local circumstances.

2.13 Most areas outside SSAs should remain free of large wind power schemes. Local planning authorities may wish to consider the cumulative impact of small schemes in areas outside of the SSAs and establish suitable criteria for separation distances from each other and from the perimeter of existing wind power schemes or the SSAs. In these areas, there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst that balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of a county.

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

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:

- Designation of Landscape Character Areas (2013 Update)
- Renewable Energy Study (2013 Update)
- Renewable Energy Assessment (2013)
- Draft Infrastructure Plan (2013)

Issues

It is considered that the main issues involved in the assessment of the application relate to the principle of the development, visual impact, impact on residential amenity by reason of noise/disturbance, highways issues, impact on ecology, impact on the historic environment and aircraft safety.

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, as an appropriate recreational use or under the terms of another policy of the plan. In this respect, Policy COMM7 of the UDP is of primary relevance to the assessment of the application. This policy is permissive in principle to wind turbines, subject to detailed criteria relating to visual impact, residential amenity, construction traffic, ecology, etc.

Therefore, given that the development does not lie within the Glamorgan Heritage Coast, Special Landscape Area or another area of high landscape importance (as specifically referenced by the policy) it is considered that the proposed development is acceptable in principle in respect of local policy, subject to an assessment of the detailed criteria of Policy COMM7.

The Local Development Plan is in draft form and not adopted, though the background papers produced to inform the newly emerging development plan are material considerations. In this regard the "Renewable Energy Background Paper 2013" is of particular relevance. This document has highlighted the area around the site of the proposed turbine as one of five priority clusters within the Vale. These priority areas are identified as they represent "unconstrained areas potentially suitable for wind energy generation". The area relevant for this application is a 'Priority 2' zone as it has moderate wind annual speed, though is still considered an area of "Potential Wind Energy Resource". As such, the proposed turbine is within a zone identified as having good potential for wind energy generation in an adopted planning policy document, which again shows support for the principle of the proposed turbine.

National Policy is contained within Planning Policy Wales 7th Edition (January 2014) and Technical Advice Note 8, both of which emphasise the importance of renewable energy projects and the contribution that they can make to sustainability.

Specifically, PPW states that:

Local planning authorities should facilitate the development of all forms of renewable and low carbon energy to move towards a low carbon economy (see Section 4.4.3) to help to tackle the causes of climate change (See Section 4.7.3). 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 control 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.*

TAN 8 states that:

The Assembly Government expects local planning authorities to encourage, via their development plan policies and when considering individual planning applications, smaller community based wind farm schemes (generally less than 5 MW). This could be done through a set of local criteria that would determine the acceptability of such schemes and define in more detail what is meant by “smaller” and “community based”. Local planning authorities should give careful consideration to these issues and provide criteria that are appropriate to local circumstances.

Most areas outside SSAs should remain free of large wind power schemes. Local planning authorities may wish to consider the cumulative impact of small schemes in areas outside of the SSAs and establish suitable criteria for separation distances from each other and from the perimeter of existing wind power schemes or the SSAs. In these areas, there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst that balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of a county.

Regard has also been had to the nature and designation of the SSAs referred to in TAN 8, however, while these areas have been outlined as the strategic opportunities for large scale on shore wind generation, the TAN does not advise against other smaller scale incidences of wind power generation, rather it emphasises the importance of balancing this against landscape protection. Furthermore, given that only seven such areas have been identified (with none in the Vale) it is considered that smaller scale sites will continue to have an important role, where appropriate, in supplementing this kind of renewable energy production.

Therefore, while the above advice is supportive of wind power in principle, given that the site lies outside of a Strategic Search Area (SSA), the above advice in TAN 8 in respect of balancing the benefits against landscape protection is of particular relevance.

Landscape and Visual Impact

Policy COMM7 of the UDP states that proposals for individual wind generators and wind farms will be permitted if (amongst other criteria):

The proposal has no unacceptable effect upon the landscape, particularly when viewed from public roads, public rights of way and other land used by the general public. Proposals which fall within the Glamorgan Heritage Coast and areas of high landscape importance, or lie outside such areas but have an unacceptable adverse visual effect upon them will not be permitted.

In this instance, the proposed turbine is within the open countryside, with a location that would be visible from both the public highway and public rights of way. It is also important to note that the site of the proposed turbine is approximately 610m (at its shortest distance) from the edge of the designated Special Landscape Area (Ely Valley & Ridge Slopes) to the south.

In regards to the landscape impact of the 77m turbine the submitted Landscape and Visual Assessment concludes that:

“The proposed single turbine would not have materially significant adverse landscape or visual impacts on either the surrounding landscape character or visual receptors.” (8.01)

“The scale of the single turbine development would sit within the large scale of the semi-rural and urban fringe character that much of the local landscape is characterised by and would provide an additional point feature amongst the lines of pylons. There would be very little change to the physical character of the landscape as a result of the proposed development that would not detract from the special qualities of the adjacent SLA (Special Landscape Area).” (8.02)

“The proposed development at The Grange would not cause any significant effects upon any views for close range receptors in residential properties or using footpaths. The turbine would not become a dominant feature in views that are characterised by the steeply undulating uplands to the north. The proposed turbine would only be viewed as a minor component in longer ranging views from elevated locations such as those to the north of the M4, looking south.” (8.03)

To support the emerging Local Development Plan the ‘background document’ “Review of Landscape Character Area – August 2008” has been produced. In this document the site is within an area of the Rural Vale described as the “Northern Vale Lowlands” (Area 16). This document describes the area as “open lowland valley and hills rising to 70AOD near Palla Farm and contained by the Ely Valley and the M4 motorway/A4232 road...”

The document also describes the area as “undulating, hilly terrain” with a mix of grasslands and woodland areas, with a “mosaic of arable and pastoral fields set within a framework of hedgerows and hedgerow fields.” This landscape area is described as being of ‘moderate’ standard, when considering the visual and sensory aspect, though the area adjacent to the M4 is evaluated as ‘low’ quality.

The proposed turbine is located in a field, to the northeast of The Grange farmhouse and complex. The main highway through the area (St Brides Road) runs east-west and is located approximately 600-650m to the south. It should be noted that the turbine is set within a hilly and undulating topography, with the land rising towards the north from this road up to approximately 70 AOD. However, the field to which the turbine is to be located is on a downhill slope (approximately 60 AOD) towards the woodland that surrounds St Y Nyll Ponds to the north of the site. As such, land to the south of the turbine, between the site and the highway, is at a higher level, such as the hill where Palla Farm is located (approximately 70 AOD). Whilst the turbine will be visible from some points along St Brides Road, it is considered that the undulating land form described above does help mitigate the visual impact from views from the south and St Brides Road.

To consider the wider long distance views of the site the submitted Landscape and Visual Assessment (July 2014, RPS) considers various receptor points. Five have been identified, including locations at The Garth mountain near Taffs Well, a location south of Radyr, a location north of St Nicholas, a location near Pendoylan and finally a closer range view from near Palla Farm, to the southeast of the site. For all but the Palla Farm location, the proposed turbine was concluded to have a ‘Minor Adverse Impact’ though from Palla Farm (considered a high sensitivity receptor) the impact was considered to be “Moderate”.

For the long range views the Assessment notes that the city of Cardiff and the Rhondda district are physically separated from the location of the proposed turbine by either the M4 corridor or the A4232 duel carriageway. The Assessment also notes the other ‘vertical elements’ in the vicinity, such as pylons, masts and telegraph poles, which mitigate the visual impact of this proposed turbine. However, the Assessment did note that the turbine would be a moving feature, and therefore more noticeable within the landscape.

The Assessment concludes that in terms of landscape impact, the proposed turbine would introduce a new “point feature” within the landscape, “but would not cause any significant changes to the aspect areas.” The Assessment acknowledged the possible “perceived” impact, though this would reduce with distance from the turbine. The Assessment considered the potential impact to the adjacent Special Landscape Area to the south, though concludes that the turbine would not detract from the designated landscapes special qualities. The Assessment also states that the impact to Historic Parks and Gardens (such as at Hensol and St Fagans) does not cause any direct impacts to their character, fabric or quality. Overall, the assessment concludes that the turbine would not become a dominant landscape feature within the surrounding rural landscape.

In terms of close range impacts, both nearby residential properties and public rights of way have been considered. Overall, the Assessment states that the impact from close range high sensitivity receptors “would be limited by the sparse settlement pattern of large properties, the local landform and the high levels of vegetation in the area.”

An addendum to the Landscape and Visual Assessment was submitted in November 2014 to consider further receptors in the vicinity, including more from public rights of way and more residential properties. The Assessment Addendum states that views from public rights of way (considered as being transient receptors) would have a moderate adverse effect. Public Right of Way No 11 runs north-south through the field to which the turbine is proposed to be located and it is considered that the 77m turbine would clearly have a significant visual impact for users of this route. The Assessment concludes that the additional residential property receptors would have a minor adverse impact as a result of the turbine.

In terms of heritage visual impacts, it is considered that the proposed turbine would not be in a location that would have significant harm or adverse impacts to any Conservation Area (such as at St George Super Ely and Drope Conservation Areas to the south), due to the significant separation distance and intervening landform. It is considered that the proposed turbine would not cause any harm to the setting or character to these Conservation Areas.

In terms of listed buildings, the closest listed buildings to the site include St Y Nyll House (Grade II) which is approximately 770m to the east, and also St Ffraids Church (Grade II) which is approximately 890m to the southeast. The impact to these listed buildings has been assessed and it is considered that the visual impact and presence of the proposed turbine would not have any significant impact to their setting or character. The difference in levels and the undulating topography between the site of the turbine and the Church, which is partially surrounded by mature trees encircling this building, significantly reduces the impact of the turbine to its setting. Views of the turbine would be possible from St Y Nyll House and as such would have the potential to impact upon its setting. However, the undulating terrain and a thick line of trees between the listed building and the turbine, coupled with the separation distance, would sufficiently mitigate the impact to its setting or character.

There will be some distant or partial views of the turbine from other listed buildings and Conservation Areas, though the landscape form, vegetation screening and separation distance serve to sufficiently mitigate any potential harm and should preserve the settings of these local heritage features. Overall, the proposed turbine does not lie within the key settings of any listed building or Conservation Areas and is not considered likely to cause any significant harm to the setting or character of the listed buildings and Conservation Areas for reasons described above.

Furthermore, Cadw have considered the proposals in terms of potential impact to Scheduled Ancient Monuments and concluded that the turbine would not have any direct impact to the monuments or lie within their key settings. Cadw also concur that the turbine would not have a significant visual impact when viewed from any registered Parks and Gardens.

The Visual and Landscape Assessment and recent Addendum have been fully considered by the Council's Landscape Architect who concurs with the findings and conclusions of the submitted documents. It is therefore considered that the proposed wind turbine would have no significant adverse landscape or visual impact from any sensitive receptors in the vicinity. Users of the adjacent Public Right of Way would view the turbine from close proximity, though they would be passing through the field and any impact would diminish once further from the site.

Having regard to the above and the landscape assessment, it is considered that the proposed site represents an appropriate 'non SSA' location for wind power generation. Furthermore in the wider context, given the emphasis on sustainability and creating energy by renewable means where possible and appropriate, such features are not particularly uncommon within the wider landscape and having regard to the above it is considered that the visual impact would not be unacceptable. In this respect, it is considered that the development would be in accordance with Policies ENV27 and COMM7 of the UDP and the advice within PPW and TAN8.

It is accepted, however, that the occupiers of those properties within 400-600 metres of the site will experience some adverse effects on their outlook. However, it is considered that the benefits in terms of renewal energy production outweigh the adverse visual impact identified, and that the development in this respect accounts with the thrust of national planning and guidance.

With regards to the associated infrastructure for the turbine, the proposed substation is of a relatively modest scale (6.74 x 4.49m x 3m high) and it is considered that this would have limited visual impact from surrounding views on the wider landscape. Similarly, it is considered that a landscaping condition and control over the materials used in the construction of the 295m long new track comprised of crushed gravel or stone and the widening of the existing track to 4m would not unacceptably impact upon the character of the area.

Public Right of Way

There is a Public Right of Way (P5/11) running north/south through the field, within close proximity to the base of the turbine and its hardstanding. There was concern expressed initially by the Public Right of Way Officer that this could pose a hazard for users of the right of way. However, a risk assessment was submitted which considers possible risks to the right of way users but concludes that there would only be a "minimal risk to society" in general and that the turbine as proposed "would not cause any risk to footpath users". The report does acknowledge the need to temporarily divert the footpath for both the construction and decommissioning processes. This would need to be done prior to the commencement of development or site works through the process set out by right of way legislation. On the basis of the risk assessment submission it is considered that there would be no significant risk to right of way users and no long term disruption to the enjoyment or use of the route.

