

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **2 FEBRUARY, 2017**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

1. BUILDING REGULATION APPLICATIONS AND OTHER BUILDING CONTROL MATTERS DETERMINED BY THE HEAD OF REGENERATION AND PLANNING UNDER DELEGATED POWERS

(a) Building Regulation Applications - Pass

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

2016/1408/BN	A	6, Borough Avenue, Barry	Loft insulation, Fascia / Soffits, Gutters and downpipes
2016/1409/BN	A	7, Borough Avenue, Barry	Rendering
2016/1410/BN	A	20, Borough Avenue, Barry	Facia, Soffits & Rendering
2016/1421/BN	A	82, Wordsworth Avenue, Penarth	Single storey rear extension
2016/1426/BN	A	65, Treharne Road, Barry	Disabled adaption - Install new drainage to all proposed ground floor.
2016/1427/BN	A	7, St. Fagans House, Bradford Place, Penarth	Two rooms into one
2016/1430/BN	A	146, Jenner Road, Barry	Two rooms into one
2016/1438/BN	A	29, Sullivan Close, Penarth	Single storey extension to enlarge kitchen. Replace wall between upstairs toilet and bathroom to create single space
2017/0011/BN	A	24, Woodlands Road, Barry	Re-roof
2017/0014/BN	A	3, Illminster Close, Barry	Re-roof

2017/0016/BN	A	2, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0017/BN	A	14, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0018/BN	A	16, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0019/BN	A	18, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0020/BN	A	22, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0021/BN	A	24, Shelley Crescent, Barry	Roofing, loft insulation, chimney, fascia & soffits gutters & downpipes, washdown all Upvc on property
2017/0025/BN	A	37, Barry Road, Barry	Multi fuel stove and remove chimney breast, install steel beams. Renovation of kitchen floor. Convert first floor bedroom to bathroom.
2017/0026/BN	A	6, Maes Y Bryn, Colwinston, Cowbridge CF71 7NP	Removal of stone wall, construct pillar and inserting RSJ to create larger space.

(b) Building Regulation Applications - Reject

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

2017/0010/BN	R	Pound Cottage, 2, Penlan Road, Llandough	Kitchen extension and related works
2017/0024/BN	R	Pen Y Bryn, 13, Cae Rex, Llanblethian	Refurbishment of property and raising roof on first floor level

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

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

2016/0193/AI	A	Oakways Farm, Groesfaen Road, Peterston Super Ely	New detached single storey dwelling and detached garage and ancillary works
2016/0194/AI	A	66, Lougher Place, St. Athan	Proposed single storey rear extension (works to include material alterations to structure, controlled services, fittings and thermal elements)
2016/0195/AI	A	105, Cedar Way, Penarth	Proposed two storey/single storey rear extension, works to include material alterations to structure, controlled services, fittings and thermal elements
2016/0196/AI	A	28, Llys Dwynwen, Llantwit Major	Two storey side extension
2016/0197/AI	A	53, Golwg y Coed, Barry	Conversion of garage to habitable room
2016/0198/AI	A	2, The Green, Leckwith	Proposed two storey rear and single storey side extension works
2016/0199/AI	A	Kemberway, Station Terrace, East Aberthaw	Proposed first floor rear
2016/0200/AI	A	40, Tathan Crescent, St. Athan	Proposed upgrade of existing converted garage to current standards and removal of garage façade and replacement with cavity wall incorporating new window and door

2016/0201/AI	A	14, Whitehall Close, Wenvoe	Proposed upgrade of existing converted garage to current standards and removal of garage façade and replacement with cavity wall incorporating new window and door
2017/0001/AI	A	22, Pardoe Crescent, Barry	Single storey extension and associated works
2017/0002/AI	A	54, Cornwall Rise, Barry	Loft conversion with staircase extension; utility and rear single storey extension and internal alterations
2017/0003/AI	A	8, Caynham Avenue, Penarth	Proposed single storey rear extension and two storey side extension, works to include material alterations to structure, controlled services, fittings and thermal elements

(d) Section 32 Building Act, 1984

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

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

2010/0176/BR  
2010/0670/BN  
2010/0715/BN  
2012/0013/PV  
2012/0015/PV  
2012/0197/BN  
2012/0204/BN  
2013/0008/PV  
2013/0113/BN  
2013/0233/BR  
2013/0577/BN  
2013/1146/BR

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PLANNING COMMITTEE : 2 FEBRUARY, 2017

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3. PLANNING APPLICATIONS DETERMINED BY THE HEAD OF REGENERATION AND PLANNING 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

2008/00463/1/N MA	A	10A, Pembroke Terrace, Penarth	Non-Material Amendment seeking retrospective agreement of part of Condition 3 relating to the alteration and extension of existing house with construction of new dwelling to side
2011/00095/1/N MA	A	Oakways Farm, Groesfaen, Peterston Super Ely	Removal and variation of conditions of application 2011/00095/OUT
2014/01424/2/N MA	A	Plot 32, St. James Gardens, Wick	Proposed alteration of approved dwelling to include rear conservatory extension

2015/00884/FUL	A	Brooklands, Brook Lane, St. Nicholas, Cardiff	Change of use of land to a residential use associated with Brooklands Hall and retention and alterations to existing barn for a use ancillary to the main dwellinghouse (resubmission of application 2014/00671/FUL)
2015/01196/1/C D	A	The Mount, Penmark	Discharge of Condition 4 - Levels. Two storey extension to rear/side of the building
2016/00053/1/N MA	A	Hillside, Wine Street, Llantwit Major	Amendment to condition to allow for bottom hung restricted opening mechanism (opening inwards), amendment to window size in rear elevation and vertical timber cladding to front elevation.
2016/00294/FUL	A	30, Rhodfa Sweldon, Barry	Garage conversion
2016/00607/FUL	A	Bethesdar Fro URC, Boverton Road, North Gate, Boverton, (RAF St. Athan)	The proposals are to build a small extension to house a utility room and accessible WC. Access to the chapel will be improved with a new wheelchair accessible ramp and a raised path formed outside the chapel on MOD land
2016/00694/LBC	A	The Rectory, Llandow	Proposed alterations and extension
2016/00695/FUL	A	The Rectory, Llandow	Proposed alterations and extension

2016/00725/1/N MA	R	Docks Office, Subway Road, Barry	Non-material Amendment - Changes to approved biomass containers. Excavation of existing embankment to install new retaining wall and concrete base for the provision of a new containerised Biomass boiler plant
2016/00729/1/N MA	A	T B Davies (Cardiff) Ltd., Penarth Road, Penarth	Amendment to front elevation reducing the width of the shop front glazing and introducing a fire exit door.
2016/00769/FUL	A	Land adjacent to 42, Kenilworth Road, Barry	Two storey residential care home for special needs clients
2016/00775/FUL	R	New house, at rear of Amberley House, Llantwit Road, Wick	Retrospectively the erection of dwellinghouse with revised garden area, foul drainage and new access and turning provision for drainage tanker
2016/00794/FUL	A	Land east of the Five Mile Lane, Witton Mawr	Removal of Condition 13 (CEMP) and Variation of Condition 17 (Drainage) of application 2014/00798/FUL - 6MW solar PV array at land east of Five Mile Lane
2016/00836/1/N MA	A	Bonvilston Hall, Bonvilston	Non Material Amendment - Smaller size stable block. Construction of stable for four racing horses
2016/00848/1/N MA	A	45, The Parade, Barry	Reconstruction of external brick leaf to gable following storm damage. Side brick shed to be dismantled to facilitate works and rebuilt to match existing upon completion

2016/00933/FUL	A	9, Primrose Close, Cowbridge	Minor alterations works to rear garden utilising gabion baskets to retain sloped lawn
2016/00942/FUL	A	Brynheulog, St Andrews Road, Wenvoe	Proposed construction of manege
2016/00950/FUL	A	Land east of Five Mile Lane, Whitton Mawr	Variation/removal of Conditions 8, 9, 10, 13 & 17 of Planning Permission 2016/00794/FUL. 6MW solar PV array at land east of Five Mile Lane
2016/00957/FUL	R	Plot 2, Orchardleigh, Pen y Turnpike Road, Dinas Powys	Variation of Condition 8 of application 2012/00400/RES in relation to Plot 2 only
2016/01015/ADV	A	Site opposite No 4, Park Crescent, Barry	Item 1- 1 x fascia sign. Item 2 - 1 x projection signs. Item 3 (A,B,C,D,E) - 5 x window graphics. Item 5 - 4 x poster frames. Item 6 - 1 x directional sign
2016/01016/FUL	A	18, Willow Close, Penarth	The proposed application is for a two storey gable extension out to the rear of the property
2016/01063/FUL	A	Pantwilkin Stables, Aberthin	Variation of Condition 2 of Planning Permission 2016/00480/FUL - Minor re-orientation of building on same site re approved Plans NS40 and NS60
2016/01073/RG3	A	Barry Sports Centre, Colcot Road, Barry	Construction of two no. 7 a-side pitches and four no. 5 a-side pitches plus associated fencing, lighting, pathways to service the pitches and drainage proposals
2016/01074/ADV	A	Selleys Newsagent, 4, Park Crescent, Barry	1 x Directional sign on window



2016/01083/FUL	A	The Granary, Newland Fawr Farm, Llangan	Proposed use of a former granary as a home office/bedroom
2016/01128/LAW	A	Min y Coed, Llandough, Cowbridge	Bricking up the current opening of garage and making the window on the side the door, roof light into garage
2016/01133/LBC	A	1-6, Church Row, Pendoylan	Renewing existing defective timber entrance doors with new timber doors and frames to match existing
2016/01146/FUL	A	3, Keepers Gardens, Leckwith Road, Llandough, Penarth	Change of use of extended rear garden from Green Wedge to residential garden and raised decking area within this rear garden
2016/01155/FUL	A	4, St Baruch Close, Dinas Powys	Proposed pitched roof to existing garage conversion complete with extension to rear
2016/01167/FUL	A	Cosmeston Lakes Country Park and Medieval Village, Lavernock Road, Penarth	Change of use of an existing exhibition area in the Visitors Centre to an Ice Cream Parlour with facilities to purchase snacks and hot/cold drinks
2016/01181/FUL	A	Hare and Hounds Inn, Maendy Road, Aberthin	Change of use of first floor from flat into 2 no. Bed and Breakfast accommodation rooms. Removal of 1 and insertion of 2 no. rooflights. External access stair relocated
2016/01190/LBC	A	Llwyn Celyn, 77, High Street, Cowbridge	Take down 2 no. chimneys, insert lead trays, rebuild as existing with reclaimed bricks/furnes Tudor blacks, fit new ridge tiles

2016/01194/FUL	A	2, Royal Buildings, Stanwell Road, Penarth	Removal of Condition 3 to planning permission 2006/00824/FUL to allow for use as a Hair Salon
2016/01198/FUL	A	56, Lavernock Road, Penarth	Full width rear attic dormer extension over the footprint of the original house
2016/01199/FUL	A	Colwinston WTW, Coed Marsarnen Road, Colwinston	Construction of a permanent site access track and amendments to existing dosing kiosk
2016/01202/FUL	A	Hen Dafarn, St. Mary Hill, Ruthin	Application to increase the height of the wind turbine granted as part of planning application reference 2014/00221/FUL
2016/01205/FUL	A	West Quay Medical Centre, Hood Road, Barry	Proposed new brickwork enclosure to screen air conditioning units
2016/01206/FUL	A	West Quay Medical Centre, Hood Road, Barry	Proposed ventilation grilles in external elevation to serve same system
2016/01207/FUL	A	6, Marine Drive, Barry	Front elevation: single storey porch on ground floor with balcony over. Window replaced with door and glazed screen at first floor level. Rear elevation: ground floor single storey rear addition with pitched roof, with rooflights. Installation of roof light in main building rear pitch
2016/01209/FUL	A	15, Channel View, Ogmores by Sea	Patio doors in garden side of double garage
2016/01210/FUL	A	Ty Chwarel, Castleton Road, St. Athan	Demolition of existing timber stable block and replacement with new timber stables

2016/01219/FUL	A	1, O'Donnell Road, Barry	Proposed two storey house on plot to side of property
2016/01221/LAW	A	12, St Oswalds Road, Barry	Construction of rear single storey flat roof extension
2016/01228/FUL	A	35, Burdons Close, Wenvoe	Convert one half (Rear) of double garage to a habitable room
2016/01230/FUL	A	Flat 2, Gordano House, 44b, Plymouth Road, Penarth	Replacement of sloping asbestos roof on storeroom attached to property with slate roof, including velux window, replacement door and window also at rear of property
2016/01235/FUL	A	Fernlea, Port Road West, Barry	Proposed free standing car port
2016/01238/FUL	A	2, Lllys y Coed, Barry	Conversion of garage into a habitable space with a single storey side extension linking garage to main dwelling
2016/01244/FUL	A	3, The Parade, Barry	Gateway and replacement garden wall
2016/01248/FUL	A	Tolzey Cottage, Penmark	Demolish existing UPVC conservatory and the construction of a lounge extension
2016/01251/FUL	A	Land at Rosedew Farm, Beach Road, Llanwit Major	Removal of Conditions 4 and 15 of 2015/00218/FUL. Construction of a ground mounted solar PV project and associated development

2016/01252/FUL	A	Castle Lodge, Drope Lane, St Georges Super Ely	Proposed garage extension up into increased loft space and added dormers to create hobby room at upper level with steel staircase access to rear. Also provide a detached glass covered swimming pool in rear garden
2016/01254/FUL	A	Land at the rear of 45, Fontygary Road, Rhoose	Renewal of planning permission 2011/01166/FUL for a new detached dwelling to extend the time period for the commencement of development by 5 years
2016/01258/LBC	R	Cobbles Kitchen and Deli, Ty Maen Barns, Ogmore by Sea	Replace floor in northern portion of main barn
2016/01271/FUL	A	Glanteifi, Railway Terrace, Penarth	Single storey side extension
2016/01272/FUL	A	4, Vale View Close, Llandough, Penarth	Single storey rear extension
2016/01278/FUL	A	Pound Cottage, 2, Penlan Road, Llandough, Penarth	Rear extension and railings to front.
2016/01282/FUL	A	42, Fitzhamon Avenue, Llantwit Major	Two storey side extension
2016/01283/FUL	A	Ty Hafan, Hayes Road, Sully	Landscaping works within a childrens hospice
2016/01284/FUL	A	Chimo, Rectory Road, St Athan	New front garden wall
2016/01285/FUL	A	Plot adjacent to Springfield, Graig Penllyn	Installation of automated vehicle gates in existing boundary wall aperture servicing existing driveway
2016/01286/FUL	A	4, Meadowvale, Barry	Two storey side extension

2016/01295/FUL	A	Cusop Broadway, 72, Broadway, Llanblethian, Cowbridge	Plant screen and pergola
2016/01296/FUL	A	Hebron Hall, Cross Common Road, Dinas Powys	External recladding of existing swimming pool building and upgrading of services
2016/01297/FUL	A	Whiteoaks, 26, Caynham Avenue, Penarth	First floor side extension rear balcony and alterations
2016/01300/LAW	A	The Cottage, 5, Rectory Road Lane, Penarth	Replacement of porch
2016/01302/FUL	A	Ashley Cottage, Bridge Road, Llanblethian, Cowbridge	Increase ridge height of existing garage roof by 1.5 metres to accommodate a home office within the roofspace and rear extension.
2016/01305/FUL	A	50, Brookfield Avenue, Barry	Proposed side extension to first floor and raising of ridge height
2016/01306/FUL	A	Maesnewydd, Buttrills Road, Barry	Erection of a new four bedroom dwelling
2016/01307/FUL	A	31, Cae Stumpie, Cowbridge	Rear Single Storey Infill extension & front porch extension
2016/01310/FUL	A	Gwern Y Gedrych Farm, Peterston Super Ely	The replacement of an existing Agricultural barn that has been fire damaged and is no longer sound. Therefore it is proposed to replace the barn with a like for like structure to replace the existing structure

2016/01311/FUL	A	72, Clos yr Wylan, Barry	Removal of 2 windows on front elevation (rhs) including central pier including blockwork below to dpc and insertion of 4 panel bi-fold door(s) to width of 3.6m x 2.1m height in white upvc with clear glazing to match existing building finishes. Insertion of 2 additional windows to South East Elevation to dimensions of 1.2 x 1.2 with 550 wide central pier and cill height of 900mm ADPC. Windows to be white UPVC with clear glass to match existing.
2016/01316/FUL	A	7, Charter Avenue, Barry	Lean to conservatory to side of property
2016/01317/FUL	A	71, Penlan Road, Llandough	Rear extension
2016/01318/FUL	A	Woden Park, Cwrt yr Ala Road, Cardiff	To replace existing field gate with two field gates to improve access
2016/01320/FUL	A	50, Castleland Street, Barry	The development is an upgrade to the rear garden of the property to create an all weather play area. This will include a slate roof lean-to and an electronically powered retractable roof supported on a steel frame structure.