Residential Amenity

The nearest non-stakeholder residential property (Willows Farm) is over 450m away from the site of the proposed turbine. Whilst this is a significant separation distance it is necessary to consider the impact of the blades rotating and the noise from any associated equipment.

The developers Noise Assessment states that typical predicted noise levels at non-stakeholder (not the applicant's dwelling or any direct involvement with the application) dwellings would be below 35dB from the wind turbine. This is within the acceptable threshold of both the standards set with the 'Institute of Acoustics Guidance' and also is shown to meet ETSU-R-97 requirements, which remains the recognized guidance for wind farm noise assessment.

The Council's Environmental Health Officer has advised of no objection in principle to the development subject to conditions. On this basis, and subject to the development according with the predicted noise levels, it is considered that the development would not unacceptably impact upon residential amenity by way of noise. In order to ensure that the matter could be adequately controlled, the Environmental Health Officer requested a post construction noise monitoring condition, which also requires compliance with the predicted noise levels.

The developer in the conclusion of the Shadow Flicker Assessment says that it has been shown that the "worst case conditions" of shadow flicker at dwellings within 10 rotor diameters distance from the proposed turbine location would be at dwelling H1, which is the applicant's property The Grange. This is considered by the assessment to be "the only property with the potential to have shadow flicker effects".

The Assessment, however, states that due to physical direction of the nearest properties to the turbines/sun, low rotational speeds, frequent cloud cover, turbine to sun alignment, it is concluded that shadow flicker will not cause a nuisance to residential properties in proximity to the wind turbine. The Assessment also states that if it transpires that there is a shadow flicker effect then the installed "shadow flicker control" would automatically shut down the turbine at the predicted times.

The Environmental Health Officer has raised no objection to this proposal, though did require more information as to how the monitoring of the turbine would be carried out and the threshold at which the turbine would cease operating. This would be required via condition.

Having regard to the above, it is considered that the proposed development would adequately preserve residential amenity, in accordance with Policies ENV27, ENV29 and COMM7 of the UDP.

Access and construction traffic

The application is supported by a 'Transport and Access Statement' (Curtis Consulting, April 2014). This statement considers the construction phase in depth, as this will include large heavy vehicles entering and exiting the site off the public highway network. The statement also considered the operational phase traffic and access arrangements.

The Statement includes a description of all the abnormal load vehicles that would need to access the site for construction, including the 26m long vehicle that will transport the blades to the site. The submitted information includes a plan of the route for the abnormal loads, which exits the M4 at Junction 34 and drives through the southern section of the Rhondda Cynon Taff District (Llantrisant Road) and into the Cardiff City District (Crofft-Y-Genau Road) and into the Vale of Glamorgan from its eastern boundary via St Brides Road. Swept Path Analysis plans have been submitted to show vehicle movements on the main junctions from the M4 to the site, to show that these large vehicles can reach the site without any highway enabling works being necessary. Both adjacent Authorities have been consulted, though the applicant is aware that the relevant Highway Authorities at these Councils and Traffic Wales (past of the Welsh Assembly Government) for the M4 about the abnormal load vehicles using the public highways and any necessary road closures and restrictions needed. Detailed information on this matter would be required through the Traffic Management Plan, which would be required via condition.

Along with the abnormal load vehicles, there is anticipated to be 20 regular HGVs accessing the site per day though the construction process, plus “a small number of people” getting to the site by car or van, which would be parked within the farm area. The construction process is estimated to take 20 weeks in total.

Access to the site by HGVs or larger vehicles would avoid access to the site at peak times, to avoid any restriction to traffic flows at busy times. Police escorts and pilot vehicles would be used for the abnormal load vehicles to mitigate any highway impacts. The Statement also includes reference to a condition survey of the highway network, so that the developer would be held responsible for any necessary repairs.

Access into the site would use the existing access that runs up towards Willows Farm. The existing access has a set-back field gate and post-and-rail fences to either side. This would all be removed to allow entry for larger vehicles, though reinstated afterwards, much the same as existing.

Overall, subject to a full Traffic Management Plan, there is no anticipated significant impact to the highway network as a result of either the construction or operational stages. The traffic levels when operational should be minimal, with no significant increase in traffic on the adjacent highway network as a result. The turbine is not considered to cause any significant distraction to drivers as it will not be located in close proximity to the highway. Also, there are many other incidences of large turbines close to busy roads, such as the M4 motorway, and so turbines being visible from highways is not an uncommon situation.

The internal road to link the location of the turbine with the highway follows a logical route, using the existing access drive to Willows Farm (though this will need upgrading) with a 295m of new track through the farmland connecting with the site. This is to be 4m wide and made from crushed stone and gravel. This is considered a suitable arrangement, though full details will be required via condition of the new track and its materials.

Aviation Safety

Initially Cardiff Airport objected to this development over concerns that the proposal could affect/adversely impact on their radar. The developers subsequently negotiated with Cardiff Airport and NATS and were able to address the objection. A method called 'Single Cell Blanking' would need to be installed with the radar system to avoid any adverse impact to aviation safety. Cardiff Airport requires that a condition be attached to any approval requiring this to be implemented prior to the turbine being operational.

Ecology Issues

The developer's Ecological Statement concludes:

"The proposed turbine would be unlikely to have any negative effects on local designated sites."

AND-

"The turbine would not result in the loss of any significant area of habitat of conservation importance."

The Statement does acknowledge the possible impact to bats, but as the turbine is over 50m from the nearest hedgerow and trees it is considered to have a low risk. With regards to the access track, the Statement does require that the loss of trees that could provide a habitat for bats should be safeguarded and tree protection measures included for the duration of the construction period.

Short sections of hedgerow would have to be removed from site to allow for the access track, though the Statement says this should be minimised with hedgerow plants reinstated or replaced where necessary.

The Statement also concludes that the turbine would not have any direct or indirect impact to loss of bird habitat or cause any significant collision threat to birds.

It is considered that the turbine should not in this circumstance detrimentally impact bats or any other protected species. The turbine is to be set within an existing field and will not be in a particularly sensitive ecological location. No significant levels of clearance are proposed and are not considered likely to have any significant adverse ecological impacts. Neither the Council's Ecologist nor Natural Resources Wales raised any objections to the proposal after considering the submitted Ecology Statement.

Ground Stability

In respect of the issue of ground stability Planning Policy Wales states that:

13.9.1 Planning decisions need to take into account:

- *The potential hazard that instability could create to the development itself, to its occupants and to the local environment; and*

- *The results of a specialist investigation and assessment by the developer to determine the stability of the ground and to identify any remedial measures required to deal with any instability.*

13.9.2 Where acceptable measures can overcome instability, planning permission may be granted subject to conditions specifying the necessary measures. If instability cannot be overcome satisfactorily, the authority may refuse planning permission. When planning permission is granted, safe development and secure occupancy of the site rests with the developer and/or landowner. It should also advise the applicant that although the local planning authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability.

In this case the developer submitted a Preliminary Risk Assessment including Land Stability and Drainage. The Conclusions of that Assessment do not identify any ground stability problems and recognizes that the geology of the site comprises limestone and mudstone with no drift deposits being recorded as present on site. It is also considered unlikely there was any historic coal mining at the site area.

With respect to hydrology and drainage the Preliminary Risk Assessment (PRA) notes that the site is located over a 'secondary aquifer' though there is no Source Protection Zone or licenced abstraction point within the locality of the proposed turbine. The report also states that there are no open watercourses though does note the lake 166m to the north which connects to a secondary river. The Assessment concludes that the site is not at risk of flooding and also concludes that no significant surface water run-off would result due to the formation of access tracks and the construction pad proposed by the single wind turbine scheme.

Overall, the submitted Risk Assessment does not raise any concerns relating to land stability or flood risk. It does recommend that precautions are taken during the construction process to prevent accidental release of liquids held on site, though states the risk is minimal or negligible.

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, 14, ENV1 – Development in the Countryside; ENV4 – Special Landscape Areas; ENV17 – Protection of Built and Historic Environment; ENV27 – Design of New Developments; ENV29 – Protection of Environmental Quality; and COMM7 – Wind Generators and Wind Farms, of the Vale of Glamorgan Unitary Development Plan 1996-2011 and the advice contained within Planning Policy Wales 7th Edition (2014) and Technical Advice Notes 8: Planning for Renewable Energy and 11 – Noise, the proposed development is considered acceptable in respect of visual impact, aircraft safety, heritage issues (such as impact to listed buildings, scheduled ancient monuments or conservation areas), noise, residential amenity, shadow flicker, ecological preservation and highway safety.

In addition, the Government emphasis on providing an increased proportion of energy requirements from renewable sources plainly weighs in favour of the proposal. Also weighing in favour of the development is the fact that its presence is for a limited period and is reversible at the end of this period.

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. Within twelve months of the wind turbine hereby approved becoming redundant or within 25 years of the turbine generating electricity (whichever is the sooner), the turbine, substation, any concrete foundations and associated development shall be removed from the land and the site shall be restored to its former condition as agricultural grazing land.

Reason:

In the interests of the visual amenities of the area, and to ensure compliance with the terms of Policies ENV 1, ENV 10 and ENV27 of the Unitary Development Plan.

3. Prior to its construction/laying out within the application site, further details, including a typical cross section, of the proposed construction materials for the associated access track and access shall be submitted to and approved in writing by the Local Planning Authority. The development shall at all times thereafter be maintained in accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure compliance with Policies ENV 1, ENV 10 and ENV27 of the Unitary Development Plan.

4. The developer shall prepare a Traffic Management Plan (TMP) to show proposals for transporting the abnormal indivisible loads associated with the construction phase of this scheme. The TMP shall include proposed timescales and delivery schedules as well as numbers, dimensions, weights, axle distributions etc. of delivery vehicles. The TMP shall also include:
 - a. Construction vehicle routeing plans at 1:2500 scale for all traffic showing swept path analysis from the point of entry onto the public highway network to the site; and in reverse for decommissioning.
 - b. Construction vehicle routeing plans at 1:2500 scale for all traffic showing highway mitigation required and land ownership boundaries including identified holding areas, passing areas and layover areas. Any highway mitigation shall include supporting HD19/03 Safety Audit documentation.
 - c. No development shall commence until the land required for highway mitigation and holding areas has been acquired or made available for use.
 - d. Site access highway design plans at 1:2500 scale that shall include supporting HD19/03 Safety Audit documentation.
 - e. Detailed schedules of the management of junctions to and crossings of the public highway and other public rights of way during delivery of construction materials and other operating equipment.
 - f. The provision of delivery schedules detailing the time and date of movements, nature of delivery vehicles: particularly detailing vehicle parameters, gross vehicle weight, number of vehicles in convoy size, dimensions (width, length, height) and weight (total vehicle with loads and axel loading).
 - g. Details of escorts highlighting where and when along the route private vehicles, Banksman and Police vehicles escorts will be used.
 - h. Provision of plan drawings and associated traffic signs schedule highlighting locations along the route where temporary traffic management (cones, temporary signs, etc.) needs to be deployed.

- i. An agreed impact assessment on all highway structures on the affected route, including bridges, culverts, retaining walls, embankments, drainage features, and third party buildings and structures and a comprehensive condition survey of the agreed length of the haulage route undertaken by a suitably qualified and experienced Highway Maintenance Consultant, to provide a benchmark of the existing standard of the road.
- j. Following completion of construction activities, the developer shall carry out a final road survey to determine any areas which require repair works to return the highway to the pre-existing condition and undertake the identified works to the satisfaction of the Local Planning Authority, making good of any damage done by construction traffic associated with the proposed development to the trunk road and county road network including street furniture, structures, drainage features, highway verges and carriageway surfaces.
- k. Documented trial runs with supporting videoed evidence shall be included in the TMP demonstrating the suitability of the entire transport route from point of entry onto the highway network to the site for all deliveries and in reverse for the decommissioning of the windfarm unless the components are broken up on site.
- l. Details of all required road widenings, passing places, bridge strengthening etc.
- m. Any temporary Traffic Regulation Orders (TTRO's) for each section of the routes where the Police may need to stop or hold traffic.
- n. Details of measures for wheel washing and dust suppression.
- o. Confirmation that no construction traffic or deliveries to the site shall be made or leave the site during the hours of 7.30-9.30 am and 3-6 pm.

The TMP shall be submitted to and approved in writing by the Local Planning Authority and the development shall at all times be carried out in accordance with the approved TMP and the details submitted and agreed therein.

Reason:

In the interests of highway safety and to ensure compliance with Policies TRAN 10, ENV27 and COMM7 of the Unitary Development Plan.