2016/01321/FUL	A	Home Bargains, Thompson Street, Barry	The retention of an ATM installed through existing glazing to the side of the premises (main road side) with a new red mullion to match the rest of the premises. Incorporating the ATM fascia with black bezel surround and white internally illuminated lettering Free Cash Withdrawals out of black background. Blue LED halo illumination to the ATM surround
2016/01324/LAW	A	18, Cannington Close, Sully	Single storey rear extension
2016/01325/FUL	A	8, Boverton Brook Close, Llantwit Major	2 storey side & rear extension. Single storey rear extension
2016/01326/FUL	A	58, Nant Talwg Way, Barry	Rear single storey extension.
2016/01329/FUL	A	4 & 6, St. Augustine's Road, Penarth	Hip to gable roof extensions dormer extensions and a single storey extension to No 6 together with alteration works
2016/01331/FUL	R	71, John Batchelor Way, Penarth	Proposed extension to first floor balcony and changes to existing fenestration
2016/01332/FUL	R	71, John Batchelor Way, Penarth	Proposed 2 storey rear extension
2016/01334/FUL	A	9, Heol Gwendoline, Barry	Convert integral garage to a living room

2016/01336/ADV	A	Home Bargains, Thompson Street, Barry	The retention of an ATM installed through existing glazing to the side of the premises (main road side) with a new red mullion to match the rest of the premises. Incorporating the ATM fascia with black bezel surround and white internally illuminated lettering Free Cash Withdrawals out of black
2016/01337/PNT	A	Land at New Parc Farm, St. Donats	Installation of a 15m slim line monopole supporting 3 no. antennas, 1 transmission dish, 2 no. equipment cabinets at ground level & ancillary development
2016/01338/FUL	A	Unit A, Ty Verlon Industrial Estate, Barry	Insert 3m x 3m metal roller shutter in west elevation
2016/01343/FUL	A	1, Rogersmoor Close, Penarth	Single story gable to front of property to be raised to create an additional room on the 1st floor of the property and addition of pitched roof above existing detached garage
2016/01345/FUL	A	36, Murlande Way, Rhoose	Demolition of existing garage structure and rebuild incorporating bedroom and en suite facilities
2016/01355/FUL	A	73, Cornerswell Road, Penarth	Proposed single storey flat roof rear extension with loft conversion and rear dormer
2016/01357/FUL	A	Southfield. 68, Cog Road, Sully	Detached double car garage



2016/01359/FUL	A	7, Duffryn Crescent, Peterston Super Ely	Demolition and rebuilding of rear conservatory and the construction of a new build front porch
2016/01383/FUL	A	144, Barry Road, Barry	Single storey rear flat roof extension
2016/01385/FUL	A	The Old Dairy, Brook Farm, Llanmaes	Proposed log store, recycling area and hobby workshop
2016/01426/RG3	A	6, Tordoff Way, Barry	Demolish Hawksley aluminium bungalow to existing floor slab level. Underpin existing foundation and re-build in brick facing cavity construction with new timber roof structure and covering. Carry out general landscaping repair works to the property. Existing rear extension to remain
2016/01439/PNA	A	Pentre Hwnt Farm, Lane - Jct Llampha Farm to Jct Wallas Farm. Llampha	Grain store

Agenda Item No. \_\_\_\_\_

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **2 FEBRUARY, 2017**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2016/01047/ADV  
Appeal Method: Written Representations  
Appeal Reference No: H/16/3165218  
Appellant: Miss. Zoe Miller  
**Location: Land at Crack Hill (A48), Nr. Colwinston, Nr. Bridgend**  
Proposal: V sign made up of aluminium composite panels, steel supports and extended base rakers  
Start Date: 15 December 2016

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(b) Enforcement Appeals Received

None

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(c) Planning Appeal Decisions

L.P.A. Reference No: 2016/00386/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 16/3155550  
Appellant: Mr. Andrew Thomas  
**Location: Dimlands Road, St. Donats**  
Proposal: Construction of detached four bedroom dwelling house with integral double garage, plus associated driveway  
Decision: Appeal Dismissed  
Date: 30 November 2016  
Inspector: Melissa Hall  
Council Determination: Delegated

**Summary**

The appointed Inspector considered the main issues to relate to whether the development conflicted with established planning policy designed to control the location of new housing in the open countryside and promote sustainable development, as well as the effect the proposal would have on the character and appearance of the area.

The Inspector agreed that the development would represent an unjustified form of residential development that would conflict with the established principle of strictly controlling new development in the countryside. Nevertheless, the Inspector took account of paragraph 4.7.8 of Planning Policy Wales which states that development in the countryside should be located within and adjoining those settlements where it can be best accommodated in terms of infrastructure, access and habitat and landscape conservation. Paragraph 9.2.22 also adds that sensitive filling of small gaps, or minor extensions to such groups 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. The Inspector considered the sustainability aims of these extracts and concluded that the site was not located in a sustainable location. A key element of the sustainability assessment was that the limited scope of facilities available in the immediate vicinity which would fail to cater for the day to day needs of the future occupants of this development without significant reliance on the car as a means of travel. The inspector also concluded that the development would not constitute the sensitive infilling of a small gap or a minor extension to the group.

Considering the impact of the development on the character and appearance of the area, the Inspector concluded that the development would result in a visual interruption of the pleasant and undeveloped gap between the existing properties in the locality. The Inspector considered that gap to be a positive contribution to this part of the village and its loss that would erode the semi-rural setting at the edge of the development. Moreover, whilst not objecting to the modern design principles of the development, the scale, height and mass of the proposal was considered unacceptable. The Inspector noted that the adjacent properties, one being Grade II Listed, are modest in scale, simple in form and vernacular character and that they were set within spacious grounds. The proposal was considered wholly at odds with that character and the Inspector concluded that the overly modern design was robust and monolithic, rising out of the ground to a significant height and would be read and understood as such. Consequently, the scale, form and design of the dwelling would be such that it would have a harmful effect on the character and appearance of its surroundings.

In addition the Inspector considered the impact of the development on protected trees located on the site. The Appellant's assertion in respect of the ability to implement the development without impacting on the trees was questionable in the Inspector's view and consequently it was considered that the development would risk their survival. Moreover, and notwithstanding the Appellant's proposed long term tree management and enhancement proposals, the Inspector considered that the development would likely result in considerable pressure to thin or remove trees in the future. In that context it was concluded that the proposal failed to demonstrate acceptable impact on trees, the loss of which would have significant adverse effect on the character and appearance of the site and surrounding area.

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(d) Enforcement Appeal Decisions

None

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(e) April 2016 - March 2017 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
<b>Planning Appeals</b> (inc. tree appeals)	<b>W</b>	11	8	<b>19</b>	-
	<b>H</b>	2	5	<b>7</b>	1
	<b>PI</b>	-	-	-	-
<b>Planning Total</b>		13 (50%)	13 (50%)	<b>26</b>	1
<b>Enforcement Appeals</b>	<b>W</b>	-	-	-	-
	<b>H</b>	-	-	-	-
	<b>PI</b>	1	-	-	-
<b>Enforcement Total</b>		1	-	-	-
<b>All Appeals</b>	<b>W</b>	11	8	<b>19</b>	-
	<b>H</b>	2	5	<b>7</b>	1
	<b>PI</b>	1	-	<b>1</b>	-
<b>Combined Total</b>		14 (52%)	13 (48%)	<b>27</b>	1

Background Papers

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

Contact Officer:

Mrs Justina M Moss, Tel: 01446 704690

Officers Consulted:

HEAD OF REGENERATION AND PLANNING



2016/01348/TPO	A	Land at Ty Mawr, Bonvilston	Fell a pine TPO No. 8-1973
2016/01349/TCA	A	Land at Ty Mawr, Bonvilston	Fell a pine TPO No. 8-1973
2016/01350/TPO	A	Land Adjacent to Norman Cottages, Michaelston Le Pit	Fell 2 Ash and 1 Sycamore and Crown lift 1 Ash in TPO No 02-1954
2016/01352/TPO	A	4, Raisdale Gardens, Penarth	Reduce crown of a lime tree-TPO No.03-1982
2016/01399/TCA	A	Rock House, 9, Beach Road, Penarth	Remove deadwood from Pine in Penarth Conservation Area
2016/01448/TCA	A	Bondhuest, Greenfield Way, Llanblethian, Cowbridge	Copice Beech hedge and removal of one Beech tree from end of hedge within Cowbridge with Llanblethian Conservation Area

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **2 FEBRUARY, 2017**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

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.

**2015/00960/FUL** Received on 6 October 2015

Bonvilston Vale Limited & Village Homes LLP C/o Agent.  
Barton Willmore, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL

### **Land at Sycamore Cross, Pendoylan Lane and North of A48, Bonvilston**

Development of 120 homes including affordable homes, new vehicle, pedestrian and cycle access, improvement works to Pendoylan Lane, regrading of site, drainage, landscape works, provision of public open space, demolition of existing modern timber stables and all associated works

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because:

- the application is of a scale and/or nature that is not covered by the scheme of delegation.

#### **EXECUTIVE SUMMARY**

The application site as edged red comprises agricultural land of around 7.98 ha plus a section of the Pendoylan Lane from the junction with the A48 at Sycamore Cross towards the northern junction where the road splits to Pendoylan and Peterston Super Ely. The site lies adjacent to, but outside of the residential settlement for Bonvilston as defined in the Unitary Development Plan but is allocated for residential development in the Deposit Local Development Plan. The majority of the site also lies outside of the Bonvilston Conservation Area, although a small section which includes the outbuilding to the north of Sheep Court Farm is within the designated area. The site also lies close to two identified Special Landscape Areas, the Ely Valley and Ridge Slopes SLA to the east and the Nant Llancarfan SLA to the south. In addition there is a Tree Preservation Order relating to the western section of the site, TPO (No. 8) 1973. The Ely Valley Site of Special Scientific Interest (SSSI) is located approximately 1.8km to the north of the site.

This is an application for full planning permission for the construction of 120 No. dwellings, including affordable housing; the provision of public open space; a new vehicular access onto Pendoylan Lane; plus off-site highway improvement works.

To date objections to the application have been received from St Nicholas and Bonvilston Community Council; Pendoylan Community Council; Peterston Community Council; and St Georges and St Brides Community Council. In addition, the Council has received over 35 objections, including repeat objections following re-notification of amended plans.



This is an EIA application since the Council determined that an Environmental Impact Assessment was required following a screening request in 2014. Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, it was concluded that the characteristics and location of the site made it a sensitive and vulnerable one and the potential impact of the development was such that an EIA was required.

Within this context the key issues are:-

- The principle of development bearing in mind the policy background, land quality, and other material considerations, including housing land supply and emerging policy.
- Design and visual impact, bearing in mind the setting of the Bonvilston Conservation Area and the countryside location adjacent to Special Landscape Areas.
- Public Open Space provision.
- Neighbouring and residential amenity.
- Highways and transportation, including parking provision.
- Ecology.
- Flood Risk and drainage.
- Archaeology and cultural heritage.
- Noise.
- Requirement for legal Obligations under S106 to mitigate the impacts of the development.

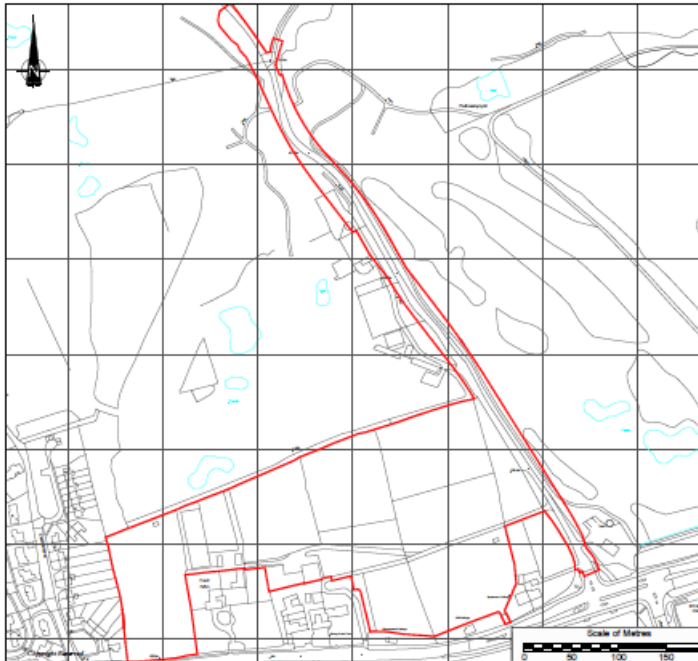
It is recommended that the application be APPROVED having regard to all the submitted environmental information in accordance with Section 3(2) of the Regulations, and subject to conditions, and a S106 legal agreement, relating to affordable housing; off-site highway improvements; off-site contribution to education; provision and maintenance of public open space; and a contribution to Welsh Water to increase foul sewage capacity.

### SITE AND CONTEXT

The application site as edged red comprises agricultural land of around 7.98 ha plus a section of the Pendoylan Lane from the junction with the A48 at Sycamore Cross towards the northern junction where the road splits to Pendoylan and Peterston Super Ely. The agricultural land is made up of improved grassland subdivided by hedgerows and trees into a number of paddocks that are used for the grazing of horses. The ES has assessed the quality of the land and a soil survey has identified the land is of Agricultural Land Classification grades 2, 3a, 3b.

There are a number of existing buildings on the land, including, two modern stable blocks and a metal clad Dutch barn, plus a manege. An existing driveway to the rear of Sheep Court Farm is accessed onto the Pendoylan land to the east.

There are existing residential properties to the south and west of the site, including the residential barn conversions at Sheep Court Farm. To the north and east of the site is the Cottrel Park Golf Resort.



*Site location plan*

The site lies adjacent to, but outside of the residential settlement for Bonvilston as defined in the Unitary Development Plan but is allocated for residential development in the Deposit Local Development Plan (as amended). The majority of the site also lies outside of the Bonvilston Conservation Area, although a small section which includes the outbuilding to the north of Sheep Court Farm is within the designated area. The site also lies close to two identified Special Landscape Areas, the Ely Valley and Ridge Slopes SLA to the east and the Nant Llancarfan SLA to the south. In addition there is a Tree Preservation Order relating to the western section of the site, TPO (No. 8) 1973. The Ely Valley Site of Special Scientific Interest (SSSI) is located approximately 1.8km to the north of the site.

#### DESCRIPTION OF DEVELOPMENT

This is an application for full planning permission for the construction of 120 No. dwellings, including affordable housing; the provision of public open space; a new vehicular access onto Pendoylan lane; plus off-site highway improvement works.

The proposed layout of the site makes use of the existing field hedgerows and trees, which form a key component in the “green infrastructure” led approach to the design of the layout. The proposal will provide for four defined areas of Public Open Space (POS). These include, an area towards the eastern side of the site close to the new access, measuring 0.22 ha and providing a Local Area of Play (LAP); a central area of 0.12 ha; an area to the south close to Sheep Court Cottage and Sheep Court Farm, 0.07ha with a LAP; and the largest area in the south western corner of the site of 0.43 ha, which will include provision of a 37m x 55m playing surface (junior sports pitch), a LAP, and an equipped play area (LEAP).



### *Proposed site layout*

A new vehicular access will be provided on the eastern end of the site onto Pendoylan lane. Internal access roads will be a mix of an adoptable carriageway through the site, 5.5m wide with 2m footpaths both sides, and private shared surfaces to small cul-de-sacs. A footpath link to the A48 will be provided in the south western corner. On site car parking will be provided in a mix of garaging, driveway, forecourt, lay-by and communal parking area.

The off-site highway works will include a 2.5m wide footpath and cycle link to the A48, plus improvements to the north along Pendoylan Lane, and the safeguarding of land beyond that up to the northern junction to allow for future highway improvements.

The proposed housing will provide for 96 No. open market housing and apartments, comprising eleven house types, providing 39 No. five bed houses, 36 No. four bed houses, 9 No. three bed houses, 4 No. two bed house and 8 No. one bed flats; and 24 No. affordable dwellings and apartments over five house types, providing 4 No. one bed flats, 14 No. two bed houses and 6 No. three bed houses. The various house types are traditional in design and include a mix of finishes, including render, stonework and tile hanging for both the market housing and affordable units. The affordable units are located in two areas within the site, one on the eastern boundary with Pendoylan lane, and the other more centrally on the eastern side of Sheepcourt Farm.

The proposed market housing generally has a traditional design approach, with 11 No. different house types. The development is mainly two storey with a mix of five, four, three and two bed houses, plus one bed flats. The houses are predominantly detached, however, there are several rows of terraces which reflect those existing in the village. With no presiding vernacular, influence has been taken from local materials, including stone and render. The house forms are diverse and include local features such as gables and dormer outshots, chimneys, porches and bays.

The design of the affordable housing reflects the approach taken for the market value housing designs. There are five differing designs types, with 4 No. one bed flats, 14 No. two bed houses and 6 No. three bed houses (6 No. low cost housing).



*Examples of market housing house types*



*Examples of Affordable Housing house types*

Supporting Documentation

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

<http://vogonline.planning-register.co.uk/PlaRecord.aspx?AppNo=2015/00960/FUL>

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

Following a screening request, reference 2014/01205/SC1, it was determined that an Environmental Impact Assessment was required. A further scoping request, reference 2014/01466/SC2, confirmed that the ES should covering the matters referred to in the scoping request. Thus the NTS considers the current conditions identified ('the baseline conditions'), and the potential effects of the development, and addresses the following matters:-

- Land use and soils
- Ecology and wildlife
- Archaeology and cultural heritage
- Landscape and visual impacts
- Geology and ground conditions
- Noise

The ES has been publicised in accordance with section 13 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and Article 8 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, with an initial press notice on 24 September 2015 in the Barry Gem, and on site notices on 20 October 2015.

The submitted documents include:

Environmental Statement and Technical Appendices, comprising Main Text, Drawing and Figures (July 2015), plus an Addendum to the Environmental Statement (October 2015) and a further Revision of 2015 Environmental Statement and 2015 Environmental Statement Addendum (Ecology) (May 2016).

Non-Technical Summary to Environmental Statement July 2015.

Design and Access Statement and Addendum January 2017.

Planning Statement 11 August 2015.

Transport Assessment Revision B August 2015.

Travel Plan Framework August 2015.

Flood Risk Assessment June 2015.

Drainage Strategy received 26 August 2015.

ArbTS Arboricultural Report July 2015.

Wardell Armstrong Arboricultural Report December 2014.

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

### PLANNING HISTORY

2014/01205/SC1 - Proposed residential development - Environmental Impact Assessment Screening Request - Required 3 November 2014.

2014/01466/SC2 – Proposed residential development - Environmental Impact Scoping opinion - No Further Information Required 8 April 2015.

Tree Preservation Order - TPO (No. 8) 1973 – Oak.

### Relevant planning history on land adjoining site

2004/00187/FUL – Sheepcourt farm, located to the south of site - Conversion and alteration of existing farm outbuildings to provide three dwellings. Demolition of redundant outbuildings – Approved subject to conditions 30 July 2004.

2015/01030/FUL – Court Farm, located to south of site – Four detached dwellings – Withdrawn 12 January 2016.

2016/00258/FUL – Court Farm, located to south of site – Three detached dwellings – Refused 9 June 2016 for the following reasons:-

- “1. *The proposal represents an unjustified residential development in the countryside, appearing as a cramped, contrived and incongruous form of development, that will have a significant detrimental effect on the rural character and appearance of the site and its surroundings, including the spaciousness of the site, and its important tree coverage. As such the proposal would neither preserve nor enhance the character and appearance of the Bonvilston Conservation Area or its rural setting. It is therefore contrary to Policies ENV1-Development in the Countryside, ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV17-Protection of Built and Historic Environment, ENV20-Development in Conservation Areas, ENV27-Design of New Developments, HOUS3-Dwellings in the Countryside, HOUS11-Residential Privacy and Space, and Strategic Policy 1-The Environment of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Design in the Landscape, Trees and Development and the Bonvilston Conservation Area Appraisal and Management Plan; and national guidance contained in Planning Policy Wales, TAN10-Tree Preservation Orders, and TAN12-Design.*
2. *The proposal would have an unacceptable adverse impact on the residential amenities currently enjoyed by the occupants of existing properties contrary to Policies ENV27-Design of New Developments, and HOUS11-Residential Privacy and Space of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Amenity Standards; and national guidance contained in Planning Policy Wales, TAN12-Design, and the Model Design Guide for Wales.”*

A subsequent appeal decision is awaited.

### CONSULTATIONS

**St. Nicholas and Bonvilston Community Council** – Objection to the proposal on the following grounds:-

- Application premature and to consider before the LDP process is complete would be to ignore the detailed objections submitted and deny the community the right of representation.

- Development in the open countryside with the proposed development having a major negative impact on the existing character of the minor rural settlement of Bonvilston.
- Sustainability with limited local services, and a bus service that will encourage private car use. The Council's sustainability assessment suggests that the site is viable only if affordable housing is included, and the provision is below the required level of 40%.
- Scale of development, which would increase the core of the village by 89%, and at a density of 15 houses per hectare compared with 5.5 per hectare for the adjacent Conservation Area.
- Need with no net need for affordable houses in Bonvilston and the East vale.
- Access to the site, with the changes proposed to the north merely moving the traffic 'pinch' point.
- Public open space – the small size of the separate areas afford no substantial provision to support the development.
- Local facilities – substantial investment would be required to support the development.
- Public consultation – request that no weight is given to the questionnaire responses based on the 'closed question' nature of the form.
- Development timescale with no reference made in the application.

A full copy of the Community Council's comments is reproduced at **Appendix A**.

**Pendolan Community Council** – Support the objections of St Nicholas and Bonvilston Community Council. Their primary concern is the access to the site and the widening of the short section of country lane. They believe this will cause further difficulties for the residents of Pendoylan. They believe that the lane widening will create the illusion that the lane is suitable for access to the motorway. They also note that the application has been submitted prior to the agreement of the LDP, and the development will encroach into the countryside reducing green space and prime agricultural land. The housing density is more condensed than the existing community and would set a precedent for future green-space development.

**St Georges and St Brides Community Council** – Support the objections of St Nicholas and Bonvilston Community Council. Reference is made to prematurity in relation to the LDP, and further traffic difficulties at the junction.

**Peterston Super Ely Community Council** – Support the objections of St Nicholas and Bonvilston Community Council. Reference is made to the increase in traffic and associated highway problems and would like to see a proper traffic survey of the area.

**Wenvoe Ward Member** - No comments received to date.



**Natural Resources Wales** - No objections provided appropriate planning conditions and/or obligations that address a number of issues are attached to any planning permission. The issues raised relate to European Protected Species. They note from the ES that surveys have confirmed the presence of great crested newts in a number of ponds in close proximity. They highlight the legislative requirement in relation to European Protected Species in the Conservation of Habitats and Species Regulations 2010 and Planning Policy Wales and TAN5- Nature Conservation and Planning.

They welcome the principles of the mitigation measures proposed to conserve great crested newts and consider these measures provide an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of the species. Notwithstanding this they advise that further detail will be required and suggest a number of conditions/S106 agreements, including:-

- A detailed great crested newt mitigation scheme to be submitted and agreed.
- A long term Management Plan for great crested newt habitats to be submitted and agreed.
- A monitoring scheme for great crested newt to be submitted and agreed.
- Details of financial measures to secure the above management and monitoring requirements.

They also advise that the applicant seek a European Protected Species licence from NRW before any works commence on site.

**Dwr Cymru/Welsh Water** – Have requested a number of conditions/advisory notes be attached to any consent. A full copy of the comments is reproduced at **Appendix B**, however, in summary the following observations are submitted.

The site would drain to Bonvilston East Wastewater Treatment Works which has limited capacity and would not be able to accommodate the foul flows deriving from the 120 units proposed. However, they have confirmed that they are able to accommodate 30 units in advance of any improvements to this asset.

The Feasibility Study of the WwTW commissioned by the applicants identified a solution to accommodate the site without detriment to the local environment. The most appropriate mechanism for securing the funding to deliver this solution at the WwTW is via a S106 Planning Obligation Agreement, of which Dŵr Cymru would be a signatory. Accordingly, subject to appropriate controls contained with a S106 Agreement which ensures the completion of the solution in advance of the communication of flows to the public sewerage network, they are content that an objection to this planning application can be removed. However, for the avoidance of doubt if the required works to upgrade Bonvilston WwTW's are not included within the Section 106 Agreement we would have no alternative but to object to the proposed development.

Notwithstanding the above and since the study was originally undertaken in June 2015, their preference would be to revisit the study and consider whether there are any possible improvements that can be made to the solution. Further, they recommend that a flow and load survey of the Works is undertaken now to provide greater assurance that the solution is appropriate. However, given the current position and timescales, provided the Authority and the Applicant are satisfied with the current solution then they support the inclusion of the current scope of improvement works within a S106 Planning Obligation Agreement. It is also confirmed that following completion of the scheme for the WwTW, any unspent funds would be returned to the Council. In addition they request a limitation of no more than 30 dwellings allowed to communicate with the public sewerage system.

As regards the satisfactory drainage of the site, they request a condition that no development commence until a full drainage scheme for the site is submitted and agreed. In addition advisory notes are requested in relation to the connection to the public sewer. Furthermore there is no objection in respect of a water supply to the development.

**Glamorgan Gwent Archaeological Trust** – They note that the site is on the line of a major Roman road and at the outskirts of a Medieval settlement, and therefore in an area that is likely to have been the focus for settlement or activity during these periods. As part of the ES an archaeological evaluation has been undertaken. The result was that no finds or features were encountered apart from one small undated pit.

They conclude that it is unlikely that the proposed development will encounter a buried archaeological resource and therefore have no objection to the application.

**Crime Prevention Design Advisor** – No objection to the application but makes a number of observations, including concerns over the excessive permeability of the site, with several direct links onto the golf course; and several plots designed with their side and rear gardens adjacent to footpaths making them vulnerable to burglaries. (It is noted that these comments refer to the earlier layout which envisaged a number of access points to the golf course). A number of recommendations are made, including, lighting to comply with BS 5489-1-2003; all homes are provided with defensible space to front; all parking areas to be overlooked and where possible on plot; residential road design to ensure maximum speeds no more than 20mph; public open space should be well overlooked; all pedestrian routes are well overlooked; excessive permeability should be avoided; and buildings are designed with security in mind, with secure rear gardens, ground floor windows and doors meeting PAS 24 2012 or equivalent, and external service meters.

**SWALEC** – Have been consulted on the application. No comments received to date.

**The Council's Housing Strategy Section** – Confirm there is a demonstrated need for affordable housing with considerable need in the Wenvoe and surrounding wards. On that basis they seek 40% affordable housing on-site equating to 48 No. units, with a tenure mix of 70% social rented and 30% intermediate, and with the expectation that these are pepper potted across the site to encourage integration and cohesion.

**The Council's Ecology team** - Support the findings and recommendations made in the Environmental Statements and therefore suggest a number of planning conditions to secure biodiversity protection measures outlined in the ES and other biodiversity conservation or enhancement measures. These include a request for a copy of the European Protected Species licence with the LPA having undertaken the three tests under the Habitat Regulations; site clearance to follow the methodology for reptiles identified in submitted survey work; sensitive site clearance for birds in accordance with recommendations; further survey work as identified for Japanese Knotweed; and a scheme for biodiversity and enhancement to be submitted and agreed.

**The Council's Regulatory Services - Environmental Health** – Recommend that the applicant submits a CEMP, with restriction on construction hours Monday to Friday 8am – 6pm, Saturday 8am – 1pm and no work on Sunday or Public Holidays. In addition no burning of any materials on site and any buildings to be demolished must be done in accordance with HSE guidance.

**The Council's Highway Development team** – Have submitted the following comments:-

In order to achieve the design parameters associated with the provision of the new junction serving the development and the highway improvement works Traffic Regulation Order will be required to be made to extend the speed limit of 40mph Northwards to a Point to be agreed with the Local highway Authority as part of the detailed design process together with additional Traffic Regulations within the junction area and along the improved section of highway to prevent in discriminant parking

The Highway Authority would inform the local Planning Authority that the “RED” line Boundary identified on drawing SCB/CAP 00-00-DR-CE-01 Rev P06 is based on achieving the alignment based on the width parameters on a horizontal plane with no surface water drainage strategy for dealing with surface run off from the highway and no Road signing proposals which could require additional land take outside the “RED” line boundary which needs to be allowed for with any proposed consent conditions.

In terms of the internal arrangements, the development has based the design parameters around Manual for Streets in order to reduce vehicular speeds and provide good sustainable links for pedestrian, cyclists, public transport facilities and the surrounding area.

No highway Objections would be raised to the proposals in **principle** subject to a number of conditions, including, the agreement of full engineering details (including drainage systems); no dwellings to be occupied until the internal estate roads have been provided and brought into full operational use; the proposed highway improvements along Pendoylan Lane for the full site frontage, inclusive of the site access for the first 20m shall be constructed and brought into use prior to beneficial occupation of the 1<sup>st</sup> dwelling, with the remaining length being constructed and brought into use before beneficial occupation of 2/3 of the total number of the development; the developer to enter into a legally binding agreement to secure the proper implementation of the proposed highway works along Pendoylan Lane; no obstructions inclusive of planting within the required vision splays; all parking area unless otherwise identified within drawing 3758-110 Rev F shall be surfaced in a bound material; no surface, roof water or other deleterious material from the site shall discharge or migrate onto the adopted highway; provision of a Construction Management/haulage route plan together with any Proposed Temporary Road Closures and other Temporary or Permanent Traffic Regulations required associated with the offsite Highway Improvement Works or the internal Roads; no Lorries shall deliver/leave the site during the peak am/pm hours and half hour either side of the times school commencing and ending; no materials whatsoever shall to deposited or stored within the limits of the adopted highway; provide and maintain facilities for wheel cleansing for the duration of the works; and the developer to carry out at their own cost a Condition survey prior to commencing any works, and a second along the agreed haulage route, with any remedial works identified undertaken.

**The Council's Highways and Engineering section – Drainage** – Note that the site is not located in a DAM zone at risk of tidal or fluvial flooding, and the NRW maps indicate that there is a very low flood risk across the site.

They refer to the submitted Flood Consequence Assessment and its findings and request a number of conditions, including, a scheme for surface water drainage; the scheme to identify existing surface water drainage and demonstrate that flows are maintained; and a written declaration detailing responsibility for the adoption and maintenance of all elements of the drainage system.