5. A noise survey post installation at the nearest residential premises 'Willows Farm' shall be undertaken when the turbine is initially commissioned and again after six months. The results of the noise assessments shall be submitted to the Local Planning Authority, within three months of the surveys being undertaken. Should the surveys indicate that the noise levels exceed ETSU-R-97 guidance, the use of the turbine 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 the approved mitigation 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 COMM7 and ENV 29 of the Unitary Development Plan.

6. Within 28 days from the receipt of a written request from the Local Planning Authority following a noise complaint, surveys to assess the level of noise from the wind turbine at the complainant's property shall be carried out by an independent consultant approved by the Local Planning Authority, following the procedures described in ETSU-R-97 'The Assessment and Rating of Noise from Wind Farms' and following the principles in the Good Practice Guidelines. The Local Planning Authority shall be advised of the date that the surveys will take place prior to them being undertaken.

A report to detail the findings of the survey shall be submitted within 2 months of the date that the survey was undertaken, detailing the actual measured noise levels and, should the surveys indicate that the noise levels exceed that identified within ESTU-R-97 guidance, the use of the turbine shall be shut down until measures to modify or limit the turbine (sufficiently to reduce the absolute noise level of the operating turbine to within the parameters specified by this consent) have been agreed in writing by the Local Planning Authority and the turbine shall not become operational again until the approved measures have been implemented in full and those measures shall be retained at all times thereafter.

Reason:

In the interests of residential amenity and to ensure compliance with Policies COMM7 and ENV29 of the Unitary Development Plan.

7. Should following the construction and commissioning of the wind turbine a justified complaint be made regarding shadow flicker to the Local Planning Authority, within 28 days from the receipt of a written request from the Local Planning Authority, the operator of the development shall, at its expense, employ an Independent Consultant approved by the Local Planning Authority to assess the extent of shadow flicker and identify in a report the remedial measures necessary to overcome the issue, and within three months of the operator receiving that report the operator shall undertake the identified remedial measures unless otherwise agreed in writing by the Local Planning Authority. Should no recommended measures be identified to overcome the issue of shadow flicker then the turbine shall be shut down until such time as the issue is resolved.

Reason:

In the interests of residential amenity and to ensure compliance with Policies ENV29 and COMM8 of the Unitary Development Plan.

8. Prior to the commencement of development, details of the 'shadow flicker control' and the set threshold at which the turbine would be 'shut down' shall be submitted to and agreed in writing by the Local Planning Authority. The 'shadow flicker control' shall be operated in accordance with the agreed details thereafter.

Reason:

In the interests of residential amenity and to ensure compliance with Policy COMM8 of the Unitary Development Plan.

9. No development shall commence on site until details of mitigation measures required to be installed on Cardiff Airport radar system and a programme for their installation has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be installed in accordance with the approved details and programme and so retained at all times thereafter.

Reason:

In the interests of aviation safety and in accordance with policy ENV 27 of the Unitary Development Plan.

10. No development shall commence until details of the materials to be used in the external finishes of the substation have been submitted to and approved in writing by the Local Planning Authority. The development shall at all times thereafter be maintained in accordance with the approved details.

Reason:

In the interests of visual amenities and to comply with Policy ENV27 of the Unitary Development Plan.

11. Vegetation clearance shall be carried out outside the bird breeding season which is taken as end of March to end of August inclusive. Alternatively, vegetation clearance may only be undertaken within this timeframe if it is carried out under ecological supervision and that the developer has submitted a method statement for the works and the works have been agreed in writing by the Local Planning Authority prior to the commencement of any clearance works.

Reason:

To safeguard birdlife during the nesting season and to ensure compliance with Policies ENV16 and COMM7 of the Unitary Development Plan.

12. The development shall be carried out in accordance with the mitigation measures set out in the submitted 'Ecological Statement', detailed in section 6.13-6.17 of this report produced by RPS (July 2014), unless the Local Planning Authority agrees in writing to any variation.

Reason:

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

13. This consent shall relate to the plans registered on 9th July 2014 along with additional plans reference 90397_R027_200 received on the 5th December 2014 and R027-28-08 Revision A received on the 2nd December 2014.

Reason:

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

NOTE:

1. **The applicant is advised to contact the Council's Highways Division at the Alps Depot, Wenvoe, Vale of Glamorgan CF5 6AA in order to discuss the logistics of the transportation of the turbine components to the site, as well as the South Wales Police and Traffic Management Section of Cardiff City Council and Rhondda Cynon Taff Council**
2. **Public rights of way must be kept open during the development unless a legal diversion has been obtained. No materials shall be stored on the public rights of way and any damage to the surface of a right of way as a result of the development be made good at the developer's expense.**

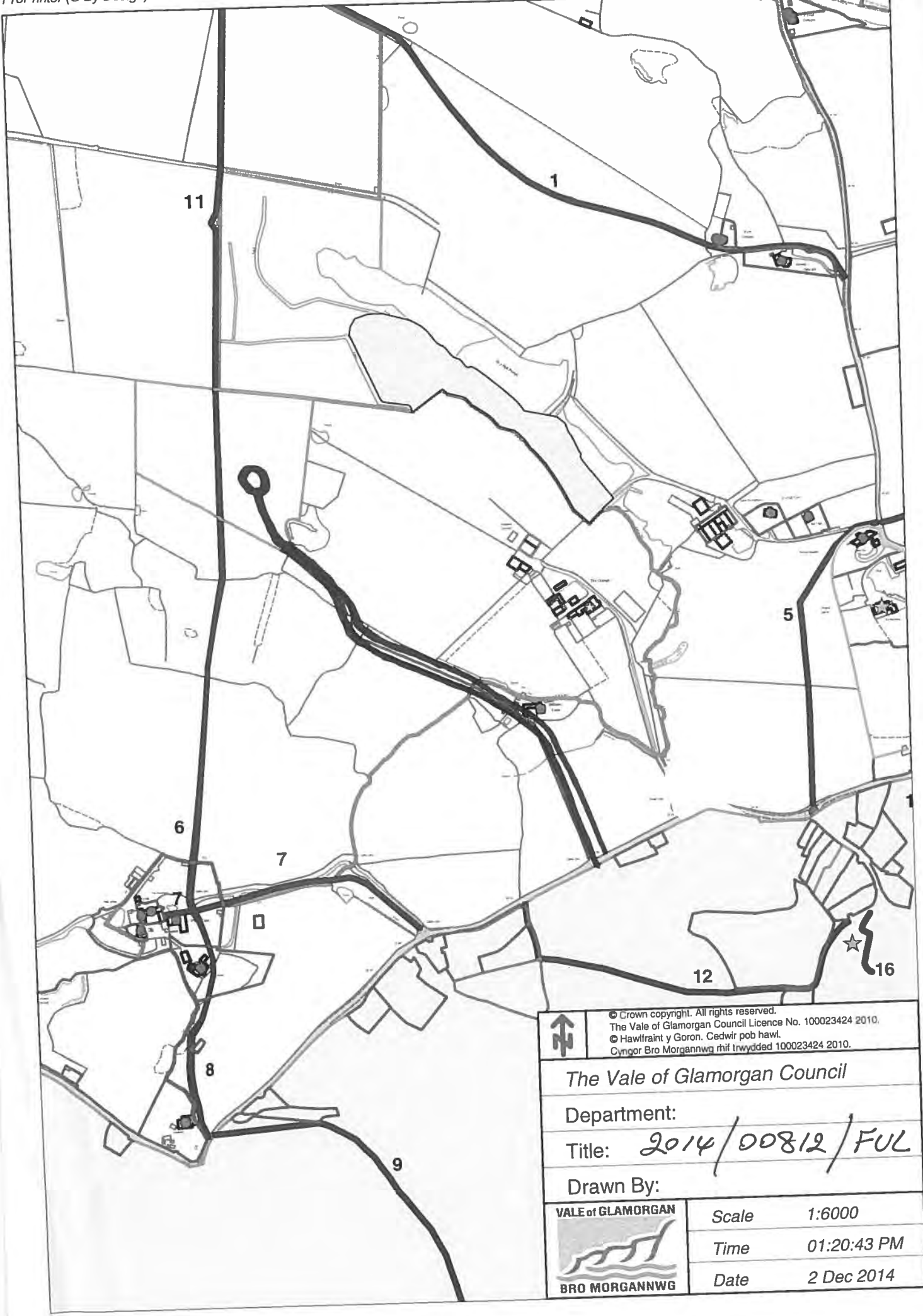
- 3. The turbine shall be fitted with an aviation warning light emitting a constant 200 cd red light fitted at the highest practical point of the structure.**
- 4. The developer should consider the need for providing adequate water supplies for fire fighting purposes and access for fire fighting appliances.**
- 5. The responsibility and subsequent liability for safe development rests with the developer and/or landowner. The Authority has used its best endeavours to determine this application on the information available to it but this does not mean the land is free from instability.**
- 6. The developer shall inform the Defence Geographic Centre icgdgc-aero@mod.uk of the locations, height and lighting status of the turbine and meteorological masts, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, prior to the start of construction, to allow for the appropriate inclusion on Aviation Charts, for safety purposes.**



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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	The Vale of Glamorgan Council	
Department:		
Title: <i>2014/00812/FUL</i>		
Drawn By:		
 BRO MORGANNWG	Scale	1:6000
	Time	01:20:43 PM
	Date	2 Dec 2014

Mrs. Jane White, Higher End, Llanbethery, Barry, Vale of Glamorgan., CF62 0SB
Reading Agricultural Consultants, Gate House, Beechwood Court, Long Toll, Woodcote, Oxfordshire., RG8 0RR

Coed y Colwen Barn, Llancafarn

Conversion of a redundant stone barn to a residential dwelling

SITE AND CONTEXT

The application site is a stone barn situated approximately 1.2km to the west of the settlement of Llancafarn outside of the settlement boundaries as defined by the Vale of Glamorgan Unitary Development Plan 1996-2011. As such the building is situated in open countryside. The barn itself is of a stone construction with a cement-fibre roof and currently does not appear to be used in conjunction with agriculture although some wrapped hay bales are being stored on an area of hardstanding to the north of the barn. The application site also falls within the Lower Thaw Valley Special Landscape Area.

DESCRIPTION OF DEVELOPMENT

The application is for the conversion of the barn to a 2 no. bedroom residential dwelling, with the provision of a single storey monopitch extension to the rear which is indicated as being a rebuild of a previously collapsed extension to the rear elevation. The existing external walls are to be cleaned and re-pointed with a lime mortar. The barn would also be re-roofed with a slate roof. Plans and elevations of the proposed conversion are shown below:



The proposed dwelling would be served by a parking and turning area in the position of the existing hardstanding and an enclosed garden provided to the north-east between the road running to the north and the front of the proposed dwelling. A site layout of the dwelling is shown below:



Site layout plan indicating proposed parking/turning area and garden to the front of the dwelling (officer note: the existing shed shown on the plan was not in situ at the time of visiting the site). There is presently no delineation along the southern boundary of the application site, which is annotated on the plan above with 'no boundary delineation to field.'

PLANNING HISTORY

1990/00741/OUT : Enclosure 8574 and part enclosure 8361, Llancarfan - Convert barn to dwelling, change of use enclosure 8574 & part of 8361 from agricultural to domestic - Refused for the following reason:

1. The proposal represents an intrusion into the rural landscape thereby damaging the amenity of the countryside in conflict with policy H.10 of the County of South Glamorgan Structure Plan and policies H.4 and H.5 of the Draft Rural Vale Local Plan.

CONSULTATIONS

Llancarfan Community Council was consulted with regard to the application and state that the 'Council has no objection to this application but the following comment was received; "Although outside of both the Llancarfan and Llantrithyd Conservation Areas, due to its prominent location, the conversion of the barn should comply with the supplementary planning guidance "The Conversion of Rural Dwellings" and "Conservation Areas in the Rural Vale" as in the adapted UDP."

Rhose Ward Members were consulted and Councillor James has requested that the application be considered by the Planning Committee.

The Council's Building Control Section was consulted although no comments had been received at the time of writing this report.

The Council's Ecology Officer was consulted and had no objection subject to a condition relating to the provision of alternative nest sites for swallows being attached to any planning consent given.

Natural Resources Wales was consulted with regard to the application and 'do not object to the application' although provide further advice relating to the provision of the package treatment plants, protected species and local biodiversity.

REPRESENTATIONS

A site notice was displayed to the front of the site on 24 October 2014 although no comments have 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 18th 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:

POLICY ENV1 – DEVELOPMENT IN THE COUNTRYSIDE

POLICY ENV4 – SPECIAL LANDSCAPE AREAS

POLICY ENV8 – SMALL SCALE RURAL CONVERSIONS

POLICY ENV10 - CONSERVATION OF THE COUNTRYSIDE

POLICY ENV16 – PROTECTED SPECIES

POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS

POLICY HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

POLICY 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.