**The Council's Strategic Property Estates section** - No objection subject to Highways approval.

**First Minister - Welsh Assembly Government** – Has been notified of this EIA application.

Members please note that further consultations have been undertaken on 17<sup>th</sup> January (expiring on 7<sup>th</sup> February) regarding the most recent amended plans. If following the Committee meeting comments are received that are materially different from the comments summarised above the matter will be reported back to Planning Committee.

## REPRESENTATIONS

The occupiers of neighbouring properties were initially notified of the application on 15 September 2015 and re-notified on the receipt of amended plans. In addition the application has been advertised in the press and on site, initially on 22 September and 20 October 2015 respectively, with re-advertising following receipt of amended plans. This includes advertisement as an EIA application.

To date the Council has received over 35 objections, including repeat objections following re-notification of amended plans. Whilst all the representations are available on file for Members inspection, the following is a summary of the concerns raised. In addition a sample of the representations are reproduced at **Appendix C** as being generally indicative of the points raised, which include:-

- Gross overdevelopment out of keeping with the village and would compromise community safety and lifestyle.
- Adverse impact on Bonvilston Conservation Area.
- 'Brownfield' site should be utilised first, with Llandow mentioned.
- Unsustainable development and site with lack of local employment and public transport.
- Local schools already oversubscribed.
- A significant increase in traffic, adversely affect the environment and highway safety.
- Proposed lane widening will not be sufficient to overcome existing difficulties.
- No housing shortage.
- Flood risk with surface water run-off already a problem.
- Local drainage problems.
- Impact to neighbour amenities including privacy and quiet enjoyment of property.
- Ecological impact with destruction of local habitat.
- Disruption during construction.
- Applicant's public consultation exercise was a sham.
- Ownership query re: line of boundary.
- Village has been dominated by wealthy landowner.

Alun Cairns MP has submitted a letter of objection to the proposed development, relating to the overwhelming scale of development in comparison to the existing village size; the irreversible impact on community life in the village; increase in traffic will cause disruption and could contribute to accidents; as a greenfield the plan will deprive a historic village and thriving community of a green piece of their countryside heritage; and site such as Bonvilston should not be considered while large brownfield sites within the authority go unexplored. A copy of the letter is reproduced at **Appendix D**.

Members please note that further consultations have been undertaken on 17th January (expiring on 7th February) regarding the most recent amended plans. If following the Committee meeting comments are received that are materially different from the comments summarised above the matter will be reported back to Planning Committee.

## REPORT

### Planning Policies and Guidance

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

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 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 14 - COMMUNITY AND UTILITY FACILITIES.

#### *Policy:*

- POLICY ENV1 – DEVELOPMENT IN THE COUNTRYSIDE.
- POLICY ENV2 – AGRICULTURAL LAND.
- POLICY ENV4 – SPECIAL LANDSCAPE AREAS.
- POLICY ENV7 – WATER RESOURCES.
- POLICY ENV10 - CONSERVATION OF THE COUNTRYSIDE.
- POLICY ENV11 – PROTECTION OF LANDSCAPE FEATURES.
- POLICY ENV14 – NATIONAL SITES OF NATURE CONSERVATION IMPORTANCE.
- POLICY ENV15 – LOCAL SITES OF NATURE CONSERVATION SIGNIFICANCE.
- POLICY ENV16 – PROTECTED SPECIES.
- POLICY ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT.
- POLICY ENV18 – ARCHAEOLOGICAL FIELD EVALUATION.
- POLICY ENV19 – PRESERVATION OF ARCHAEOLOGICAL REMAINS.
- POLICY ENV20 – DEVELOPMENT IN CONSERVATION AREAS.
- POLICY ENV21 – DEMOLITION IN CONSERVATION AREAS.
- POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS.
- POLICY ENV28 – ACCESS FOR DISABLED PEOPLE.
- POLICY ENV29 – PROTECTION OF ENVIRONMENTAL QUALITY.
- POLICY HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT.
- POLICY HOUS3 - DWELLINGS IN THE COUNTRYSIDE.
- POLICY HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2 SETTLEMENTS.
- POLICY HOUS11 - RESIDENTIAL PRIVACY AND SPACE.
- POLICY HOUS12 - AFFORDABLE HOUSING.
- POLICY TRAN9 – CYCLING DEVELOPMENT.
- POLICY TRAN10 – PARKING.

POLICY REC3 – PROVISION OF OPEN SPACE WITHIN NEW RESIDENTIAL DEVELOPMENTS.  
POLICY REC6 – CHILDREN’S PLAYING FACILITIES.  
POLICY REC7 – SPORT AND LEISURE FACILITIES.

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, both Chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) (PPW) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).’*

*‘4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.’*

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 9, 2016) (PPW) is of relevance to the determination of this application, in particular, Chapter 4-Planning for Sustainability including paragraphs 4.1.1, 4.2.2, 4.4.3, 4.10 – conserving agricultural land and 4.11-promoting sustainability through good design; Chapter 5-Conserving and Improving Natural heritage and the Coast, including paragraphs 5.1.1 and 5.2; Chapter 6-The Historic Environment, including paragraphs 6.2.1, 6.5.5, 6.5.20, and 6.5.21; Chapter 8-Transport; Chapter 9-Housing, including paragraphs 9.2.22, 9.3.1, 9.3.2, 9.3.4, 9.3.5 and 9.3.6; Chapter 11-Tourism, Sport and Recreation, including paragraph 11.1.13, and Chapter 13-Minimising and Managing Environmental Risks and Pollution, including paragraph 13.13, 13.14, and 13.15.

## **Technical Advice Notes:**

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

- TAN 1 - Joint Housing Land Availability Study.
- TAN 2 - Planning and Affordable Housing.
- TAN 5 - Nature Conservation and Planning.
- TAN 6 - Planning for Sustainable Rural Communities.
- TAN 10 - Tree Preservation Orders.
- TAN 11 - Noise.
- TAN 12 - Design including paragraphs 2.6, 4.3, 4.8, 5.8-rural areas, 5.11-housing design and layout, and 5.17.1.
- TAN15 - Development and Flood Risk.
- TAN 16 - Sport, Recreation and Open Space.
- TAN 18 - Transport.
- TAN 23 - Economic Development.

## **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.
- Affordable Housing.
- Biodiversity and Development.
- Design in the Landscape.
- Model Design Guide for Wales.
- Parking Standards.
- Planning Obligations.
- Trees and Development.
- Bonvilston 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 Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions will take place in January 2017.

It is noted that the application site is allocated for residential development under Policy MG2 of the Deposit Local Development Plan (as amended).

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.14.1 of Planning Policy Wales (Edition 9, 2016) (PPW) is noted. It states as follows:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Agricultural Land Classification background paper (2015) (Also see LDP Hearing Session 1 Action Point 12 response).
- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses).
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response).
- Findings of the Site Assessment Background Paper (2013)
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015.
- LDP Housing Land Supply Trajectory 2011-26 ( September 2016).

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- (LDP Hearing Session 2 and 3, Action Point 4, 6, 7, 9 and 10 response)Housing Provision Background Paper (2015) (Also see LDP Hearing Session 2 and 3 Action Point 3 and 5 response).
- Housing Supply Background Paper (2013) (Also see LDP Hearing Session 2 and 3 Action Point 5 response).
- Joint Housing Land Availability Study (2014.)
- Vale of Glamorgan Housing Strategy - (2015-2020).
- Population and Housing Projections Background Paper (2013).
- VOGC and DCWW Statement of Common Ground ( 2016) (LDP Hearing Session 4, Action Point 2 response).
- Designation of Landscape Character Areas (2013 Update).
- Designation of Special Landscape Areas (2013 Update).
- Designation of SLAs Review Against Historic Landscapes Evaluations (2013 Update).
- Habitats Regulations Assessment - Appropriate Assessment Report of Deposit LDP (2013).
- Habitats Regulations Assessment Screening of Focused Changes (2015) and Matters Arising Changes (2016).
- Local Development Plan Highway Impact Assessment (2013).
- VOGC - Local Transport Plan (2015).
- Infrastructure and Site Deliverability Statement (2015.)
- Open Space Background Paper (2013).
- Community Facilities Assessment (2013).
- Education Facilities Assessment (2013).
- Sustainable Settlements Appraisal Review (2016).

**Other relevant evidence or policy guidance:**

- Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update (Welsh Government, 2009).
- Welsh Office Circular 13/97 – Planning Obligations.
- The Community Infrastructure Levy Regulations 2010.
- Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended).

- Welsh Office Circular 60/96 - Planning and the Historic Environment: Archaeology
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007).
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management.
- Welsh Office Circular 11/99 – Environmental Impact Assessment.
- Conservation of Habitats and Species Regulations 2010.

### **Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

#### Issues

This is a major EIA application that proposes the development of a greenfield site for residential development of 120 houses and flats, including 24 (20%) affordable units. In considering a screening request in 2014, the Council determined that an Environmental Impact Assessment was required, having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99. It was concluded that the characteristics and location of the site made it a sensitive and vulnerable one and the potential impact of the development was such that an EIA was required.

Within this context the proposal is assessed against the above policies and guidance, with many of the key issues identified within the supporting ES being considered of primary concern, including:-

- The principle of development bearing in mind the policy background, land quality, and other material considerations, including housing land supply and emerging policy.
- Design and visual impact, bearing in mind the setting of the Bonvilston Conservation Area and the countryside location adjacent to Special Landscape Areas.
- Public Open Space provision.

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- Neighbouring and residential amenity.
- Highways and transportation, including parking provision.
- Ecology.
- Flood Risk and drainage.
- Archaeology and cultural heritage.
- Noise.
- Requirement for legal Obligations under S106 to mitigate the impacts of the development.

## **Principle of development**

### Policy background

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (UDP). This Plan is technically time expired (as of 31<sup>st</sup> March 2011), though as yet there is no adopted replacement. Whilst the UDP remains the basis of local policy, as stated in PPW, where policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications.

In the context of this application it is relevant to note that the UDP is time expired (up to 2011) and as such most of its housing allocations under Policy HOUS1 have been built out. Therefore, it does not provide a sufficient framework to deliver enough housing to meet the requirements of the Vale of Glamorgan in 2017 and beyond. The draft LDP sets the framework for development in 2011-2026 but it is not adopted to date and therefore cannot be given significant weight in the determination of this application, an issue which is covered in more detail below.

The site is located in the countryside and outside of the residential settlement boundary for Bonvilston as defined in the UDP. The western boundary of the site lies adjacent to the settlement boundary. Policy ENV1 of the UDP seeks to protect the countryside from inappropriate development, and HOUS3 restricts new dwellings in the countryside to those that can be justified in the interests of agriculture or forestry. The proposal offers no such justification and is not linked to any rural enterprise, such as those mentioned under TAN 6-Planning for Sustainable Rural Communities. Furthermore, although HOUS2 allows for the rounding off of the edge of settlement boundaries, this is for small scale development defined as no more than five dwellings. In this case, whilst the application site adjoins the existing settlement, it is considered that the scale of the proposed development (120 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. As such, in terms of the current development plan, the proposed residential development is considered contrary to the relevant policies of the UDP in terms of the principle of development.

Given the age of the current UDP, as noted above, Planning Policy Wales (PPW) advises that where development plan policies are outdated or superseded, local planning authorities should give them decreasing weight in favour of other material considerations in the determination of individual applications, which should be done in light of the presumption in favour of sustainable development. Thus it is necessary to consider whether there are specific material considerations which would justify a departure from the development plan to outweigh the objections set out in the UDP. In this regard, it is important to also consider the context of the proposed development against the on-going Local Development Plan (LDP) preparation and the need for more housing in the Vale of Glamorgan (housing land supply). These points are considered in detail below.

### Housing land supply and housing need

Firstly, consideration should be given to whether there is a need for additional housing within the Vale of Glamorgan. PPW notes at paragraph 9.2.3 that local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. As such, the housing land supply and the need for housing levels and mix are important factors that must be considered in the assessment of this application.

Paragraph 6.2 of TAN1-Joint Housing Land Availability Studies states:-

*“The housing land supply figure should also 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 or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.”*

TAN1 was updated in January 2015, with a key change being that the use of JHLAS to evidence housing land supply is now limited to only those LPAs that have in place either an adopted Local Development Plan or an adopted UDP that is still within the plan period. Previously, LPAs without an up-to-date adopted development plan were able to calculate housing land supply using a 10 year average annual past build rate. However, under the new TAN1 guidance the use of the past build rates methodology, which was based on the past performance of the building industry, is not accepted and those LPAs without an up-to-date development plan (such as the Vale of Glamorgan) are unable to demonstrate a housing land supply for determining planning applications.

In assessing the current proposal it is considered that the contribution that the development would make to the Council's housing land supply is a significant material consideration. Currently, as noted above, in the absence of an adopted LDP, the Council is unable to undertake a formal TAN 1 JHLAs assessment of its housing land supply, but is required to evidence a 5 year housing land supply at adoption of the LDP. The Council's LDP housing land trajectory (September 2016) (see Council's response to Hearing Session 2&3, Action Points 4, 6, 7,9 & 10) indicates that the Council currently has 5.1 years housing supply (at April 2016) which is forecast to increase over the years ahead. The housing trajectory paper makes assumptions about the continued supply of housing on LDP allocated sites in the years ahead, including the delivery of 120 dwellings on the application site during the first 5 years of the Plan's adoption.

In 2015, 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 559 affordable housing units (for rent or low cost home ownership) are required each year over the next five years. Although the current proposal will provide only 20% affordable housing, as opposed to the required 40% due to viability issues (covered in the S106 section below), nevertheless, the site offers the opportunity to provide a level of affordable housing in Bonvilston and the rural Vale to meet local needs.

There is a need to maintain sufficient housing supply at all times. In considering the figures outlined above, this site would be important in securing a 5 year housing land supply at the time of adoption of the LDP. It is considered that the need to increase housing supply must be given considerable weight in favour of approving this residential development in advance of the adoption of the LDP, in order to maintain a healthy supply as required by PPW and paragraph 6.2 of TAN1. However whilst there is a need to maintain an adequate Housing Land Supply for future JHLAS and when the LDP is adopted, this does not solely outweigh all other material considerations, particularly if a development is considered harmful in 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 considered its responses to the representations made to both the Deposit and Alternative Site Plan Stages. The LDP was then submitted to the Welsh Government with an independent Planning Inspector conducting an Examination into the soundness of the Plan, with a series of Hearing Sessions taking place in 2016. Action Points as requested by the Planning Inspector have been undertaken and been returned for consideration and further Hearing Sessions will take place in January 2017 following which the Inspector will prepare his report. Until these stages have been completed the DLDP will remain an un-adopted document and is not envisaged to be adopted until later in 2017.

The deposit LDP (as amended) allocates the application site, along with a strip of adjoining land projecting to the south between Court farm and Sheeppcourt Farm, for residential development under policy MG2 (37) for 120 dwellings. At Hearing Session 11 (Housing Allocations 5) on the 9 March 2016 the site was considered by the Inspector. An Action Point was required (ref: HS11/AP1) to provide justification/rationale for the scale of the developments proposed at both Bonvilston and nearby St Nicholas (a site which was approved subject to conditions and a S106 legal agreement on 9 December 2016). The statement in response to this Action Point has been submitted back to the Planning Inspector for consideration. This justification is considered in the later section which examines the scale and layout of development.