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)

Paragraph 3.6.1 'whilst residential conversions have a minimal impact on the rural economy, conversions for holiday use can contribute more and may reduce pressure to use other houses in the area for holiday use'.

- 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

As such, the principal issues in this application relate to the principle of the provision of a dwelling within a countryside location, the sustainability of the location of the site to accommodate a dwelling, the suitability of the structure for conversion and visual impact of alterations, the impact upon amenity of neighbouring residential properties and impact upon ecology.

Principle of Conversion and Policy Context

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 final criterion Policy ENV8, which in principle allows for small scale rural conversions.

Policy ENV8 states that proposals that small scale conversions of rural buildings to new uses will be permitted if a number of criteria are met. These criteria include that the building can be converted without substantial reconstruction of the external walls or extension to the building (iii); conversion work can be undertaken without unacceptably altering the appearance and rural character of the building (iv).

The conversion of the building could therefore be acceptable in principle subject to visual impact of the proposed conversion works and the sustainability of the location of the building to be converted.

Sustainability

The application site is isolated and does not have ready access to public transport services, basic community services or employment opportunities and is substantially divorced from the nearest sustainable settlement of Llanccarfan that provides some of these services (in excess of 1.9km away by road to the east). It should be noted that Llanbethery, which is a HOUS 2 settlement is nearer (at 1.4km by road) but is extremely limited in terms of services (having lost a public house and possessing no other community facilities) and is also a significant distance from the application site. Whilst noting that a Public Right of Way runs to the north of the site this does not provide ready or direct access to nearby settlements while there are also no pavements or footways provided on the highway running to the north of the site that would provide ready or convenient access by pedestrians to local services. The lack of physical proximity to local services and the lack of pedestrian facilities linking the site to the nearby settlement demonstrate the reliance of future occupiers of this development on the private car and furthermore indicate that this site represents an unsuitable and unsustainable location for additional residential development within the countryside. Given this the proposal is considered to be contrary to both local and national policy as the site is located in an isolated position substantially divorced from essential local services and is therefore in an unsustainable location with future occupiers being overly reliant on the use of the private car to access local services.

Indeed Strategic Policy 2 of the UDP states *'proposals which encourage sustainable practices will be favoured including:... ii) proposals which are located to minimise the need to travel, especially by car and help to reduce vehicle movements or which encourage cycling, walking and the use of public transport.'* Similarly Strategic Policy 8 states that developments will be favoured in locations which *'are highly accessible by means of travel other than the private car'*.

The supporting text of policy ENV8 states that *'there are a number of hamlets and isolated pockets of dwellings in the Vale where new dwellings would not be allowed. However, it is accepted that the conversion of existing rural buildings in these hamlets may be acceptable. 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 and they can cause an unacceptable visual intrusion into the rural landscape.'* The barn subject of this application is considered to be substantially divorced from the nearest settlement and does not fall within a group of buildings and is therefore considered to be isolated for the purposes of the above policy.

Supplementary Planning Guidance Conversion of Rural Buildings is also of relevance and Point 2.5 states that *'the most frequent proposals are to convert rural buildings, in particular barns, to residential use. Whilst this can often be the most financially attractive option it is generally the least desirable from a building conservation and sustainability point of view.'*

Other uses may be more appropriate particularly where they require less physical alteration to the building. These may include small farm shops, small business uses and community halls. Small businesses are particularly acceptable where they are appropriate to the rural scene and where they create new employment or help to secure the future of the farm. The applicant indicates within their supporting statement that *'with regard to commercial use... would be prohibitively expensive to convert and provide services to other more attractive units in far more accessible locations.'* However, limited further information has been provided in this regard and as such it is not considered that these claims have been substantiated. Despite the applicant being requested to consider alternative uses and/or provide additional evidence to support the above, no further information had been received at the time of writing this report. Therefore it is not considered that it has been adequately demonstrated that alternative, more appropriate uses have been considered prior to the submission of the application at odds with the guidance contained within the adopted SPG. The sentiments of the SPG are also echoed within Technical Advice Note 6: Planning for Sustainable Rural Communities which states that *'whilst residential conversions have a minimal impact on the rural economy, conversions for holiday use can contribute more and may reduce pressure to use other houses in the area for holiday use'*. (Paragraph 3.6.1).

This sentiment is further reflected within chapter 4 of PPW. With regard to planning for sustainability part 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'*. Also 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.'*

The above sentiment is also echoed within paragraph 9.2.22 of PPW as noted previously which states that *'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.'*

The building is significantly isolated from day-to-day services and facilities upon which future occupiers would be dependent and divorced from nearby settlements, clearly indicating that the proposed conversion for residential use would represent an unsustainable form of development at odds with the thrust of both local and national planning policy. Furthermore, whilst noting the proposals would result in the beneficial re-use of an existing building, it has not been adequately demonstrated that alternative uses for the building have been considered at odds with the provisions of TAN6 and relevant local policy. As such the principle of the conversion of the building to provide a new dwelling in this location is considered to be at odds with the provisions of policies ENV1 and ENV8 of the UDP and the provisions of Planning Policy Wales (edition 7, 2014) and TAN6.

This view has been supported by the Planning Inspectorate with regard to previous appeals within the Council's area and an example of one of these appeals is attached at Appendix A.

Visual impact

The application is supported by a structural survey which indicates that the building is in good condition and suitable for conversion, whilst the proposal in general proposes minimal intervention to the fabric of the barn itself which is welcome. However, it must also be acknowledged that an extension is proposed to the southern elevation which the applicant has indicated would be a rebuild of a previously collapsed structure, although when on site it was considered that there was limited evidence of such a structure which if previously in situ appears to have collapsed or removed some time ago and is not therefore considered to justify the provision of a new timber-clad extension which does little to complement or enhance the existing barn. It is considered that the extension would adversely alter the character of the barn, changing its original form, domesticating it and eroding the original and simple rural character of the building. Therefore it is considered that the proposal including a domestic extension to the rear would be at odds with the provisions of criterion iii) of policy ENV8 which indicates that conversions requiring extension to necessitate conversion will not be supported.

Paragraph 3.4.31 of policy ENV8 states that '*whilst new uses can frequently be the key to the preservation of historic buildings, it is important to ensure that the new development is sympathetic to the rural character. For example the creation of a 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 submitted layout plan indicates the provision of a garden area forward of the building adjacent to the road running to the north whilst the red line to the south of the building includes land which currently forms part of the field parcel to the south. The provision of a garden area to the front of the building, associated enclosure and domestic paraphernalia would serve to domesticate the site which would be at odds with the rural aesthetic of the surrounding landscape. Furthermore no delineation is indicated between the proposed dwelling and the field parcel to the south and there is concern that the introduction of a residential use within this building would result in the domestication of the adjoining field parcel to the detriment of the visual amenities of the countryside area. It is also noted that the site falls within the Lower Thaw Valley Special Landscape Area and policy ENV4 of the Development Plan seeks to restrict development that would adversely affect the landscape character or visual amenities of the Special Landscape Area.

It should also be noted that a previous application (1990/00741/OUT) for the residential conversion of the barn was refused by reason of 'the proposal represents an intrusion into the rural landscape thereby damaging the amenity of the countryside in conflict with policy...'

Whilst there has been a substantive change in policy since the date of this refusal of planning permission, the fundamental principle of the visual impact that the conversion, associated curtilage and domestic paraphernalia would have upon the rural character of the area. It is also of note that the plans submitted as part of this permission do not indicate a projection to the south of the barn as shown below:



Noting the absence of any such projection is considered to further demonstrate the lack of any historical structure in this position that might in any way provide justification for the erection of an extension to this rear elevation.

Therefore it is evident from assessing the history of the site that it has previously been found that the use of the land as private garden and resulting domestication of this land would be detrimental to the visual amenities of the wider countryside. Noting this it is considered that the harm associated with the residential use of the site, the conversion of the barn for residential use, resulting domestication of surrounding land, erection of associated structures and other paraphernalia associated with such a use would be at odds with the provisions of policy ENV1, ENV4 and ENV8 of the Development Plan.

Impact upon the Amenities of Neighbouring Residential Properties

Given the degree of separation between the application site and nearby residential properties it is considered that the proposal will not cause undue detriment by reason of overlooking, being overbearing or loss of light.

Highways and Parking Provision

The application proposes the erection of a two bedroom house and as such would require at least two on-site car parking spaces. Although the site layout plan does not indicate the exact position of spaces within the driveway to the front, it is considered that there is more than ample scope for provision of these spaces within the curtilage of the dwelling.

The application site would be accessed via an existing access from the road to the north. The Council's Highways Development Section has been consulted with regard to the application although no comments had been received at the time of writing this report. However, while the proposal would result in a small intensification of the use of the access, it is considered that the access benefits from adequate visibility and it is considered that the intensification of the use of the access would not unacceptably impact upon highway safety.

Ecological Issues

The application is supported by an ecological assessment prepared by Spectrum Ecology and dated June 2014. Whilst the report indicates that a number of bats were detected within the vicinity of the barn, no bats were seen entering or exiting the building and there was no evidence that bats had been using the building as a roost site. However the survey does indicate the use of the building as a nesting site for Swallows. Following consultation with the Council's Ecologist and Natural Resources Wales, no objections were received with regard to the conversion of the building subject to conditions being attached to any consent to be granted relating to the provision of alternative nest sites for Swallows.

CONCLUSION

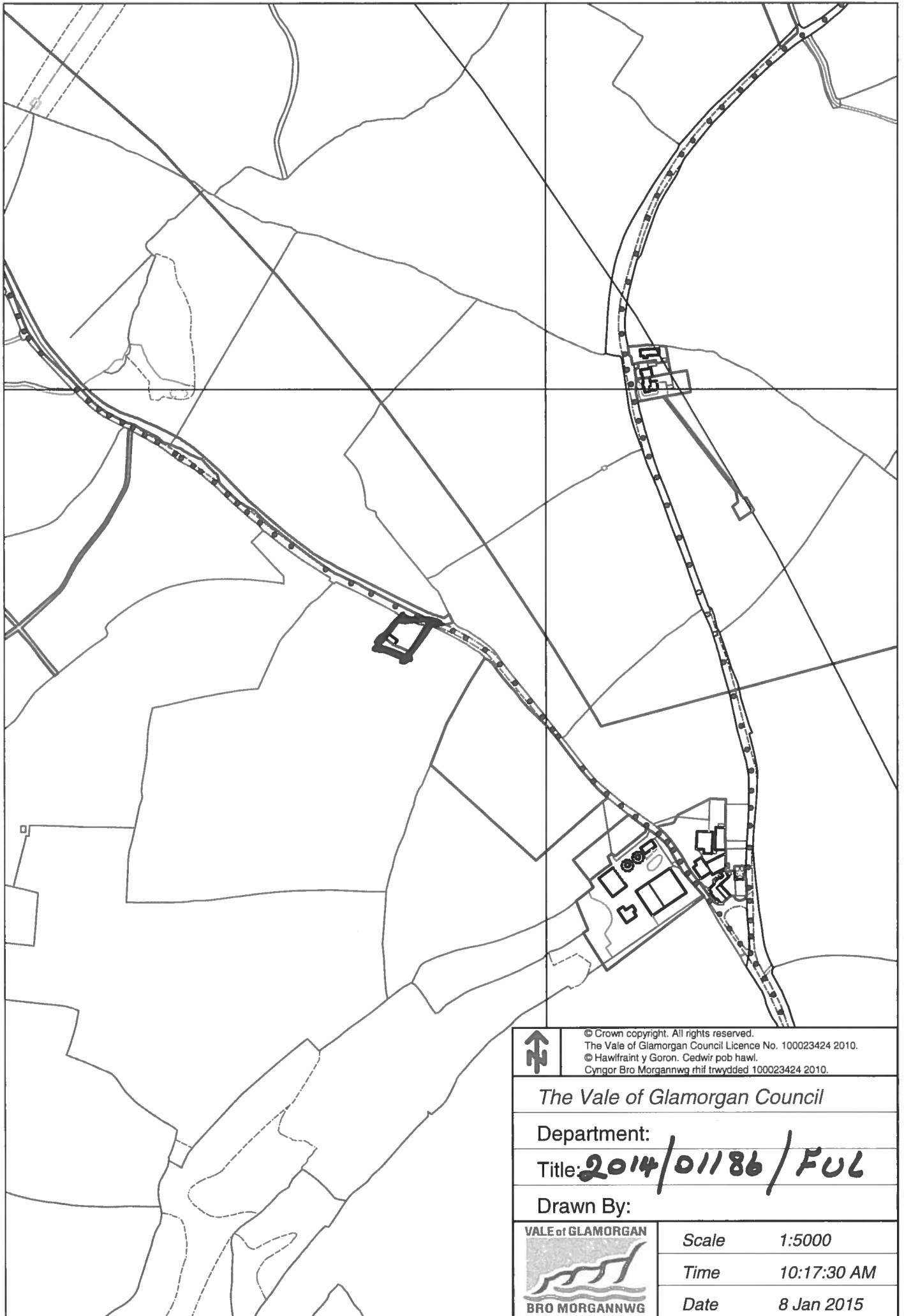
The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations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

RECOMMENDATION

REFUSE (W.R.)