### Prematurity

Given that the LDP is in draft form, it is considered that an assessment should be made as to whether the proposals would be premature. On the issue of prematurity, PPW advises at paragraph 2.14.2:-

*“Refusing planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of a plan and is individually or cumulatively 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. Where there is a phasing policy in the plan that is critical to the plan structure there may be circumstances in which it is necessary to refuse planning permission on grounds of prematurity if the policy is to have effect. The stage which a plan has reached will also be an important factor and 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.”*

In view of this it is important to consider the potential impacts of allowing such a development at this stage, including its impact on the LDP process, the overall strategy, and the provision of housing supply with the Vale of Glamorgan. Bonvilston is defined as a “Minor Rural Settlement” in the LDP that is capable of accommodating further housing development. Whilst the allocation of 120 dwellings in Bonvilston is considered significant, hence one of the reasons for requiring an ES, it should be noted that this allocation is not one of the Strategic Housing Sites within the Draft LDP. In addition, the scale of development is considered such that it would not predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the LDP context. On the basis that the site is not a ‘strategic allocation’, it is considered that bringing this site forward for 120 dwellings would not ‘go to the heart’ of the overall LDP strategy. It is noted that the development of this site for 120 dwellings relates to a very small percentage of the overall housing land requirement for up to 9,460 new dwellings (as amended by MACs) over the plan period. It is also considered that it would not go to the heart of the plan cumulatively with other LDP allocations that have already been approved.

As paragraph 2.14.2 of PPW referred to above notes, a refusal on prematurity grounds will seldom be justified where a plan is at the pre-deposit plan preparation stage. It is noted that the Plan is nearing adoption, which is anticipated to be in the first half of 2017, and therefore there is unlikely to be a long delay before adoption. Notwithstanding this, for the reasons set out above, it is not considered that a refusal of planning permission on the grounds of prematurity could be sustained in this instance.

#### PPW and sustainability

The Welsh Government's key sustainability principles and key policy objectives are set out within PPW Chapter 4-Planning for Sustainability. Paragraph 4.2.2 states:-

*"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; and in taking decisions on individual planning applications."*

The village of Bonvilston is identified as one of twenty four sustainable rural settlements within the recently amended (February 2016) 'Sustainable Settlements Appraisal' which also forms part of the background evidence for the LDP. The appraisal indicates that such settlements score relatively highly in the sustainability ranking, although they do contain a more limited range of services. Some are in close proximity to each other or have links with the surround towns and villages, such as St Nicholas in this instance. In this respect they have an important functional role to play in sustainable rural communities. Thus although the scoring for Bonvilston has been reduced from 13 to 9 in the up-dated appraisal, it remains within the 'Sustainable Rural Settlements' category.

The 'Findings of the Site Assessments Process' (2013) a background paper to the LDP concludes that the site would be sustainable for reasons such as providing the opportunity for people to meet their housing needs, and to maintain, promote and enhance the range of local facilities. This assessment broadly reflects the sustainability objectives set out in section 4.4.3 of PPW whilst also ensuring sufficient good quality housing is provided within the area.

Overall the site is considered to be sufficiently sustainable and in accordance with the sustainability principles and objectives as set out in paragraph 4.2 of PPW. With the presumption in favour of sustainable development, which is set out as a key principle within PPW, it is considered that the proposals are in accordance with the national policy in this regard.

#### Loss of agricultural land

The application site comprises agricultural land which is primarily used for the grazing of horses. The ES has assessed the quality of the land and a soil survey has identified the land is of Agricultural Land Classification grades 2, 3a, 3b. Grades 2 and 3a are classed as the Best and Most Versatile (BMV) land, with approximately 3ha of the almost 8ha site comprising Grades 2 and 3a. The rest of the site is classed as grade 3b, which is considered to be locally important moderate quality agricultural land.



Policy ENV2 of the UDP relates to agricultural land and states that the best and most versatile agricultural land will be protected from irreversible development, unless an overriding need can be demonstrated. This is supported by PPW which states at paragraph 4.10.1:-

*“In the case of **agricultural land**, 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<sup>10</sup>. In development plan policies and development management decisions 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, 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 ES concludes that the loss of both the BMV land and non-BMV is considered to be an impact of low adverse significance. In addition the submitted Planning Statement highlights the fact that site is an isolated fragment of land surrounded by existing urban land forms and the golf course. Notwithstanding this, it is considered that, in this instance, there is an overriding housing need and the safeguarding of future housing land supply levels, which has been demonstrated above. Whilst the loss of good quality land is regrettable, this is outweighed by the significant 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”. Thus, bearing in mind the housing need, it is considered that the loss of the Grade 2 and 3a agricultural land alone would not justify a reason for refusal of the application.

#### Conclusion on the principle of the development

The proposal consists of the residential development of the site which lies in the countryside on the eastern edge of Bonvilston. In terms of the adopted Unitary Development Plan 1996–2011 (UDP), the site is immediately adjacent to, but outside the settlement boundary of Bonvilston, where housing development of this scale is out of accord with UDP policies. However, the fact that the UDP is time expired, with most of its housing allocations under Policy HOUS1 having been built out, it does not provide a sufficient framework to deliver enough housing to meet the requirements of the Vale of Glamorgan in 2017 and beyond. Therefore, in order to meet housing need and to sustain a 5 year housing supply, consideration must be given to housing developments that do not accord with the time expired UDP policies, with PPW noting that the planning system provides for a presumption in favour of sustainable development.

Whilst the emerging LDP cannot be afforded significant weight in the determination of this application, the background evidence gathered in preparation of the LDP should be afforded weight alongside other matters including national planning policy. The inclusion of the site as part of an allocation for residential development within the Deposit 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 continued inclusion up to this stage. A relevant background paper on this issue is the 'Findings of the Site Assessments Process' (2013). This includes the land at Bonvilston (2544/CS5, CS6 and CS7) and 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 positive outcome to the sustainability appraisal, including positive scores to 'provide opportunity to meet housing need' and 'maintain, promote and enhance local facilities'. Furthermore, the 2016 revised 'Sustainable Settlements Appraisal' concludes that Bonvilston remains a sustainable minor rural settlement capable of accommodating housing growth.

In this context, the proposed dwellings would be considered a sustainable form of development, contributing new housing (including much needed affordable housing) in a location immediately adjacent to existing residential development. Furthermore the site will deliver a strategic playing field facility plus off-site highway improvements, with the partial widening of Pendoylan lane and the protection of additional land for future improvements. Given this, it is considered that the proposals are an appropriate form of sustainable residential development.

As such, it is considered on balance that the development of the land for residential use is acceptable in principle and outweighs any conflict with UDP policies cited above. However, it is important to note here that this does not set a precedent for further applications for sites within the Draft LDP to be approved. Each will have to be considered on the circumstances of their situation, having regard to the housing land supply at that time, as well as how that specific development would affect the delivery of the LDP, and all other material considerations.

Notwithstanding the above, as with all applications for residential development in advance of the adoption of the LDP, there is a need to fully consider all other material considerations, such as the wider environmental, social and economic impacts of the scheme, which is examined below.

### **Design and visual impact**

The proposal relates to the development of greenfield land in the countryside which also lies part within and adjacent to the Bonvilston Conservation Area. The site also lies close to two identified Special Landscape Areas, the Ely Valley and Ridge Slopes SLA to the east and the Nant Llancarfan SLA to the south. In addition there is a Tree Preservation Order relating to the western section of the site, TPO (No. 8) 1973 and there is a network of existing hedgerows around and through the site. The development of the site for residential purposes will have an impact on these designations and the character of the village and its rural setting.

## Scale of development and housing density

The issue of the scale of the housing allocation at Bonvilston within the Deposit LDP was raised at Hearing Session 1, in respect of minor rural settlements generally, and Hearing Session 11, with specific regard to Bonvilston. The Council's response (Hearing Session 11 – Action Point 1) considered these issues and provided justification for the Bonvilston allocation.

The development would be immediately adjacent to the eastern side of the village of Bonvilston. It would be positioned primarily to the north of, and at the rear of the existing dwellings that front the A48, and to the east of the dwellings at Maes-y-Ffynnon. It is considered that the proposal respects the pattern of built development in the vicinity and would be physically adjoining the existing settlement, representing a logical extension to the village. As the Council's response notes at paragraph 16 of "Hearing Session 11-Action Point 1":-

*"The site effectively fills the gap between the existing village and the road to the east, filling the frontage of the A48 and continuing the linear form of the village."*

It is acknowledged that the development of the site will increase the size of the village and extend the settlement limits further east and north of existing development into the countryside. The overall site area is significant, and indeed, an ES has been submitted with the application. Despite this, the proposal is considered to represent an appropriate increase to the village that would not unacceptably impact upon its character and rural setting. Paragraph 17 of Action Pointy 1 states:-

*"The site is relatively large in the context of the existing settlement and will urbanise the undeveloped fields to the east of the settlement. The development will be clearly visible from the A48 (albeit partially screened by existing buildings along the A48 frontage) and the adopted highways to the north and east of the site. The development will also be visible more generally from the countryside (and Golf Course) to the north and east of the site and from the south. The development of the site will increase the size of the village and extend the settlement limits further east into the existing countryside, however, it does not extend as far north as the existing village. The Council contend that this will result in a logical extension to the village that takes its lead from the existing pattern of development in Bonvilston, which will help to retain the existing character of the area."*

The neighbour representations received have raised concerns over the proposed density of housing on the site, which is considered to be overdeveloped in relation to existing housing in the village. It is accepted that much of the existing village is characterised by houses in spacious plots, with the overall density at Bonvilston of less than 8 dwellings per hectare (dph). However, the LDP and PPW seek to make better use of land in accordance with sustainability principles and the LDP has set a minimum density of 25dph in the minor rural settlements, such as Bonvilston. Some objectors have stated that this higher density would be out of character with the rest of the village, however, there are parts of the village, in particular the dwellings on Maes-Y-Ffynon immediately to the west of the allocation site, that are higher densities (circa 21dph).

The Planning Statement notes that density of the site is 20dph. This is below the minimum of 25dph identified in policy MD7 of the LDP for minor rural settlements. However, it is noted that part of the allocated site has been omitted from the current application. In addition, the MG2 (37) LDP allocation has allowed for a lower density to ensure the design of the site is sensitive to its location relative to the Bonvilston Conservation Area, and archaeological features on the site. The net developable area of the housing area of the application site (excluding the area of the off-site road works) is approximately 6.02ha. These issues are considered in more detail later in the report. Notwithstanding this, bearing in mind the drive for efficient use of land within housing development in both local and national planning policy, the density of proposal is considered acceptable within this sustainable rural settlement.

### Impact on the Bonvilston Conservation Area

The site is on the edge of the village of Bonvilston. Apart from a small section which includes the outbuilding to the north of Sheep Court Farm, the majority of the site is outside of, but adjoining, the Conservation Area. As such the likely impact on the character of the Conservation Area and its setting must be fully considered.

The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out the principal statutory instruments which must be considered in the determination of any application affecting either listed buildings or conservation areas. Section 72 requires that in the exercise of planning duties special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Recent case law (see particularly *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137) makes it clear that the duty imposed in the Act means that in considering whether to grant permission for development that may cause harm (substantial or less than substantial) to a designated asset (listed building or conservation area) and its setting, the decision maker should give particular weight to the desirability of avoiding that harm. There is still a requirement for a planning balance, but it must be informed by the need to give weight to the desirability of preserving the asset and its setting.



*LDP allocated Site in context with Conservation Area boundary. This includes the area of land between Court Farm and Sheepcourt Farm not included with the application site, and excludes the area of off-site highway works*

Whilst there are no listed buildings adjacent to the proposed development site, it is noted that the existing dwellings that run along the frontage with the A48 are identified as 'Positive Buildings' within the Bonvilston Conservation Area Appraisal (CAMP). In addition, the Appraisal identifies a 'Significant Tree Group' in the south west corner of the site, with a number in the adjacent 'Court Farm' and others fronting the A48 within an existing hedgerow (shown as retained within the proposed planting), plus 'Significant Views' from the A48 north over the site between 'Sheepcourt Cottage' and 'Hill Cottage'. Of significance to the assessment of the application and its impact on the character and appearance of the Conservation Area, it is noted that part of the original designation has been omitted following the boundary review undertaken in 2009. This included some of the land on the allocated site between the village and Court Farm, which, as part of the character appraisal process, was found not to make a positive contribution to the special character of the Conservation Area.

The CAMP describes Bonvilston as a linear rural village with scattered development along the A48. It is located on an east-west ridge with views southwards towards the Severn Estuary. There is no village centre but the Red Lion Inn acts as a focal point to the village. The village comprises a mix of larger houses, worker's cottages and agricultural buildings, mostly now converted to residential use. It notes some post-war Council housing along Maes-y-Ffynnon immediately adjoining the allocated site. Much of the housing in Bonvilston is modern and the character of the Conservation Area arises from buildings sited behind high stone walls, or hedges, which are relatively close to their frontage and this is a repeating device. It is the walls, significant trees and hedges that unify the village, rather than the style of buildings which are either individual or in groups and range in scale and form.

It is acknowledged that the development will be clearly visible from the A48 and the adopted highways to the north and east of the site. The development will also be visible more generally from the countryside (including the golf course), to the north and east of the site and from the south. As such, the development will clearly be read against the part of the Conservation Area it adjoins. However, it does not automatically follow that the development of the site would harm the Conservation Area.

In terms of the detailed design approach it is considered that the development reflects many of the characteristics of the Conservation Area highlighted above. The finalised layout proposes the location of an area of public open space in the south west corner of the site adjacent to the A48. This will act as a partial buffer between the existing village and the new development, and helps to preserve the character of the Conservation Area by retaining a degree of visual separation between the properties at the front of Maes-y-Ffynnon still within the Conservation Area, and Court Farm to the east. It also serves to retain some of the character of the village in terms of its openness along the frontage of the A48.

The location of the proposed vehicular access on the eastern boundary of the site, serves to retain the existing features along the A48 and therefore the existing character of the Conservation Area in this location. In this regard the development site will be in a secondary position behind the main frontage of the A48.

It is considered that the layout complements the location and context of the site with the retention of a number of existing hedgerow boundaries. It is the significant trees and hedges that unify the village, rather than the style of buildings which are either individual or in groups and range in scale and form. It is also considered that the scale, design, form and mix of housing will reflect the existing buildings in the village. In addition, the proposed pallet of materials, predominantly slate, stone and render are representative of those existing in the village and the wider area, and, along with the areas of open space, should reinforce the rural character of the conservation area. However, there is one area of the proposal in relation to the boundary treatment that requires further consideration. This relates to the proposed acoustic fence along the eastern boundary facing Pendoylan Lane. Whilst it is accepted that the acoustic fence is required to mitigate against traffic noise, nevertheless, further consideration of the visual impact of this is required, see Condition 18.

Thus, it is considered the proposed development would not have an adverse impact on the designated Bonvilston Conservation Area. As such, the proposed dwellings and associated works would preserve the character and setting of the Conservation Area, in accordance with policies ENV17 and ENV20 of the adopted UDP and Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Impact on Special Landscape Area and surrounding countryside

It has already been noted that the site lies close to two identified Special Landscape Areas, the Ely Valley and Ridge Slopes SLA to the east of Pendoylan Lane and the Nant Llancarfan SLA to the south of the A48. As such, it is important to consider the visual impacts of the development from a wider context.

The submitted ES has considered the Landscape and Visual Impact of the development, noting that the site sits within a locally sensitive landscape, and that there are significant landscape impacts as development is proposed on agricultural land. The accompanying Landscape and Visual Impact Assessment (LVIA) has been prepared by the 'Urbanists' following consultation with the Councils Landscape Architect and informal agreement over the viewpoints to be assessed. The LVIA shows that the development is set behind existing tree belts along the A48, and existing residential properties. The site is also located adjacent to the managed and maintained golf course. Within this context the site will be viewed, set against and screened by these features.