1. By reason of the nature of the alterations to the building and the extent of the proposed domestic curtilage, the proposed development would represent an unjustified and inappropriate new dwelling in the countryside, which would adversely impact upon the simple rural character of the existing building and the character of the wider area. The proposal is contrary to local Policies ENV1 - Development in the Countryside, ENV8 - Small Scale Conversions, ENV10 - Conservation of the Countryside, ENV27 - Design of New Developments, HOUS3 - Dwellings in the Countryside, and Strategic Policies 1 & 2-The Environment and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Sustainable Development; and national guidance contained in Planning Policy Wales, TAN6-Planning for Sustainable Communities and TAN12-Design.

2. By virtue of its isolated position outside of any defined settlement boundary and absence of comprehensive pedestrian/alternative modal links to the nearest settlement, the site is considered to be in an unsustainable and unsuitable location where the new dwelling would be remote from day to day amenities/services and occupiers would be over-reliant on the private car. The proposal is consequently contrary to strategic Policies 2 and 8, and Policy ENV27 - Design of New Developments of the Vale of Glamorgan Unitary Development Plan (1996-2011) and the national policies regarding sustainable development contained within Planning Policy Wales Ed. 7 2014.



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The Vale of Glamorgan Council

Department:

Title: **2014/01186 / FUL**

Drawn By:



Scale	1:5000
Time	10:17:30 AM
Date	8 Jan 2015

2014/01193/FUL Received on 23 October 2014

Spring Design, Unit 3, Chapel Barns, Merthyr Mawr, Bridgend., CF32 0LS
Spring Design, Unit 3, Chapel Barns, Merthyr Mawr, Bridgend., CF32 0LS

Land adjacent to The Meynell, Treerhyngyll

Proposed new dwelling

SITE AND CONTEXT

The application site is approximately 0.11 ha in area and comprises part of a larger field parcel. The site lies adjacent to existing residential development, including the driveway to 'Chalcot Cottage', and beyond that the dwelling 'The Meynell'. The land is enclosed by a hedgerow on its southern boundary with the adopted highway. The land is on a higher level than the road and continues to rise to the north, with a fall away to the west.

There is currently no direct vehicular access to the application site itself. The larger field parcel is served via an entrance on its south western corner.

The site lies on the western edge of Treerhyngyll just outside of the residential settlement boundary as defined in the Unitary Development Plan.

DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission for the construction of a new single storey three bedroom dwelling. The proposed dwelling will have an irregular, 'L'-shaped footprint, measuring approximately 20.4m at its deepest (including the roof overhang) and 15.5m at its widest (including the car port). The proposed dwelling will be sited approximately 8m back from the boundary with the highway, and approximately 6m at its nearest to the boundary with the existing residential development.

The proposed flat roofed, contemporary style dwelling will measure approximately 3.7m in height and will entail the excavation of existing ground levels for the house, plus the access drive, parking and patio area to the north. A sun terrace/balcony will be formed on the western elevation. The external finishes will include a mix of horizontal and vertical timber cladding and stone.



A new vehicular access, measuring approximately 3.4m in width, will be formed onto the highway in the southern boundary of the site. A section of the existing hedgerow and bank will be removed.

The application is accompanied by a Design and Access Statement (DAS).

PLANNING HISTORY

There is no planning history on the application site itself. However there have been a number of similar applications for new dwellings adjacent to, but outside of, the settlement boundary for Trerhyngyll, including:-

1983/00539/OUT – Enclosure 3775 (south and opposite side of road from current site) – Dwelling – Refused September 1983 on the grounds of no justification for development in the countryside that would extend undesirable ribbon development west of the village, intruding into the countryside and setting a precedent for further such development along this road frontage. A subsequent appeal was dismissed 27 March 1984.

1987/00303/OUT – Enclosure 3775 (south and opposite side of road from current site) - Dwelling – Refused 21 May 1987 on the grounds of no justification for development in the countryside that would extend undesirable ribbon development west of the village, intruding into the countryside and setting a precedent for further such development along this road frontage. A subsequent appeal was dismissed 19 April 1988.

1987/01013/OUT – Plot of land adjacent to 'Tenmarche' (south and opposite side of road from current site) – Detached dwelling – Refused 8 December 1987 on the grounds of no justification for development in the countryside that would extend undesirable ribbon development west of the village, intruding into the countryside and setting a precedent for further such development along this road frontage.

1989/00354/OUT – Land to rear of Croft House (north and east of current site) - Low density detached housing – Refused 11 May 1989 on the grounds of the preservation of the countryside from unjustified development, and undesirable intrusion into the countryside which would detract from the rural character.

2003/00933/OUT – Land to the north of Chalcot Cottage (north and east of current site) – One bungalow – Withdrawn 17 September 2003.

2014/00100/OUT – Site south of Nant Lle (opposite south east side of village from current site) – Erection of a dwelling – Refused 9 May 2014 for the following reasons:-

- “1. *In the opinion of the Local Planning Authority it is considered that the proposal represents an unacceptable, unjustified and unsustainable new dwelling in this countryside location, which would not constitute infill or rounding off, and that would cause demonstrable harm to the undeveloped, unspoilt rural character of the surrounding landscape contrary to Policies ENV1 - Development in the Countryside; ENV10 - Conservation of the Countryside; ENV27 - Design of New Developments; contrary to Policies HOUS 2 – Additional residential development, HOUS3 - Dwellings in the Countryside; Strategic Policies 1 & 2-The Environment, 3-Housing, and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan; Supplementary Planning Guidance on Sustainable Development, Design in the Landscape and Amenity Standards; and national guidance contained in Planning Policy Wales Edition 6, 2014.*
2. *The proposals would result in the loss of Grade 3A agricultural land, with no overriding justification for the irreversible loss of the land for agriculture, the proposals are therefore contrary to Policies ENV1 - Development in the Countryside, ENV2 - Agricultural Land; and Strategic Policies 1 & 2 - The Environment of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; and national guidance contained in Planning Policy Wales Edition 6, 2014 and Technical Advice Note 6 - Planning for Sustainable Rural Communities.”*

A subsequent appeal was withdrawn on 7 November 2014.

CONSULTATIONS

Penllyn Community Council – The proposal is on open land outside of village boundary beyond which no such building development should be allowed. The land in question is agricultural land of a quality where there is a predisposition not to develop. Concerns as to foul drainage provision. Concerns as to storm water runoff onto the highway.

Dwr Cymru/Welsh Water – Request that their standard Conditions and Advisory Notes be attached to any consent, which include requirements relating to foul, surface water and land drainage. They also make reference to the new Welsh Government legislation relating to communication with the public sewerage system.

The Council’s Ecology Officer – No comment.

The Council’s Legal, Public Protection and Housing Services Directorate - Environmental Health – Pollution Section – No comment to make regarding the application.

The Council’s Highway Development team – Consulted on 27 October 2014. No formal comments received to date.

REPRESENTATIONS

The occupiers of neighbouring properties were notified on 27 October and 11 November 2014. In addition a site notice was posted on 10 November 2014. To date representations have been received from the occupiers of 'Whitebeam Cottage', 'The Meynell', 'Chalcot Cottage', 'Lawnswood', 'Brynawel' 'Springfield House' and 'Llwynon Cottage'. These are all available on file for Members to view in full, however, copies of the representations from the occupiers of 'Whitebeam Cottage' and 'The Meynell' are reproduced at Appendix A as being generally indicative of the objections raised. In summary these include:-

- intrusion into the countryside on land outside of the village with loss of agricultural land;
- out of keeping with the area and adverse impact on the character of the village;
- increase in traffic on substandard lanes to the detriment of highway safety;
- exacerbate existing problems of flooding and drainage, particularly surface water runoff and sewerage;
- adverse effect on wildlife with loss of habitat such as hedgerow removal and light pollution;
- loss of privacy and views;
- purely speculative with no identified need in the village and would not further Council's commitment to affordable housing;
- against the interests of Art. 8 of Human Rights Act;
- errors in submission, noting that the site is not adjacent to 'The Meynell' but the drive and garage to 'Chalcot Cottage';
- proposed retaining wall will affect the neighbouring driveway; and
- would set a precedent for further extension of the village.

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 18th 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:

POLICY ENV 1 – DEVELOPMENT IN THE COUNTRYSIDE
POLICY ENV 2 – AGRICULTURAL LAND
POLICY ENV 10 – CONSERVATION OF THE COUNTRYSIDE
POLICY ENV 11 – PROTECTION OF LANDSCAPE FEATURES
POLICY ENV 16 – PROTECTED SPECIES
POLICY ENV 27 – DESIGN OF NEW DEVELOPMENTS
POLICY HOUS 2 – ADDITIONAL RESIDENTIAL DEVELOPMENT
POLICY HOUS 3 – DWELLINGS IN THE COUNTRYSIDE
POLICY HOUS 8 – RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2
SETTLEMENTS
POLICY 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, July 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. However, it is relevant to note that whilst Trerhyngyll is a ‘HOUS2’ settlement in the UDP, it has not been identified as a ‘Minor Rural Settlement’ capable of accommodating additional development in the Vale of Glamorgan draft Local Development Plan (LDP), which has been informed by the Sustainable Settlement Appraisal referred to in more detail below. 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, 4.9.1-previously developed land, 4.10 – conserving agricultural land and 4.11-Promoting sustainability through good design); Chapter 5-Conserving and Improving Natural heritage and the Coast (including paragraph 5.5.1); 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:

TAN6 – Planning for Sustainable Rural Communities.

TAN 12 – Design, including paragraphs 2.6 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:

- Amenity standards.
- Design in the Landscape, in particular policy DG13-Rural Settlements.
- 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).'

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).
- Sustainable Settlements Appraisal Review (2013).

Issues

In assessing the proposal against the above policies and guidance it is considered that the main issues relate to the justification and sustainability of the site for new residential development; the impact on the character of the surrounding countryside; the effect on neighbouring amenity; and any detriment to highway safety.

Justification and Sustainability

It will be noted from the planning history that although there have been no previous applications for the residential development of this particular field parcel, over the years there have been several applications on other sites seeking to expand Trerhyngyll into the surrounding countryside. Whilst the specific policy background has changed over that time, nevertheless, one thread in all the refusals has been the lack of justification for residential development in this unsustainable countryside location.

The justification for the new dwelling outlined in the submitted DAS is that the site represents a sustainable rounding off of the village of Trerhyngyll. Paragraphs 4.3 to 4.6 of the DAS contend that the proposal represents a small scale "rounding off" of the edge of the settlement, on a site that is bound by physical "defensible" boundaries. However, in policy terms, whilst Trerhyngyll is identified in policy HOUS2 as a rural settlement that may be capable of infill and rounding off development, this is qualified by the supporting text at paragraph 4.4.63. This requires that all site boundaries should be existing man made or natural physical features and not arbitrary lines drawn to define the proposed plot size. In this case it is noted that the application site is part of a larger field parcel and is not physically defined in any way from that land.

As such it is not considered that the proposal meets the requirements of policy HOUS2 of the current UDP. In addition paragraph 9.3.2 of Planning Policy Wales (PPW) refers to minor extensions to groups of housing being acceptable but this depends on the character of the surroundings, which is explored under the design and visual impact section later. However, it also refers to the avoidance of the expansion of housing in rural settlements where it is likely to result in the unacceptable expansion of travel demand to urban centres. This issue of sustainability is explored further below.