The ES identifies a number of mitigation measures, including the retention of existing boundary hedgerow, trees and vegetation where possible. This together with strengthening the existing planting will also provide additional mitigation and a landscape structure to the development which knits back into the existing landscape corridors and strategic the wildlife network. It is noted that the layout approach for the development and the landscape character areas have been designed to ensure a more naturalistic, open and semi-rural approach to planting. The LVIA notes that the new residential development, when complete, is likely to create a new landscape character in the area. However, the proposed development will not appear as an arbitrary incursion into the countryside given that it will be viewed against the existing backdrop of the village of Bonvilston and the highways infrastructure of the A48. The LVIA concludes at paragraph 2.3.155:-

*“There will be moderate adverse effects to landscape character within the development area and, to some extent, on the surrounding landscape, which is designated as an SLA. It would not be possible to mitigate all moderate adverse landscape and visual effects but the green infrastructure setting for the development will considerably help assimilate the proposals and bring benefits of ecological enhancement, vegetation diversity and increased public accessibility. It is therefore considered that the landscape and visual effects of the development are acceptable when considered within the context of the emerging local plan policy.”*

Thus, whilst the proposed development will alter the character of the site and its immediate surroundings, it is not considered that the impact will be so significant, and will not outweigh the benefits of delivering the residential development, and the associated open space and highway improvements. The wider character of the Special Landscape Areas shall be maintained due to the limited visual impacts of the proposed housing within the wider landscape. As such, the proposal is considered to accord with policies ENV4 and ENV10 of the UDP and national guidance.

### Trees and hedgerows

The application is also accompanied by an Arboricultural Report prepared by Wardell Armstrong and another prepared by Arb TS. These indicate that the tree population of the site is variable. The largest trees with the highest retention value are distributed across the site and consist largely of mature pedunculate oak with some sycamore and beech. It notes that tree T19 should be monitored into the future, and that T20 is unsuitable for retention, with T5 and T13 also in advance states of senescence. The trees identified as Significant within the Conservation Area Appraisal are given a Category B classification and the proposed landscaping plan shows the existing hedgerow within which the trees are located as being retained. Furthermore, it indicates that any loss of hedgerow should be compensated for by replacing the length lost with locally native species to the same or greater length than lost.

The accompanying Design and Access Statement outlines the landscape strategy, which entails the establishment of a new landscape character and a 'Green Infrastructure'. This will include, 1350m of retained hedgerows, 510m of enhanced and new hedgerows, 26 retained trees, 47 new native trees, 103 non-native trees, 850m wildflower meadow planting, 6 new native trees and replacement hedgerow on Pendoylan lane.

Clearly the development will result in the loss of existing trees and hedgerows, however, it is acknowledged that this has been minimised and that extensive new planting is proposed. As the Arboricultural Report notes, those trees and hedgerows to be retained will be required to be protected during construction, and therefore full details will be required via condition. On that basis it is considered that the proposal would be in accord with policy ENV11 of the UDP.

#### Design and scale of proposed dwellings and internal layout/linkages

The submitted Design and Access Statement notes that the overarching character aim is:-

*“A domestic scale residential development which draws on the grain and forms illustrated in the existing village and uses the locally used materials and devices to settle this new development against its existing counterparts.”*

The proposed market housing generally has a traditional design approach, with 11 No. different house types. The development is mainly two storey with a mix of five, four, three and two bed houses, plus one bed flats. The houses are predominantly detached, however, there are several rows of terraces which reflect those existing in the village. With no presiding vernacular, influence has been taken from local materials, including stone and render. The house forms are diverse and include local features such as gables and dormer outshots, chimneys, porches and bays.

The design of the affordable housing reflects the approach taken for the market value housing designs. There are five differing designs types, with 4 No. one bed flats, 14 No. two bed houses and 6 No. three bed houses (6 No. low cost housing). It is considered that the design and materials proposed for the affordable units is acceptable, with a suitable mix of sizes and types.

It is considered that the scale, massing and height of the houses proposed are acceptable and would be similar to existing dwellings in Bonvilston. The limitation in height to no more than two storeys should serve to mitigate the prominence of the development within the context of the Conservation Area and wider rural landscape, and will appear as an appropriately scaled development when viewed in context with the existing village.



The submitted External Works plan identifies the details of enclosures across and around the site. This shows that the enclosures will be a mix of 1.75m high rendered block walls, 0.8m low stone walls, 1.5m and 1.8m acoustic fence, 1.8m close boarded timber public realm fence, 1.8m close boarded timber fence to rear gardens, and hedges. This is generally considered acceptable. However, it is noted that timber fencing is proposed in a number of locations which will be visible from a public vantage point. These are shown adjacent to existing hedgerows. Provided these hedgerows are retained and maintained they should serve to soften the impact of the close boarded fencing. Furthermore it is noted that two of the areas are proposed as acoustic fencing, which is required to mitigate the impact of traffic on the A48 and Pendoylan lane.

In relation to the internal layout and linkages it is noted that there is a single new vehicular access proposed to the site with additional pedestrian links. The new vehicular access is positioned on the eastern boundary of the site onto Pendoylan lane. The separate pedestrian links include a link to the golf course in the north eastern corner of the site, off the end of a cul-de-sac, plus a link in the south western corner from the proposed playing fields onto the A48. The original layout proposed several pedestrian access points from the site onto the golf course to the north. However, this level of permeability, and the position and width of the access points, were considered unacceptable from a community safety standpoint. Indeed, the Crime Prevention Advisor noted that such an arrangement would leave the site vulnerable to crime. Therefore the plans were amended as described above.

Circulation within the site follows a hierarchy of roads, with the housing served off two dead end primary circulation routes. The sub division of these two routes takes place close to the site entrance with priority given to the larger housing area route. The Design and Access Statement notes that a singular loop arrangement access was considered inappropriate for the quantum of development. This is also bearing in mind the proposed pedestrian access onto the A48, and the fact that buses would not be routed through the site. The hierarchy of roads includes shared surfaces and private drives, all of which adds to the informality of the layout. The plans show a change in surface materials at various points to denote a change from primary to secondary route and it is considered that this accords with the aims of Manual for Streets to create a hierarchy of routes through the site. Thus the layout and its pedestrian permeability is considered acceptable and in accordance with the guidance in Manual for Streets which states at paragraph 4.2.3:-

*“Street networks should, in general, be connected. Connected, or ‘permeable’, networks encourage walking and cycling, and make places easier to navigate through. They also lead to a more even spread of motor traffic throughout the area and so avoid the need for distributor roads with no frontage development.”*

As already noted above, there are 24 affordable units included in the development. Whilst not fully ‘pepper-potted’ through the whole of the site, they are separated into two areas, one close to the boundary with Pendoylan lane, and a larger cluster more centrally, between two areas of public open space. This is considered an acceptable distribution of affordable housing in this instance, particularly as its location towards the eastern end of the site should afford early delivery of the units.

Thus overall, the proposed layout, which incorporates the current hedgerow boundaries of the site, is considered acceptable. There is a mix of both house types and internal roads within the development, which adds to the character of the development. In addition, there is sufficient open space and linkages incorporated into the layout design. As such, 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.

### **Public Open Space**

Policies HOUS8, REC3 and REC6 of the UDP require new residential developments to make provision for public open space and the Planning Obligations SPG provides further advice on the operation of certain standards. This is supported by national guidance including TAN16-Sport, Recreation and Open Space which notes that planning conditions and obligations can be used to provide open space, sport and recreational facilities, to safeguard and enhance existing provisions, and to provide for their management. In addition PPW indicates that 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.

The layout provides for four formal areas of public open space. These include a Local Equipped Area of Play (LEAP), three Local Areas of Play (LAPs) and a 37m x 55m playing surface. The larger area, which includes the junior sports pitch, LEAP and LAP, is positioned in the south western corner of the site, adjacent to the existing housing on Maes-y-Fynnon. This allows for reasonable levels of natural surveillance, and provides for a buffer between the new development and existing village. The remaining three areas are located more centrally within the site, and the two LAPs offer reasonable access to the remainder of the housing site, particularly the affordable units. It is noted that full details of the actual equipment and surfacing will need to be agreed, including future maintenance (see Condition 20).

In relation to the allocated site, it is noted that policy MG25 (8) of the deposit LDP identifies a requirement for 0.55ha of 'strategic open space' within the development, to address a shortfall of outdoor sport space in the village. The Open Space background paper provides further detail on how this should be provided, and includes 5,419m<sup>2</sup> of outdoor sport provision, 847m<sup>2</sup> of children's play space, with a further 151m<sup>2</sup> of children's play space being provided off-site in a strategic location. The background paper also suggests that it would be preferable to locate the open space on the western part of the site in order to better integrate the facilities with the existing settlement. Essentially, the total public open space requirement is 0.8128ha.

The original scheme identified only 0.63ha of open space, and a mini soccer pitch for under 11s measuring 18.75m x 30m. This was not considered acceptable as it fell far short of the allocation requirements, and the size of the pitch related more to a facility for under 8s. Following negotiations with the developer and amended layout has been submitted. This now provides for a sports pitch measuring 37m x 55m, and a total open space provision of 0.84ha. This is now considered to meet the requirements of the Deposit LDP, and will be secured via the S106 legal agreement. This is further detailed under the Planning Obligations section of the report.

### **Neighbouring and residential amenity**

A number of the objections received have raised concerns over the impact the development will have on their current levels of residential amenity. The particular concerns include increase in general noise and disturbance and loss of privacy. The proposed development is adjacent to existing dwellings, and, as such, there is likely to be some impact on the occupiers of those properties, which include the houses at Maes-y-Fynnon, and the properties to the south that front onto the A48.

The proposed houses on the western side of the site are positioned relatively close to the boundary with the houses on Maes-y-Fynnon, approximately 7m at the closest. However, it is not considered that this will result in any adverse impact in relation to privacy, overshadowing or of an overbearing nature, as the existing houses benefit from relatively long rear gardens.

As for the existing houses fronting the A48, again the new properties are positioned relatively close to the boundaries. However, in the majority of these the proposed dwellings are orientated so that their side, gable elevations face the existing houses. As such there is no adverse impact in relation to overlooking, and, being sited to the north, no overshadowing. The exception to this are the houses proposed on plots 32 and 33. The rear elevations of these houses will face south towards the existing barn conversions at Sheepcourt Farm. The neighbouring occupiers refer to the loss of privacy and note the difference in levels, with the application site being on a higher level. The developers have indicated that there will be some changes in gradient across the site, and full details will be required by way of a condition (see Condition 4). Notwithstanding this, it is noted that the houses are set a minimum distance of 11m from the boundary, with the distance window to window being over the 21m minimum guideline set out in the Council's Amenity Standards SPG.

It is acknowledged that the proposed development will change the outlook of neighbours to the site with their currently views over open fields. However, this alone is not considered a valid planning reason to refuse the application, particularly when considering the benefits to be provided with much needed housing.

As regards the provision of amenity space within the site, it has already been noted that an adequate level of public open space will be provided within the site. In relation to the private amenity for the proposed new houses themselves, it is noted that there is some shortfall on a number of the plots when assessed against the Council's minimum requirements as outlined in the Council's SPG on Amenity Standards. This shortfall relates to a relatively small number of plots, with only a few having a more significant shortfall. Despite this it is considered that all the properties are provided with sufficient garden space to meet the basic relaxation and functional needs of the occupiers such as sitting out, drying washing, etc. It is also considered that the provision of a significant amount of public open space within the development addresses the shortfall and will provide extended amenity opportunities for the residents. It should also be acknowledged that the drive for higher densities envisaged in the LDP will necessitate smaller garden spaces to ensure best use of land.

Of greater concern with the original layout was the level of privacy on some plots, both in relation to the window to window distances, and the overlooking of private rear gardens. The amended plans have addressed the majority of these concerns. There are still a number of plots where the minimum guidelines outlined in the Council's SPG are not met, including plots 105 and 106 overlooking plots 101 and 102, and 103 and 104 respectively. However, the SPG is only a guideline, and as the future occupier should be well aware of the position and orientation of the houses before purchase, it is not considered that this issue alone would justify a refusal of the application.

Thus, with regard to neighbouring and residential amenity, it is considered that the proposal is generally in accord with the SPG on Amenity Standards, and policies ENV27 and HOUS8 of the adopted UDP.

## **Highways and transportation**

### Off-site highway works

As part of the allocation of the site within the emerging LDP it is noted that off-site highway improvements are indicated. Policy MG16 (18) of the Deposit LDP identifies improvements north of the A48, with Appendix 5 noting that such improvements will contribute to the safe access to the site and serve to mitigate the harmful effects of the development on the local highway network. These improvements are further referenced in the LDP 'Infrastructure and Site Deliverability Statement' and the Draft Infrastructure Plan, which summaries that these as 'key' and 'strategic' in nature.

The scheme for the off-site highway works initially showed a number of passing places only along the Pendoylan lane. Following negotiations with the developer this was amended to identify a more substantial widening of the Pendoylan lane from the A48 up to the junction for Pendoylan/Peterston-Super-Ely. However, the cost of the improvements for the full length (circa 700m) would be around £2.4m, which has a significant impact on the viability of the scheme, and the ability to deliver Affordable Housing and other S106 contributions. As a result following further negotiations with the developer a further revision has been submitted which has reduced the overall length of the road improvements to approximately 400m. This is examined in detail below in the planning obligations section of the report.

The off-site highway works will include a 2.5m wide footpath and cycle link to the A48, plus the improvements to the north along Pendoylan Lane, and the safeguarding of land beyond that up to the northern junction to allow for future highway improvements.

The Highways Department have confirmed that they have no highway objections to the proposal in principle, however, they have requested a number of conditions requiring, amongst other issues, full engineering details (including drainage systems); no dwellings to be occupied until the internal estate roads have been provided and brought into full operational use; the proposed highway improvements along Pendoylan Lane for the full site frontage, inclusive of the site access for the first 20m shall be constructed and brought into use prior to beneficial occupation of the 1<sup>st</sup> dwelling, with the remaining length being constructed and brought into use before beneficial occupation of 2/3 of the total number of the development; and provision of a Construction Management/haulage route plan together with any Proposed Temporary Road Closures and other Temporary or Permanent Traffic Regulations required associated with the offsite Highway Improvement Works or the internal Roads. These matters are covered by Conditions 9, 10 and 11.

As regards the Council's Highways section requested condition relating to timing of the implementation of the highway works, this is covered more appropriately within the requirements of the S106, i.e. the developer to complete the highway improvements along Pendoylan Lane (chainage 400m) before the occupation of the 100<sup>th</sup> dwelling. Although Highways have requested that this be two thirds, it is considered a restriction relating to the occupation of the 100<sup>th</sup> unit, coupled with a 48 months completion timescale, is more reasonable in planning terms.

## **Ecology issues**

Chapter 2 of the ES assesses the environmental effects of the development, with 2.4 specifically relating to ecology and wildlife. This is further examined in the addendum to the ES received in October 2015.

As already noted, the Ely Valley SSSI lies approximately 1.8km to the north of the site. In addition the ES identifies the Nant Whitton Woodlands SSSI approximately 2km to the south, plus 29 No. Sites of Interest for Nature Conservation (SINCs) within 2km of the development site. In policy terms relevant policies and guidance include policies ENV14-National Sites of Nature Conservation Importance, ENV15-Local Sites of Nature Conservation Significance and ENV16-Protected Species of the UDP, and national guidance contained in PPW and TAN5-Nature Conservation and Planning. Paragraph 5.1.3 of PPW states:-

*“A key role of the planning system is to ensure that society’s land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, conservation and development can often be fully integrated. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created. For example, new development on previously developed land provides opportunities to restore and enhance the natural heritage through land rehabilitation, landscape management and the creation of new or improved habitats.”*

In summary the ES concludes that there are no direct impacts anticipated on the nearby SSSIs or SINCs. There may be indirect impacts on those sites which have public footpaths passing through them due to an increase in visitors from the new residential development but these are considered negligible. The majority of the application area is fields of improved grasslands, with the most notable ecological feature being the network of hedgerows and mature trees. It is noted that the majority of hedgerows will be kept, where possible, retaining a network of wildlife corridors. It is noted that areas retained will be managed to improve their nature conservation value and opportunities to increase the biodiversity of species within areas of public open space. An ephemeral pond will be lost but an off-site wildlife pond will increase aquatic habitat available in the local area. Areas of habitat will be lost but new replacement planting throughout the development and areas of open space will replace these habitats. Breeding birds, bats, great crested newts and reptiles use the site, in addition to other fauna such as small mammals. Measures are included to mitigate for the potential adverse impacts on these groups and to provide new habitat, which will be of value for wildlife. The disturbance/damage or loss of a low status soprano pipistrelle roost due to tree surgery works will require a licence from NRW. Finally, the ES notes that there are likely to be residual adverse impacts from the risk of road mortality to individual hedgehogs and other small mammals which may enter the roads in the site but it is probable that there could be an overall minor beneficial residual impact on local populations of species.

Natural Resources Wales (NRW) have been consulted on the proposal and have advised that they have no objections provided appropriate planning conditions and/or obligations that address a number of issues are attached to any planning permission. The issues raised relate to European Protected Species. They note from the ES that surveys have confirmed the presence of great crested newts in a number of ponds in close proximity. They highlight the legislative requirement in relation to European Protected Species in the Conservation of Habitats and Species Regulations 2010 and Planning Policy Wales and TAN5-Nature Conservation and Planning.

They welcome the principles of the mitigation measures proposed to conserve great crested newts and consider these measures provide an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of the species. Notwithstanding this they advise that further detail will be required and suggest a number of conditions/S106 agreements, including:-

- A detailed great crested newt mitigation scheme to be submitted and agreed.
- A long term Management Plan for great crested newt habitats to be submitted and agreed.
- A monitoring scheme for great crested newt to be submitted and agreed.
- Details of financial measures to secure the above management and monitoring requirements.

They also advise that the applicant seek a European Protected Species licence from NRW before any works commence on site.

The Council's own Ecologist has also assessed the proposal and confirms support for the findings and recommendations made in the Environmental Statements. Similar to NRW, a number of planning conditions are recommended to secure biodiversity protection measures outlined in the ES and other biodiversity conservation or enhancement measures. These include a request for a copy of the European Protected Species licence with the LPA having undertaken the three tests under the Habitat Regulations; site clearance to follow the methodology for reptiles identified in submitted survey work; sensitive site clearance for birds in accordance with recommendations; further survey work as identified for Japanese Knotweed; and a scheme for biodiversity and enhancement to be submitted and agreed (see Conditions 12 to 15).

Policy ENV16 of the UDP relates to protected species and states that permission will only be given for development that would cause harm to or threaten the continued viability of a protected species if it can be clearly demonstrated that:- (i) there are exceptional circumstances that justify the proposals; (ii) there is no satisfactory alternative; and (iii) effective mitigation measures are provided by the developer. This is supported by the Council's SPG on Biodiversity and Development, and is in line with national guidance including the most recent Conservation of Habitats and Species Regulations 2010 ('habitat regulations'). This requires the establishment of a system of strict protection, with derogations allowed only where the three conditions under Article 16 of the EC Habitats Directive are met (the 'three tests') (TAN5, 6.3.6).

The ES identifies that evidence of a number of European Protected Species were recorded within and around the site, including a pipistrelle bat, birds, reptiles and, of particular significance, great crested newts.

The following points are noted in relation to the three tests for derogation.

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

As outlined in the justification section of this report, and evidenced by the supporting documents, the site is an allocated housing site in the emerging LDP. It is considered that the proposal would have benefits in terms of providing much needed housing, including affordable housing in the wider public interest in providing a range of choice of housing within the Vale of Glamorgan. In addition, this particular site will provide much need strategic open space, plus off-site road improvements that can benefit not only local users but a wider socio-economic catchment. As such the proposal is considered to be of overriding public interest of a social and economic nature that offers long-term benefits of primary importance.

**Test ii) - There is no satisfactory alternative**

The allocation of the site within the emerging LDP has been through a process of sustainability assessments and alternative site selection. These have concluded that the site is a sustainable one that will serve to meet the Vale of Glamorgan's housing supply requirements.

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

As regards this third test, both the Council's Ecologist and NRW have confirmed that they support the findings of the submitted survey work and ES.

NRW have advised that they welcome the principles of the mitigation measures proposed to conserve the great crested newt as outlined in Appendix 2.4.12 'Greta Crested Newt – Method Statement' and Drg. No. 2.4.15 'Great Crested Newt Mitigation Strategy (Indicative)'. They note that this includes measures to improve off-site habitats within the golf course as well as to conserve animals on site during the construction phase. They note that these measures provide an adequate basis upon which to make an informed assessment of the likely impact of the proposals on the favourable conservation status of great crested newts. Therefore, subject to the implementation of the proposed mitigation/compensation measures the proposed development will not result in detriment to the favourable conservation status of the species concerned.



Thus it is considered that as the proposal meets all three tests for derogation, and is in line with local and national policy, guidance and regulations, including, policy ENV16 of the UDP, the Council's SPG on Biodiversity and Development, and national guidance contained in TAN5 - Nature Conservation and Planning and the Conservation of Habitats and Species Regulations 2010.

### **Flood risk and drainage**

A number of neighbour objections have raised concerns over flooding and drainage, with reference made to existing local problems in relation to surface water and drainage.

The application is accompanied by a Flood Consequence Assessment (FCA) which demonstrates that the proposed development site is at negligible risk of flooding from all sewers and water courses within close proximity of the site. It concludes that no mitigation measures are required, with no impact on flood risk to other land provided that the site levels are carefully designed. The report also noted that surface water from the proposed development will discharge to soakaways for storms up to and including the 100-year event plus 30% allowance for future climate change. It is suggested that this represents a significant betterment on the current situation and ensures that the proposed development is reducing flood risk to the downstream catchment. The report also indicates that attenuation storage will be provided within the soakaway systems. Furthermore foul water from the proposed development will discharge into the existing 150mm diameter public foul sewer close to the boundary of the site or the 150mm sewer located in the Quad development (Sheepcourt farm barn conversions). These flows will be conveyed to the improved Bonvilston East sewage treatment works with infrastructure upgrades to be provided thereafter at the treatment works.

The Council's Drainage section have confirmed that the site is not located in a DAM zone at risk of tidal or fluvial flooding as identified within TAN15- Development and Flood Risk. In addition, the NRW maps indicate that there is a very low flood risk across the site. However, in assessing the submitted FCA they have highlighted a number of issues that require further consideration.

The Drainage section note that soakaway tests have been carried out across the site, however the results have not been submitted, and will be required prior to technical approval of the drainage layout for the site (see Condition 6). The engineering layout indicates that infiltration basins will be used in three areas of open space. Again no details have been provided on the size or layout of these basins, which will be required in accordance with the SuDS manual. The microdrainage results indicate one potential flood risk on the network and the applicant's drainage engineer will need to demonstrate that this is an acceptable risk at this location, or that appropriate mitigation measures have been put in place prior to final approval of the drainage. Furthermore no details have been of the proposed private soakaways or those to be managed privately in the open space. As for the highway drainage arrangements, confirmation should be provided to demonstrate that a connection to the existing system is permitted.

As such the Drainage section have requested a number of conditions, including, a scheme for surface water drainage; the scheme to identify existing surface water drainage and demonstrate that flows are maintained; and a written declaration detailing responsibility for the adoption and maintenance of all elements of the drainage system (see Conditions 5 and 6).

As regards the foul drainage of the site, Welsh Water have advised that the Bonvilston East Wastewater Treatment Works currently has limited capacity and would not be able to accommodate the foul flows deriving from the 120 units proposed. However, they have confirmed that up to 30 units could be accommodated in advance of any improvements to the treatment works (see Condition 7).

Welsh Water acknowledge that a Feasibility Study of the WwTW commissioned by the applicants has identified a solution. They suggest that the most appropriate mechanism for securing the funding to deliver this solution is via a S106 Planning Obligation Agreement, to which Dŵr Cymru would be a signatory. This is explored in more detail within the planning obligations section of the report. Accordingly, they confirm that there is no objection to the application, however, if the required works to upgrade Bonvilston WwTW's are not included within the Section 106 Agreement, an objection would be raised.

Welsh Water also note that as the feasibility study was originally undertaken in June 2015, their preference would be to revisit this and consider whether there are any possible improvements that can be made to the solution. However, this is not a formal requirement, and provided the Authority and the Applicant are satisfied with the current solution then they support the inclusion of the current scope of improvement works within a S106 Planning Obligation Agreement. In addition, they have confirmed that following completion of the scheme for the WwTW, any unspent funds would be returned to the Council.

In addition to the above a number of conditions are requested relating to a limitation of no more than 30 dwellings allowed to communicate with the public sewerage system, and full details of a drainage scheme to be agreed for the site before commencement.

## **Archaeology**

As part of the ES, and archaeological evaluation of the site has been undertaken. The survey work recorded a series of agricultural features, including land drains and plough furrows, some of which may relate to ridge and furrow cultivation of medieval or post-medieval date. A number of possible soil-filled features of unknown date were also detected within the northeastern part of the site. These were subsequently investigated with trial trenching and no features of any significance were detected which would preclude development.

The Council's archaeological advisors, Glamorgan Gwent Archaeological Trust, have been consulted on the proposal. They note that the site is on the line of a major Roman road and at the outskirts of a Medieval settlement, and therefore in an area that is likely to have been the focus for settlement or activity during these periods. Following an examination of the submitted ES they conclude that it is unlikely that the proposed development will encounter a buried archaeological resource and therefore confirm that they have no objection to the application. As such it is concluded that no further work or mitigation measures are required in respect of archaeology across the site.

## **Noise**

The issue of noise is a material consideration in the determination of the application with policy ENV29 of the UDP being relevant and national guidance contained in PPW and TAN11-Noise.

When considering the requirement for an EIA, and the scoping of the issues to be assessed, the Council's Environmental Health section raised potential concerns over the impact of noise on the development, in particular from road traffic. As a result a Noise and Vibration Assessment has been undertaken as part of the ES. Prior to undertaking the survey work the methodology was approved the Council's Environmental Health section. It was agreed that the noise assessment would take into account current guidance within Wales; noise monitoring locations were agreed along with the timing of monitoring; that external and internal noise limits would be in accordance with the requirements of TAN 11 and World Health Organisation (WHO). Furthermore, in response to the scoping report the Environmental Health section noted that the area in question was designated a Round 2 Priority Area as part of the Welsh Governments obligation under the Environmental Noise Directive and that any noise action plan should include having regard to the location of designated priority areas and the risk of increasing them in size, or creating new priority areas, by permitting new housing development that fails to sufficiently protect future residents from noise in the way in which it is designed and constructed. Thus, the noise assessment has also considered the impact of future road traffic noise associated with the proposed development on the Priority Area in addition to specifying noise mitigation measures to protect the future occupants of the development.

The survey work considered the impact on existing properties as a result of increased traffic generated by the development and from construction works, plus the likely impact on future occupiers from road traffic. The ES concludes that the increase in road traffic noise will be below the threshold of perception and is therefore considered to be negligible in its impact on existing residents. As such mitigation measures are not considered necessary.

In respect of the earthworks and construction phase of the development, the ES notes that subject to the implementation of best working practice and restriction on working hours, the noise and vibration impacts of earthworks and construction phases will be generally negligible.

Finally, in considering the likely impact on the occupiers of the proposed dwellings, the ES indicates that mitigation measures will need to be incorporated to meet the required guidelines for noise sensitive rooms. To that end, a glazing and ventilation scheme has been created to achieve the required guideline values. The glazing and ventilation scheme will allow for passive ventilation to be provided in noise sensitive rooms with windows closed. In addition the ES notes that purge ventilation can be provided via extractor fans in kitchen/bathrooms and through the occasional opening of windows as required. Furthermore the ES refers to the installation of acoustic fencing which is identified on the proposed layout plan. These requirements can be secured by way of a condition on any consent (see Condition 21).

### **Planning obligations and viability issues**

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. In addition the updated Draft Planning Obligations SPG (approved by Cabinet on 14 December, 2015) is now used as a material consideration in the Development Management process. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to all relevant material circumstances.

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the application seeks full planning permission for the development of 120 dwellings/flats on a greenfield site adjoining the settlement of Bonvilston.

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.

The relevant planning obligation issues are outlined below followed by analysis of the development viability issues affecting the deliverability of such obligations.

## Affordable Housing

TAN 2 defines 'Affordable Housing' as housing provided to those whose needs are not met by the open market. It should meet the needs of eligible households, including affordability with regard to local incomes, and include provision for the home to remain affordable for future eligible households, or where 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*'.

The Deposit Local Development Plan (October 2013) policy MG 4 required 35% affordable housing to be incorporated with any residential development of this site, based on an assessment of need and viability at the time. However, as part of the Local Development Plan process there has been an assessment of 'focused' and 'minor' changes to the draft Deposit Local Development Plan (DLDP). These changes are in response to subsequent consultations and the issues raised and are considered necessary to ensure that the LDP is sound. These focused changes include an amendment to the requirement for affordable housing as part of residential development.

In response to representations on affordable housing, the Council has commissioned a review of its viability evidence base to September 2014, taking account of matters raised by the Home Builders Federation (HBF) and the Welsh Government (WG). The latest viability evidence, contained within the Council's Affordable Housing Viability Update Report (2014), indicates a marked increase in viability within the Vale of Glamorgan, and recommends that the Council should increase the affordable housing targets set out in Policy MG 4 from 35% to 40% in the area of Bonvilston. The Council has produced further evidence to support this position following the recent examination in Public of the LDP which is contained in the Action Point Responses for Hearing Session 6.

The Vale of Glamorgan Local Housing Market Assessment (2015) provides the latest evidence on affordable housing need. The LHMA identifies a net annual need for 559 Affordable Housing Units.

In light of the evidence contained within the Council's Affordable Housing Viability Update Report (2014) and the focussed change to Policy MG 4, a Draft SPG for Affordable Housing was approved by Cabinet on 14th December 2015 (Cabinet Minute C3022) and at the Council's Economy and Environment Scrutiny Committee on 5th January 2016. The SPGs are now being used as a material consideration in the Development Management process.

On a 120 unit development, **40% affordable housing** should be provided on site, in line with the Council's latest viability information and the draft Supplementary Planning Guidance on Affordable Housing, which equates to 48 dwellings. The Council also require the affordable housing tenure to be provided at a ratio of 70% social rented, 30% intermediate, consistent with the local housing needs identified in the Council's LHMA.

### Education

All new residential developments which are likely to house school aged children create additional demand on places at existing schools. PPW (ed. 9, January 2016) Paragraph 4.4.3 emphasises that in order to achieve a 'More Equal Wales', development should promote access to services like education. PPW recognises that education is crucial for the economic, social and environmental sustainability for 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.

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. Whilst the Council's Unitary Development Plan (1996-2011) is time-expired, this policy remains in line with national guidance contained within PPW.

Whilst 120 residential units are proposed, 12 of the units are 1 bed bedrooms flats, which would not accommodate children of a school age. Therefore 108 dwellings would generate the need for education facilities comprising of the following :

- 11 Nursery,
- 30 primary
- 26 secondary age pupils (22 pupils aged 11-16 and 4 post 16)

Based upon the Council's formula and capacity at local schools, the Council would under normal circumstances seek to secure the following as a section 106 contribution for Education provision:

- Nursery school children – 11 children x £14,463.26 = £159,095.86
- Primary school children – 30 children x £14,463.26 = £433,897.8
- Secondary (aged 11-16) children – 20 children (English Medium) x £21,793.42 = £435,868.4
- Secondary (aged post-16) children – 4 children (English Medium) x £23,653.40 = £94,613.6

In total, the Council would require the developer to pay a contribution of £1,123,475.66 towards education facilities (based on the SPG requirement at the time the application was submitted).

## School Transport

Given the location of the site, there is also a requirement for contributions towards school transport, as set out in the Planning Obligations SPG, in order to meet the additional pressure (for 3years).

There will be 33 primary school children, 24 secondary school children and 5 secondary school (post 16years) children who will require subsidised school transport to reach school at a cost of £650.00 per pupil per annum. Therefore a contribution of £120,900 is required for school transport.