Section 38 of The Planning and Compulsory Purchase Act 2004, requires that the Council determine an application in accordance with the development plan unless material considerations indicate otherwise. However, as identified above, paragraph 2.6.2 of PPW notes that certain weight can be given to certain policies of the emerging Local Development Plan (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 Trerhyngyll scored very low on the sustainability ranking, being 77 out of 87 settlements. This has resulted in Trerhyngyll being identified within the ‘Hamlets and Rural Areas’ category of settlements. These are settlements that are considered to be unsuitable for future development in the way of sustainability because they do not have the range of facilities and services to meet this requirement. Trerhyngyll has no local shop, community hall or church, and whilst the submitted DAS suggests that it has excellent links to local amenities and local employment, this is not the case. Paragraphs 5.5 and 5.6 of the DAS refer to the bus services in the area and the availability of the Greenlinks Rural Community Transport service. The availability of a bus service in the area cannot be relied upon and there is currently no service that runs through Trerhyngyll. The services that are available are very patchy and infrequent and some of the stops referred to at Maendy and the A4222 are not within easy walking distance. Indeed the suggestion at paragraph 5.13 that the site is easily accessible by public footpaths to Cowbridge is strongly contested, as the access roads are mostly made up of country lanes with no footpath, therefore affording little safety for pedestrians.

As for the reference to the Greenlinks, this is a publically funded service (which is subject to the same financial constraints associated with all public services in the current economic climate), that is meeting a need resulting from existing residents living in unsustainable communities, and any additional unsustainable dwellings would simply add to the burdens on this facility. Thus, any residents of the proposed dwelling would be largely dependent on the private car for access to shops, employment, leisure, education, etc., contrary to Strategic Policies 2 and 8 of the UDP, and 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.”*

Thus in local policy terms the site lies in the countryside outside of any defined residential settlement boundary under the UDP, and in an unsustainable location as identified in the emerging LDP. As such the development falls to be considered against Policies ENV1-Development in the Countryside and HOUS3-Dwellings in the Countryside where appropriate justification in the interests of agriculture or forestry is required for such development. The justification for this is clarified within the accompanying text to Policy HOUS3, which states:

“Furthermore, the many groups of scattered and loose knit buildings in the Rural Vale cannot be regarded as settlements under the terms of Policy HOUS2. These are little more than pockets of dwellings and farmsteads lying in isolation in the countryside. Additional dwellings would be inappropriate in these locations unless justified in the interests of agriculture or forestry.”

This approach is still supported by current national guidance which also recognises that new houses in the countryside require special justification, for example where they are essential for rural enterprise workers as indicated in TAN6-Planning for Sustainable Rural Communities. It is noted that no such justification is provided with the application. Thus with no agricultural or other rural enterprise justification put forward there is a clear policy objection to the principle of new residential development in this location which would be contrary to Policies ENV1 and HOUS3 of the Unitary Development Plan.

Furthermore, it is considered that the proposal is contrary to policy ENV2 of the UDP which seeks to protect the most versatile agricultural land (Grades 1, 2 and 3A) from irreversible development. Paragraph 6.3 of the DAS refers to the site as “low quality arable farming land”, and at p. 4 of the document it is identified as an opportunity to “make best use of land for new housing”. The Council’s Agricultural Land Classification records show the land is classified as Grade 3.

Although it is not clear whether this is the higher Grade 3a, as no survey work has been submitted with the application, nevertheless, it is clear that the development will result in the loss of a greenfield site currently in agricultural use, as evidenced by the Community Council and neighbour objections. Thus the authorised use is agricultural and a grant of consent for new residential development would permanently and irrevocably remove the land from any future agricultural use, contrary to not only local policy but also national guidance. Paragraph 4.10.1 of PPW notes 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...”

In view of the above it is considered that the proposal represents an unjustified and unacceptable sporadic form of residential development in an unsustainable countryside location that would undermine policies for its protection. The proposal is therefore clearly contrary to both national and local policies that seek to restrict new development in the countryside. Furthermore, as evidenced from the planning history for similar developments over the years, the proposal would set an undesirable precedent for additional dwellings on the edge of the village, which would incrementally have a significant harmful impact on the quality and openness of the countryside.

Design and Visual Impact

National guidance at paragraph 5.1.1 of PPW recognises 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 accepts that new house building in the countryside should be strictly controlled, and whilst it acknowledges that extensions to existing groups may be acceptable, 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. In addition 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 the area.”

It will be noted from the planning history that the previous refusals for residential development on the south side of the road, opposite the current application site, referred to the undesirable extension of ribbon development west of the village, intruding into the countryside and setting a precedent for further such development along this road frontage. It is considered that the current proposal also represents the same ribbon development which would extend built development into the open countryside. 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. 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.

The submitted DAS suggests at paragraph 2.2 that the site is only partially visible as you approach the village and that all views from other vantage points are restricted by mature hedgerows. In contrast to this opinion it is considered that the site is a prominent one, particularly on the western approach to the village. Even though the proposed dwelling is a single storey structure it will be highly visible on the hillside. The distinctive contemporary design of the house will also set it apart from the existing dwellings in the area and thus serve to emphasise its prominent and intrusive nature in the landscape. The DAS refers to other contemporary designed dwellings in the area, however, it is considered that the predominant character of Treerhyngyll is a traditional one.

As regards the landscaping of the site, the DAS refers to the site being adjacent to the Upper Thaw Valley Special Landscape Area. However, whilst the larger field parcel, as edged in blue on the submitted plans, is adjacent to the SLA to the west, the application site is not, being over 90m away. Whilst the development of the larger field parcel would certainly impact on the character of the SLA it is not considered that the current site would have any direct effect. Rather its impact is concentrated on the character of Treerhyngyll itself and its rural setting. On this point, whilst the DAS refers to existing landscape features it is considered that the existing hedgerow with the road cannot be relied upon to screen the development. Although the submitted plans show the removal of only a small section of the hedge and the retention of the existing trees, it is considered that this will not be possible if the development is to satisfy the necessary visibility splays required for highway safety reasons. In reality it is likely that the trees and the whole of the hedgerow along the frontage and beyond will be required to be removed. In addition the stated intention is to enclose the rear garden boundaries with close boarded timber fencing. Such a feature will further serve to urbanise the site and detract from the surrounding unspoilt, undeveloped rural landscape.

The LDP background paper on Sustainable Settlements also recognises the importance of protecting the character of the settlements identified as "Hamlets and Rural Areas" and notes at paragraph 6.9:-

“...these settlements are generally small hamlets comprised of historic sporadic development of isolated individual houses or farm houses and barn conversions. Although these hamlets have a limited role and function many are important to the rural character of the Vale of Glamorgan and as such require protection from over-development through planning controls to safeguard these sensitive rural settlements and the rural character of the Vale.”

Thus it is considered that the proposal would give rise to a form of sporadic ribbon development to the detriment of the character and appearance of Trerhyngyll and the surrounding rural area and contrary to national and local plan objectives to restrict new residential development outside designated settlement areas.

Highways

An issue raised in many of the neighbour objections relates to highway safety and the increase in traffic on the narrow lanes that serve Trerhyngyll. Although the Council’s Highway Development team have not provided written comments on the application to date, informally they have advised that there is no objection in principle subject to the provision of the required visibility splays along the frontage with the adopted highway. It is anticipated that the visibility could be achieved but it would require the removal of a larger section of the existing hedgerow and bank than is shown on the submitted plans. As already noted, this will add to the urbanisation of the site.

As regards the on-site car parking and turning space, although the application forms indicate three car parking spaces, only two are identified on the submitted plans within a proposed car port. It is assumed that the other space would be in a tandem arrangement, which may then restrict on-site manoeuvring space within the hard surfacing shown on the Site Layout plan. Despite this it is considered that adequate provision could be made within the site and the lack of on-site parking/turning space would not be grounds for refusal in this instance.

Neighbouring and Residential Amenity

On the issue of neighbouring impact it is noted that objections have been raised in relation to the loss of privacy. As the proposal is for a single storey structure that will be set below the levels of “The Meynell” and “Chalcot Cottage” it is not considered there will be any overlooking, overshadowing or overbearing impact on the neighbouring occupiers. In addition the use of the proposed raised deck area to the west and the garden to the north should not have any significant adverse impact on the surrounding neighbours.

As regards the provision of private amenity space to serve the proposed new dwelling itself it is noted that the proposal will meet the Council’s requirements as outlined in the Amenity Standards SPG.

Other Issues

A further concern raised by the Community Council and neighbouring residents relates to the exacerbation of existing problems of flooding and drainage, particularly surface water runoff and sewerage. As the agent indicates the site lies outside of any Flood Risk zone. In addition Welsh Water have been consulted on the proposal and have not raised any objections, but have requested that a number of conditions be attached to any consent.

The neighbour objections also refer to the adverse effect of the proposal on wildlife in the area with loss of habitat. The Council's Ecologist has been consulted on the proposal but has not raised any issues of concern.

A number of specific concerns have been raised by the occupiers of 'Chalcot Cottage'. It is considered that the incorrect reference to the site being adjacent to 'The Meynell', when it is actually the drive and garage to 'Chalcot Cottage', does not affect the proper planning assessment of the proposal. As for the possible undermining of the neighbour's driveway as a result of the proposed retaining wall, this would be a private matter between the two parties concerned and is not an issue that falls to be controlled by planning legislation.

Finally, it is noted that the objectors refer to the development being purely speculative with no identified need for new housing in the village. Whilst policies in the current UDP and the background papers to the emerging LDP recognise a need for new housing throughout the Vale, particularly affordable housing (which this development is not), such provision is not without full consideration of the acceptability of any proposed site. Thus whilst Strategic Policy 3 of the current UDP recognises that demand for new housing will not only be met by allocated sites, it is considered that the current proposal does not represent an appropriate or acceptable form of 'windfall' residential development.

CONCLUSION

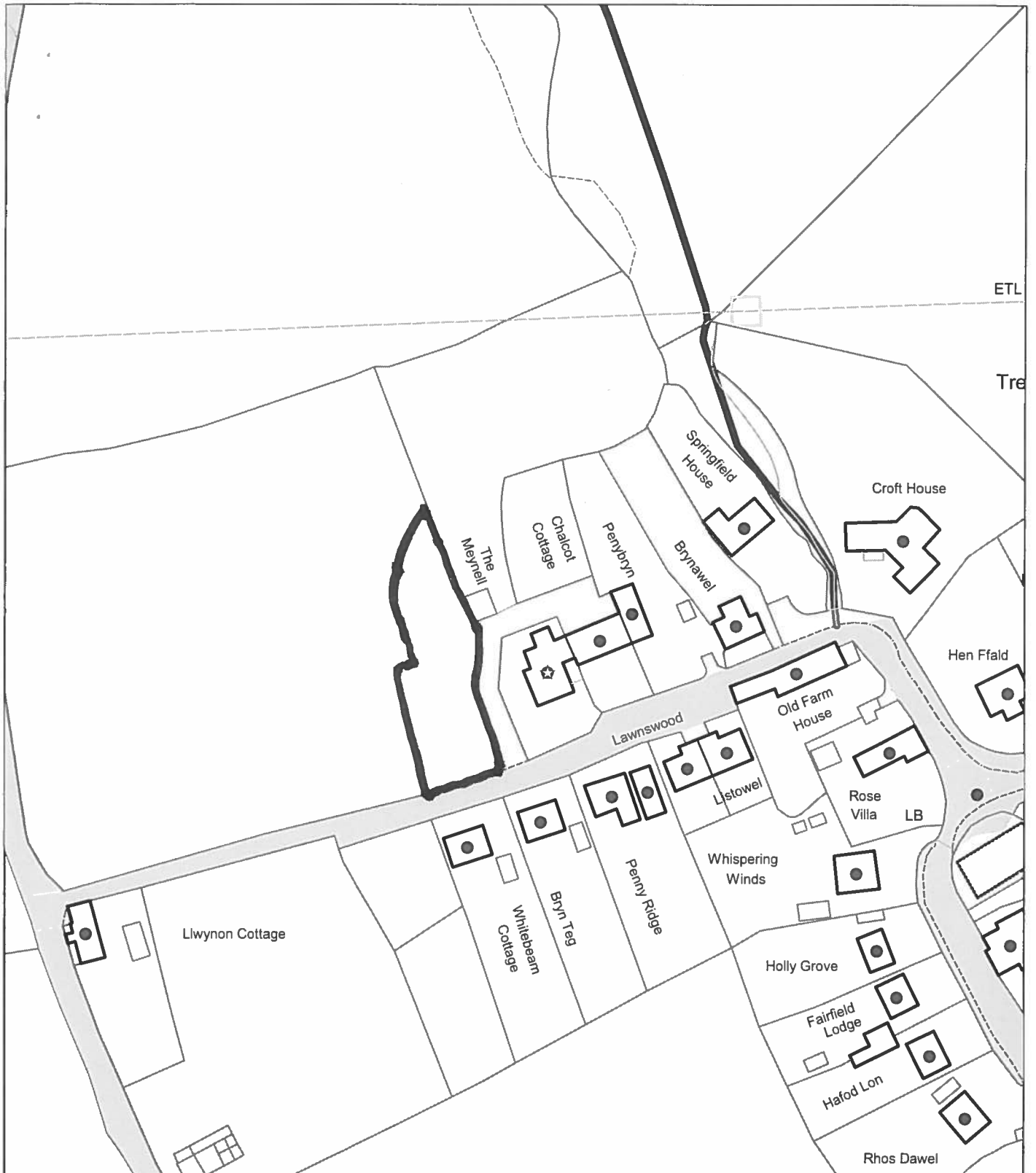
The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations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



Having regards to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV16-Protected Species, ENV27-Design of New Developments, HOUS2-Additional Residential Development, HOUS3-Dwellings in the Countryside, HOUS8-Residential Development Criteria, TRAN10-Parking, and Strategic Policies 1 and 2 -The Environment and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Design in the Landscape, Amenity Standards and Trees and 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 unjustified, unsustainable and unacceptable new dwelling in the countryside that would detract from the undeveloped and unspoilt character of the surrounding rural landscape.

RECOMMENDATION

REFUSE (W.R.)

1. In the opinion of the Local Planning Authority the proposal represents an unjustified and unacceptable new dwelling in an unsustainable countryside location that would detract from the undeveloped and unspoilt character of the surrounding rural landscape, and result in the loss of agricultural land, contrary to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV27-Design of New Developments, HOUS2-Additional Residential Development, HOUS3-Dwellings in the Countryside, HOUS8-Residential Development Criteria and Strategic Policies 1 & 2-The Environment and 8-Transportation of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Design in the Landscape; and national guidance contained in Planning Policy Wales and TAN12-Design.



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	The Vale of Glamorgan Council	
Department:		
Title: <i>2014/01193/FUL</i>		
Drawn By:		
	Scale	1:1323
	Time	09:49:48 AM
	Date	18 Dec 2014

2014/01237/FUL Received on 2 December 2014

Westside Homes Limited, C/o Agent
Mr. John Gould, John Gould Architecture Ltd, 1, Dragon House, Princes Way,
Bridgend Industrial Estate, Bridgend, CF31 3AQ

Vacant land, The Limes, Cowbridge

Erection of two blocks of apartments each containing six dwelling units

SITE DESCRIPTION

The application site relates to an untidy and unkempt, overgrown parcel of land formerly occupied by a small church hall, located in a prominent and slightly elevated position fronting The Limes, near its junction with High Street, in Cowbridge. The building has been demolished and the site is now fronted by an unauthorised fence against which enforcement action has been taken and for which the owner has been prosecuted, although the fence remains the subject of on-going enforcement action. The site falls within the Cowbridge with Llanblethian Conservation Area.

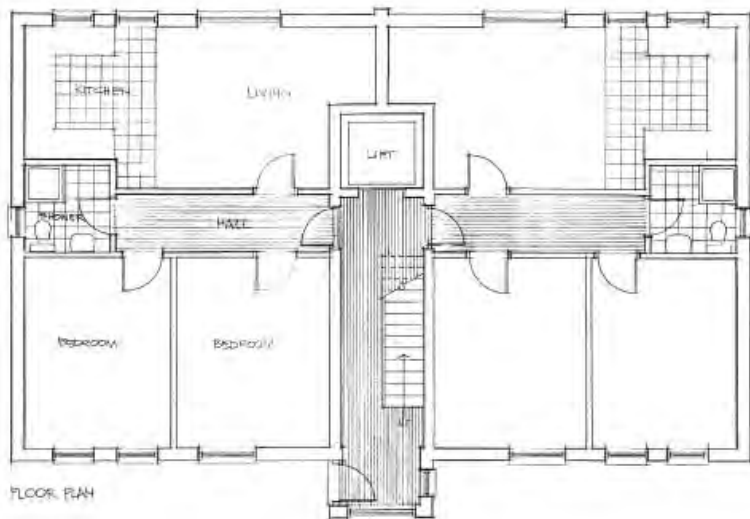
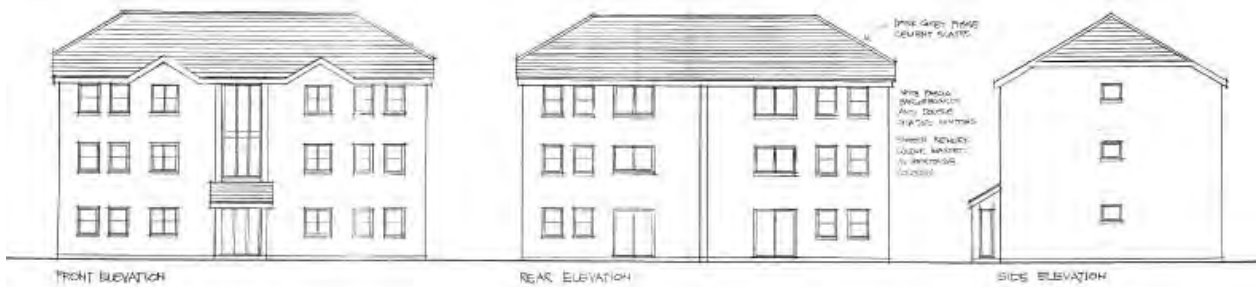
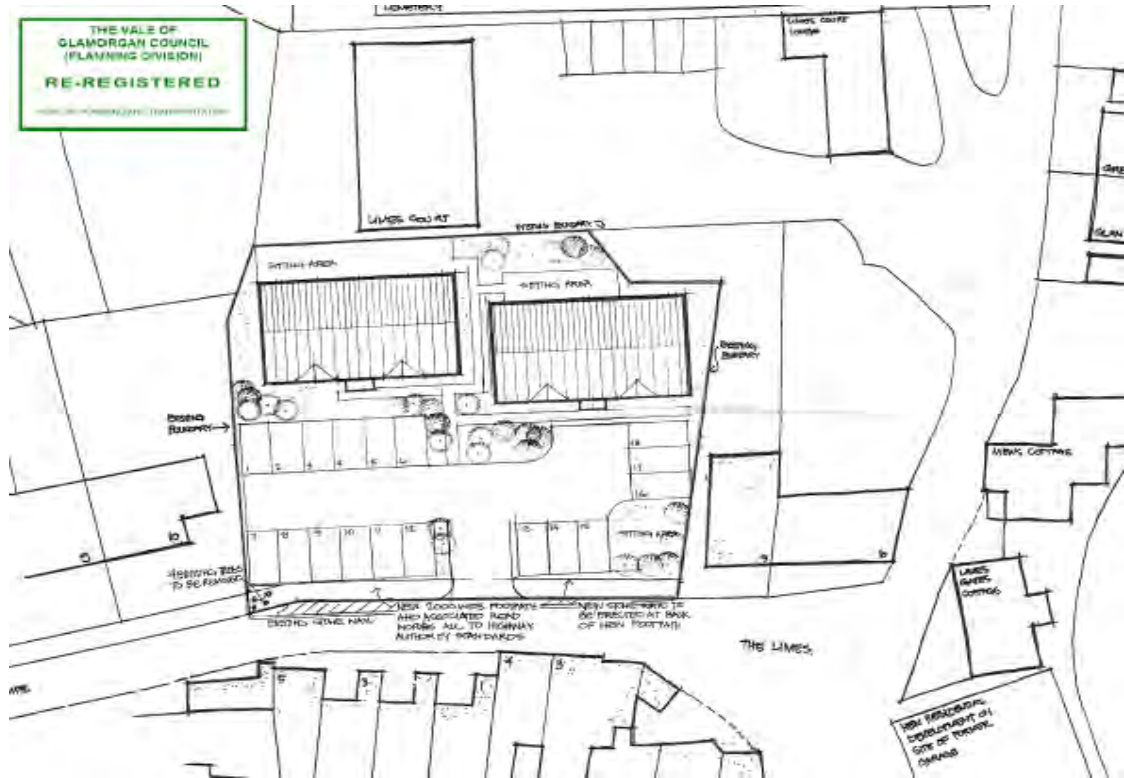
The site is some 0.12 hectares in area and roughly rectangular in shape, with the main frontage onto The Limes. The site is bounded by two storey dwellings on either side of The Limes frontage, (Nos. 9 The Limes and 10 Borough Close) and to the rear by the Limes Court, a three storey pitched roof flatted development.

DESCRIPTION OF DEVELOPMENT

This is a full planning application for the erection of 12 No. 2 bedroom apartments in two, three storey blocks. The site layout plan indicates a central access into the site from The Limes leading to a front parking area providing 18 spaces (none of which are proposed for disabled users). The layout proposed the two blocks to be located to the rear of the site with the parking area to the front facing onto the Limes. As part of the development it is proposed to slight widen the road and provide a 2 metre wide footway along the entire site frontage

The propose blocks will be 15.8 metres wide by 9.6 metres deep and will have a maximum height of 10.7 metres. The buildings will be finished with render painted white, upvc windows, grey fibre cement slate like tiles, and its proposed to construct a new stone wall to the front of the site.

THE VALE OF GLAMORGAN COUNCIL
(PLANNING DIVISION)
RE-REGISTERED
RECEIVED 14/01/2014



THE VALE OF GLAMORGAN COUNCIL
(PLANNING DIVISION)
RE-REGISTERED
RECEIVED 14/01/2014

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JGA
JOHN GOULD ARCHITECTURE LTD
DESIGN & PLANNING CONSULTANTS
SUITE 2, LONDON ROAD, PENYDAR, WYLL
PENYDAR INDUSTRIAL ESTATE
PENYDAR, WYLL, SA73 3DQ
TEL: 01493 400000

Project:
PROPOSED RESIDENTIAL DEVELOPMENT
AT THE LIMES, COWBRIDGE
VALE OF GLAMORGAN
FOR WESTSIDE HOMES LIMITED

Drawing:
FLOOR PLAN AND ELEVATIONS

Scale: 1:50 (1/8" = 1'-0") Date: 14/01/2014 Drawing No: JGA 14-01-102

PLANNING HISTORY

2006/01434/FUL : The Limes, Cowbridge - Erection of ten cottages - Refused 20/07/2007

04/01105/FUL – Erection of two and a half storey apartments for 10 No. retirement flats. Approved 18 March 2006 subject to conditions.

04/00005/FUL - Erection of 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats. Application withdrawn 26 February 2004.

02/00087/CAC – Removal of debris and materials from vandalised and partially collapsed annexe and kitchen.

CONSULTATIONS

Cowbridge with Llanblethian Town Council was consulted object to the development on grounds of the proposed access and that it would be better placed on the western end of the development.

Highway Development – No response to date.

Environmental Health (Pollution) stated that the site is immediately adjacent to the former Cowbridge gasworks site and therefore there is a possibility that contamination of ground strata may have occurred. Therefore a condition is required to determine whether the land is contaminated with recommendation for any remedial or further works at the site.

CowbridgeWard Councillors – No response to date.

Dwr Cymru / Welsh Water – No response to date.

Ecology Officer – No comments.

Natural Resources Wales – No objections.

Education Section – No response to date.

Highways and Engineering requires the submission of a detailed drainage scheme by condition.

GGAT require a condition concerning archaeological watching brief.

Waste Management – No response to date.

Housing Strategy has responded stating that there would be a requirement for 35% affordable housing equating to 5 dwellings, split between the blocks.

REPRESENTATIONS

The neighbouring properties were consulted and a site notice was also displayed on 28 November 2014.

The application was also advertised in the press on 27 November 2014.

8 letters of objection have been received raising concerns identified below:

- The proposal would result in overlooking and overshadowing of adjacent dwellings.
- The scheme is similar to previous proposals which were refused.
- The poor access and increased traffic with restricted access for traffic along The Limes that would be made worse by the proposed development.
- The proposed pavement is only along the frontage of the development.
- The architecture is poor and harmful to the character and appearance of the Conservation Area.

Two sample letters of objection are reproduced at Appendix A.

REPORT

Planning Policies

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 18th 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:

POLICY ENV 17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT

POLICY ENV 18 - ARCHAEOLOGICAL FIELD EVALUATION

POLICY ENV 19 - PRESERVATION OF ARCHAEOLOGICAL REMAINS

POLICY ENV 20 - DEVELOPMENT IN CONSERVATION AREAS

POLICY ENV 27 – DESIGN OF NEW DEVELOPMENTS

POLICY ENV 28 – ACCESS FOR DISABLED PEOPLE

POLICY ENV 29 – PROTECTION OF ENVIRONMENTAL QUALITY

POLICY HOUS 1 - RESIDENTIAL ALLOCATIONS (supporting text Site 17: The Limes, Cowbridge, paragraph 4.4.42).

POLICY HOUS 2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

POLICY HOUS 8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2

SETTLEMENTS

POLICY TRAN 10 – PARKING

POLICY REC 3 – PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS

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, July 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, including, Chapter 4-Planning for Sustainability, in particular paragraph 4.3.1; Chapter 5-Conserving and Improving Natural heritage and the Coast, in particular paragraph 5.5.1; Chapter 6-Conserving the Historic Environment, in particular paragraph 6.5.17 which states *‘Should any proposed development conflict with the objective of preserving or enhancing the character or appearance of a conservation area, or its setting, there will be a strong presumption against the grant of planning permission.*

In exceptional cases the presumption may be overridden in favour of development deemed desirable on the grounds of some other public interest. The Courts have held that the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.; and Chapter 9 – Housing, in particular paragraph 9.3-Development management and 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 (2009) TAN12 – Design, in particular paragraphs 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:

- Affordable Housing.
- Amenity standards.
- The Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan.
- Design in the Landscape
- Model Design Guide for Wales
- 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 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
- Housing Supply Background Paper (2013)
- Open Space Background Paper (2013)
- Education Facilities Assessment (2013)
- Sustainable Transport Assessment (2013)
- Transport Assessment of LDP Proposals (2013)
- Joint Housing Land Availability Study (2014)
- The Affordable Housing Delivery Statement (2009)
- Vale of Glamorgan Housing Strategy

Other relevant evidence or policy guidance:

Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended By Circular 1/98-Planning and Historic Environment: Directions).

The site lies within the residential settlement boundary of Cowbridge and under the terms of Policy HOUS2 contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996– 2011, the principle of residential development in principle is acceptable, subject to certain criteria.

The site is also has a specific allocation under Policy HOUS1 (17) for residential development. This policy states that the site has advantages for the development of small retirement homes, whilst stating that a high quality of design and layout will be required in any development proposal submitted.

The proposal should also be assessed against Policies HOUS8 – Residential Development Criteria (Policy HOUS2 Settlements), ENV17 - Protection of Built and Historic Environments, ENV20 - Development in Conservation Areas, Policy ENV27 - Design of New Developments and TRAN 10 – Parking, contained within the adopted plan and the adopted Amenity Standards Supplementary Planning Guidance.

Consideration should also be given to the policies and guidance contained within Planning Policy Wales Technical Advice Note 12 : Design with specific consideration to Section 3 - The design process, Section 4 - Local Planning Authority Design Policy and Advice and Section 5.44 - The Historic Environment.

Issues

Members of the Committee will note that applications to redevelop the site for three different schemes have previously been considered. Following extensive negotiation planning permission was finally approved at Planning Committee following a site inspection on 18 March 2005 for the erection of two storey apartments for 10 No. retirement flats under application ref: 04/01105/FUL. Furthermore that application was itself submitted following the withdrawal of application ref: 04/0005/FUL, for the erection of 2 No. blocks of three storey apartments to provide 12 No. one bedroom retirement flats, following strong concerns in respect of the set back position of the blocks and their scale. Overall it was considered that the scheme as whole was out of keeping with the character of The Limes and the Conservation Area and resulted in over development of the site. A third scheme for 10 dwellings was refused on 20 July 2007 for the following reason:

The proposal is considered to result in overdevelopment of the site, and the siting, layout, access arrangements, design and scale of the dwellings, is considered to be at variance with the character of the area, and the proposal would also have an adverse impact on the privacy of adjacent occupiers. As a whole it is considered that the proposal would fail to preserve or enhance the character of the Conservation Area. Accordingly the proposal is considered contrary to Policies HOUS8 - Residential Development Criteria, ENV17 - Protection of Built and Historic Environments, ENV20 - Development in Conservation Areas, Policy ENV27 - Design of New Developments contained within the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the adopted Amenity Standards Supplementary Planning Guidance and policies and guidance contained within Planning Policy Wales Technical Advice Note 12 : Design (2002).

Therefore, whilst the principle of residential development of the site has already been established, the key issues that need to be assessed in relation to the Conservation Area are:

- The appropriateness of the scale, form, design and materials used in the proposed development in relation to its impact on the existing dwellings fronting The Limes and its wider context.
- Whether the scheme as a whole preserves or enhances the character of the Conservation Area.
- The impact of the development having regard to the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan. This states at paragraph 5.2 **Expectation in Design** - Consideration of, and response to planning applications is a key means by which the character of the Conservation Area can be influenced. Whilst there is evidence of some insensitivity in the design of new buildings since the original designation, the opportunity for better consideration and debate of planning applications is now available through stronger policies contained in the Unitary Development Plan, Supplementary Planning Guidance to the adopted Unitary Development Plan, TAN 12 1 and by the introduction of mandatory 'Design and Access Statements'. As a result, fundamental considerations such as the approach taken by the designer to contextual design, the density, form and scale of new buildings, the composition of facades and the use of detailing and materials require to be clearly illustrated and assessed in planning applications. Furthermore it recommends that; Applications for planning permission will be required to illustrate full details of a proposal and promote high standards of design. Applications should demonstrate the evaluation of the design of new proposals in their setting, where appropriate by clearly illustrating adjacent buildings in context.

In terms of the overall layout, the flatted blocks are to be located to the rear of the site with regard to the Limes and with the parking area fronting the access road in the site. As such the overall site layout is one which appears to be dominated by the access and parking areas which given the size of the development is considered to result in an unbalanced scheme completely out of character with the layout and setting of the Conservation Area.

With regard to the street scene, it was a requirement of the previously approved scheme that the development provide a continuous frontage along The Limes (with an offset access) to redefine the street scene and provide a sense of enclosure. However the current scheme, which proposes two large blocks of flats set well back into the site, fails to provide the appropriate scale of development and continuity of the building line along The Limes. The site layout as a whole does not provide a traditional relationship of frontages to streets, in keeping with the street scene or wider character of the Conservation Area.

In respect of the heights of the proposed scheme, the buildings are three storey and while it is noted that an existing block of flats does exist to the rear of the site, this is not the characteristic of this part of the conservation area. The Limes remains relatively strong in its character, appearance and scale which is very much one of road frontage two storey cottages.

Given the above it is considered that the proposals are over scaled, have no relationship with the key design and layout of this part of Cowbridge and overall design of the buildings is considered to be poor and fails to respect the variations in design and appearance of the properties found within The Limes and the wider Conservation Area.

With regard to amenity space, the Council's standards require 20m² of amenity space per person per flat, which in this case would equate to 480 m². The proposals indicate that approximately 120m² of amenity space, to the rear of the blocks. The overall provision of amenity space falls considerably short of the Council's adopted standards; with the properties having less than one third of the required amenity space. Overall this is an indication of the overdevelopment proposed with regard to the three storey blocks.

In terms of privacy and overlooking, it is noted that the application site is generally overlooked on all sides from residential dwellings on The Limes, Borough Close and the Limes Court flats. However, it should be noted that the previous approved scheme was designed both externally and internally to minimise overlooking of habitable windows to adjacent and nearby residential dwellings, with particular regard to the opposing properties on The Limes.

However the current scheme affords views; from what will be three storey blocks with bedrooms to the front of Limes Court flats to the rear and the garden of 9 the limes in particular, but also 10 Borough Close, which will result in an unacceptable level of overlooking and perceived overlooking of adjacent occupiers. In particular the rear garden of No. 10 Borough Close which currently has a high level of privacy would be overlooked by three flats, where the bedrooms of the dwellings would be 8 metres from the boundary. Such a significant loss of privacy to the adjacent occupiers is considered wholly unacceptable. Similarly, the occupiers of 9 The Limes would also have a significant reduction in the level of privacy as a result of two dwellings overlooking their rear garden.

The proposed scheme indicates that the 12 flats will be served by 18 No. car parking spaces. The Parking Guidelines requires 1.5 spaces to serve dwellings of this size which would require 18 parking spaces in addition to a requirement for 2/3 visitor spaces. The previously approved scheme was considered acceptable with a similar provision of parking, although this acceptance of the relaxation of the standards was balanced against the acceptability of the scheme as a whole.

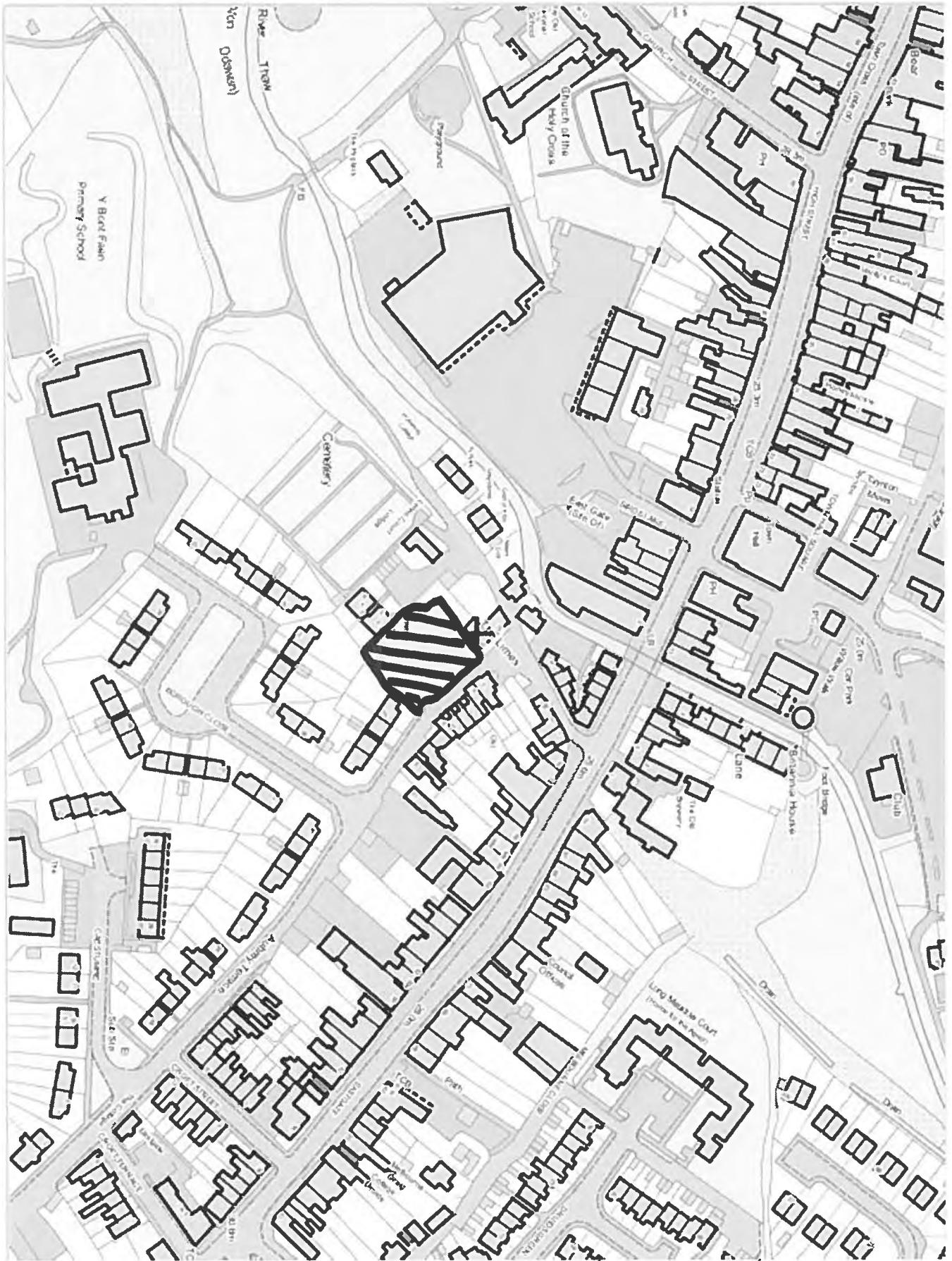
CONCLUSION

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 proposal is considered to result in overdevelopment of the site, and the siting, layout, access arrangements, design and scale of the blocks of flats, is considered to be at variance with the character of the area, and the proposal would also have an adverse impact on the privacy of adjacent occupiers. As a whole it is considered that the proposed development would not preserve or enhance the appearance of the Conservation area and would be seen as an incongruous development which would adversely impact upon the appearance of the wider street scene and Conservation Area. It is therefore considered that the proposed development does not comply with Policies ENV17- Protection of the Built and Historic Environment, ENV20-Development in Conservation Areas, ENV27- Design of New Developments and TRAN10- Parking of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, the adopted Amenity Standards Supplementary Planning Guidance, chapter 6 of Planning Policy Wales (edition 7, July 2014) in particular paragraph 6.5.17 and TAN12- DESIGN, the Model Design Guide for Wales and the Cowbridge Appraisal Management Plan (2010).



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