## Public Open Space

UDP Policies REC3 and REC6 require new residential developments to make provision for public open space. The Planning Obligations SPG and LDP Open Space Background Paper (2013) provide further advice about how these standards should operate in practice, and specifically in relation to this LDP allocated site.

The site lies within the ward of Wenvoe. The LDP Open Space Background Paper (2013) indicates the ward of Wenvoe has an under-provision of children's play space of 0.41ha and an over-provision of 1.89ha of outdoor sport space. However, there is no outdoor sport provision within Bonvilston itself. Therefore, LDP Policy MG 25 (8) allocated 0.55 hectares of land to the east of Bonvilston alongside the residential land as part of mixed use allocation, to ensure that adequate outdoor sport land was being provided in Bonvilston to meet the growth identified in the LDP.

In total, under public open space requirements as defined within the LDP Open Space Background Paper (2013), the standard can be broken down to a minimum square metre requirement per person as follows:

**Standard for Children's Outdoor Play** = No of dwellings X average household size (2.32) X standard per person (2.5sqm)

**Other children's play space** = No of dwellings X average household size (2.32) X standard per person (6sqm)

**Outdoor Sport** = No of dwellings X average household size (2.32) X standard per person (16sqm)

The development of 120 dwellings creates the need for 696sqm of children's play facilities, 1670sqm of other children's play space and 4,454sqm of outdoor sport. The site also needs to accommodate the windfall Public Open Space for Bonvilston (for 26dwellings), equalling 151sqm of children's play facilities, 362sqm for other children's play space and 965 sqm for outdoor sport. In total, the site needs to deliver 8,298sqm (0.83hectares) of Public Open Space, including 3 Local Areas for Play (LAPs), 1 Local Equipped Area for Play (LEAP) and outdoor sport space (equating a Junior Football Pitch or equivalent).

As already noted, the proposed layout will provide for four defined areas of Public Open Space (POS). These include, an area towards the eastern side of the site close to the new access, measuring 0.22 ha and providing a Local Area of Play (LAP); a central area of 0.12 ha; an area to the south close to Sheep Court Cottage and Sheep Court Farm, 0.07ha with a LAP; and the largest area in the south western corner of the site of 0.43 ha, which will include provision of a 37m x 55m playing surface (junior sports pitch), a LAP, and an equipped play area (LEAP). This amounts to a total open space provision of 0.84ha.

In terms of maintenance, if the POS is to be transferred to the Council, a 20 year commuted sum would be required. This figure cannot at present be calculated until full details of the play equipment is provided. This matter can be dealt with within the Section 106 agreement, requiring this to be agreed once full details are submitted for approval.

### Community Facilities

UDP Policy HOUS8 permits new residential development where (inter alia) adequate community and utility services exist or can be readily provided. The Planning Obligations SPG acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities.

The Community Facilities contribution for the scale of development indicated would be based on the formula of 0.75sqm of community floor space per dwelling or £988.50 per dwelling if not provided on site. Given the scale of development proposed, it is not considered appropriate to require a building on site, which would be too small to provide a meaningful community facility.

The Council's LDP Community Facilities Background Paper (2013) confirms that within the Wenvoe Ward, there is an existing deficiency of community facilities and additional space is required to accommodate the projected housing growth over the plan period.

A community facilities contribution at £988.50 per dwelling is required, in lieu of on-site provision. Based a scheme for 120 dwellings, this would amount to **£118,620** arising from the development for community facilities.

### Sustainable Transport

Increasing importance is enshrined in local and national planning policies emphasising the need for developments to be accessible by alternative modes of transport than the private car.

Planning Policy Wales (PPW) (Ed. 9, November 2016), Paragraph 4.4.3 recognises that in order to create sustainable and cohesive communities within Wales, improvements to transport facilities and services are required. Paragraph 4.7.4 seeks to ensure that new developments are integrated appropriately within existing settlements, to minimise the need to travel by private car.



National policy contained within Technical Advice Note 18 'Transport' (March 2007) Paragraph 9.20 allows local planning authorities to use planning obligations to secure improvements to the travel network, for roads, walking, cycling and public transport, as a result of a proposal.

In terms of local policy, 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. Whilst the Council's Unitary Development Plan (1996-2011) is time-expired, these policies are supported by the advice in PPW, TAN 18: Transport and Manual for Streets and therefore remain relevant.

The Sustainable Transport Assessment (2013) and Transport Assessment of LDP Proposals (2013) identified the transport implications of growth planned in the LDP and outlined proposals for improvements to highway and sustainable transport infrastructure to address the increased demand for travel.

The Council has based the Sustainable Transport contribution for this site on the adopted Planning Obligations SPG, given that the application was received by the Council some time before the 5th January 2016. The proposed development would result in an increased impact to the local highway infrastructure. With the policies promoting alternative modes of transport to the private car, an assessment will be conducted as to how the sustainable transport provision could be improved in Bonvilston and within the vicinity of the site. This includes identifying potential pedestrian routes from the proposed development.

In particular enhancements would include bus and cycle improvements along the A48 and along Pendoylan Lane. Potential enhancements could then be funded by any sustainable transport contribution.

In accordance with the adopted Planning Obligations SPG, the Council require a financial contribution of £2,000 per residential unit to provide sustainable transport facilities in the vicinity of the site. For 120 units this would result in a requirement for **£240,000**.

### Community facilities

Community facilities are important for meeting a range of social needs and must be provided locally to serve the needs of the local community and reduce the need to travel. All new residential developments place pressure on existing facilities.

Chapter 4 'Planning for Sustainability' of PPW (Ed. 9, January 2016), promotes the importance of equal and cohesive communities, and access to services such as community facilities. Paragraph 4.6.1 of PPW recognises that development can help to arrest the decline in community facilities.

UDP Policy HOUS8 permits new residential development where (inter alia) adequate community and utility services exist or can be readily provided. The SPG on Planning Obligations acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities.

The Community Facilities contribution for the scale of development would be based on the formula of 0.75sqm of community floor space per dwelling or £988.50 per dwelling if not provided on site (based on the SPG requirement at the time the application was submitted). Given the scale and location of the development it is considered appropriate to require an off-site contribution of £97,861.50 (based upon a net gain of 99 dwellings). This could be used to provide improved facilities off site, such as enhancements at Wenvoe Library; St. Nicholas Church; St. Nicholas Church Hall, and Bonvilston Reading Rooms. The developer has agreed to this obligation.

The Council's LDP Community Facilities Background Paper (2013) confirms that within the Wenvoe Ward, there is an existing deficiency of community facilities and additional space is required to accommodate the projected housing growth over the plan period.

A community facilities contribution at £988.50 per dwelling is required, in lieu of on-site provision. Based a scheme for 120 dwellings, this would amount to £118,620 arising from the development for community facilities.

### Public Art

Technical Advice Note (TAN) 12 'Design' (March 2016) Section 5.15 recognises the importance role of public art, in creating and enhancing '*individuality and distinctiveness*' within a development, town, village and cities.

Public Art can bring distinctiveness and material and craft quality to developments, enable local people to participate in the process of change and foster a sense of ownership. It is therefore an important part of achieving design quality.

The Council introduced a 'percent for art' policy in July 2003, which is supported by the Council's adopted SPG on Public Art. It states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, as a rule, public art should be provided on site integral to the development proposal.

### Planning obligations administration fee

In addition the above and separate to any obligation, the Council normally requires the developer to pay an administration fee to monitor and implement the terms of the Planning Obligations. This fee covers the Council's costs to negotiate, monitor and implement the terms of the necessary Section 106 Agreement.

## Development Viability

During negotiations on the planning application the applicant has argued that the Council's requirements for planning obligations are threatening the economic viability of the development. In addition to this there are a number of additional costs required to develop the site, in terms of infrastructure costs.

The reduced planning obligations offer would only be considered acceptable in view of the development viability issues balanced against the need for housing and the sustainable credentials of the site.

In accordance with national guidance, the Council's Affordable Housing SPG 2016 outlines in section 6.2 (Prioritising Planning Obligations) that where an applicant robustly demonstrates that planning obligations would adversely affect the viability of a development, the Council would negotiate obligations in the following order: -

1. Works required to secure a safe environment for the community and future occupiers of the proposed development or which are necessary to meet statutory obligations (e.g. satisfactory access arrangements, off-site highway improvements, natural or built environment and flood risk prevention).
2. In the case of residential development, the provision of affordable housing to meet the needs of the local community.
3. Measures required to meet the needs of the future occupants of the proposed development where the failure to provide the measure would impose unacceptable impacts on the local community (e.g. public open space provision and education).
4. Measures required to mitigate the impact of the proposed development on the local community or matters of acknowledged importance (e.g. community safety, public art, employment and training).

### *Bonvilston East Welsh Water Treatment Works*

The developer commissioned Welsh Water to undertake a Feasibility Study (Development Impacts Assessment) as the Bonvilston East Welsh Water Treatment Works (WwTw) is currently overloaded and cannot accept any further flows until the improvement works are undertaken. The purpose of the study was to identify a viable and deliverable solution to accommodate the increased flows to the site resulting from the proposed development.

Whilst the foul flows from 30 dwellings can be accommodated, the developer will have to secure funding to carry out the required improvements for the remaining 90 dwellings. The costs of the works has been set out in the Development Impacts Assessment report as circa £1.2m.

Therefore in order for the site to be developed for 120 dwellings, the improvements works would have to be undertaken and have to form part of the accepted development costs.

### *Pendoylan Lane Improvements*

As previously stated, the development of the application site will deliver local highway improvements to the existing highway north of the A48 (north of Sycamore cross). LDP Policy MG16, identifies the land to secure such improvements. The developer in his Viability Assessment Report, fully costed up the works to undertake the full scope of the required improvements.

### *Viability Review*

Welsh 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.

The developer has submitted a viability appraisal, which includes details such as development revenue, development costs, abnormal development costs, professional fees, finance costs, build contingency, land value and in particular, infrastructure costs. The viability appraisal tested a number of scenarios, based on the costs of the Sewage Treatment Works and the Pendoylan Lane Improvements, with a varying provision of affordable housing and S106 contributions. This is confidential and contains commercially sensitive information and consequently cannot be released to the public, but is available on file for Member’s Inspection under member privilege.

Based on the need to prioritise Planning Obligations, as set out above, the Council agreed that that the Sewage Treatment Works (to ensure a safe environment for the community and future occupiers) and to enable the development of the site to the required density and the off-site highway improvements, are necessary and should be prioritised in any viability testing.

The District Valuer (DV) was appointed as an independent expert to scrutinise, analyse and review the submitted information and advise the Council on the development viability. The DV’s Report looked at a number of development scenarios, with varying percentage provision of affordable housing and S106 contributions, based on the fixed inputs of the costs of the Sewage Treatment Works and the full scope of Pendoylan Lane Improvements.

1. Based on a 35% AH provision (less than the required 40%) in addition to the S106 contributions, the residual value of land would be well below the benchmark land value and the scheme would not be viable.
2. With a reduced provision of AH provision to 20%, in addition to the S106 contributions, whilst this improves viability, it would still be unviable based on the residual value of land.
3. Based on 20% AH provision, but without any S106 contributions, the scheme would be viable, on the assumption that the road costs remain the same.

It is maintained that the site could be developed meeting the required 40% AH provision and S106 contributions, if it was not for the infrastructure works (Sewage Treatment Works and the Pendoylan Lane Improvements) impacting on the scheme viability. Given that the development could not be mitigated in terms of providing any s106 financial contributions (as set out above), officers undertook further discussions in relation to the scope and costs of the necessary Sewage Treatment Works and the Pendoylan Lane Improvements, in order to reduce the development costs to release value in the site.

Following further discussion with Welsh Water they have confirmed that whilst their duty is to improve, maintain and extend water and sewerage systems, their capital investment is managed in a rolling 5 year Asset Management Plan (AMP). This is to ensure appropriate large scale water and sewerage infrastructure works are undertaken to provide capacity for growth. In light of this and the next available AMP programme, confirmation of whether a scheme to upgrade capacity can be included would not be known until 2019. In light of this, the development of the site is reliant on the developer funding these improvements, to cost of circa £1.2m.

In relation to Pendoylan Lane Improvements as originally reviewed, related to the the full length (circa 700m), which include the realignment of the road and the provisions of a new combined cycleway/footway. The agreed costs of these improvement works would be circa £2.4m. Given the impact of these costs on the viability of the scheme, a shorter (circa 400m) length of the improvements was costed, on the basis that the remainder of the road improvement could be undertaken at a later date, on the proviso that the and to provide the improvements is safeguarded for an agreed period (10 years). The acceptability of this reduced length of road improvement detailed earlier in the report and in summary the costs of the reduced scheme is circa £1.2m.

Further to the above the house type mix has been amended to satisfy the requirement of the Council's Housing section (see below). The DV has tested the applicants proposed 20% Affordable mix (with the major Pendoylan Road works costs as now agreed, updated unit types (which has reduced the overall development value of the site). As such, the revised scheme remains unviable as it produces a residual land value which is far lower than the adopted benchmark land value. The DV states that if a 20% level of Affordable housing is agreed it is their opinion that no S106 sums can be paid.

Whilst it was assumed that the savings in the road cost would release value to provide an element of education contribution, in light of the amended housing mix, the savings in the reduced off-site road improvements have been offset by the lower development value of the site. However, it is considered necessary to mitigate the impact of the development on the education demands, and therefore the applicant was requested to contribute towards this and a sum of £500,000 has been agreed.

On this basis, and in line with the guidance set out in the adopted SPG on Planning Obligations and at a national level by WG, a reduced section 106 package has been negotiated.

Consideration was given to increasing the provision of AH to the required 40%, which would be reliant on utilising AH off site contributions from other sites. However, the housing department are not supportive of the use of what would be all of the other off site contributions secured, given the valuations of properties, the level of unmet need and the fact that there is uncertainty on the timings of the receipt of these contributions.

Having regard to the particular circumstances of this development in this location, officers consider that the contribution should mainly be prioritised towards the provision of education needs arising from the development, which strikes an appropriate balance against the AH provision on site.

Therefore, officers recommend a reduced s106 package of planning obligations reflecting the viability constraints of the site as follows:

Affordable housing - the viability evidence shows that 40% affordable housing cannot be achieved. In this instance it is considered that the best balance would be to secure 20% AH, which comprises of 24 units with the following splits:

#### Social Rented

4No. 1 bed flats  
11No. 2 bed houses  
3No bed houses

#### Intermediate

3No. 2 bed  
3No. 3 bed

The mix equates to 75:25 split in favour of social rented. Whilst this is not in accordance with the latest tenure split as set out previously, the Council's Affordable Enabling Officer is supportive of the mix and tenure type on the basis of the viability.

The developer has agreed to this obligation and is detailed in the amended planning layout.

Education - the evidence shows no viability, however, the applicant has agreed a contribution of £500,000 to use for education purposes, with priorities identified in consultation with the Council's Education department to meet the needs of the development as identified at the time.

Sustainable Transport : The viability demonstrates that there is no funding for sustainable transport contributions. However Members will note that a cycleway/footway along 400 metres of Pendoylan Lane is being provided by the developer. The first 150 metres is considered to form the site frontage and would have to be provided by the developer in order to provide access into the site from the A48. However the continuation of the cycleway footway from 150m to 400m is an additional element secured as part of the improvement works to Pendoylan Lane which have been costed as being £36,853.

### Implementation

The viability review was undertaken in January 2017, based on current market values and build costs. In accepting the viability case presented by the applicant, and as agreed by the DV, it is considered necessary to reduce the timescale for implementation, in line with the DV advise. The applicant has agreed that the development will be implemented within one year of the grant of planning permission (see Condition 1).

Whilst the above only requires implementation and not completion, the S106 does require the delivery of the off-site highway improvements prior to the occupation of the 100<sup>th</sup> dwelling, or within 4 years of the commencement of development. As such the applicant is obliged in any case to build the road with the associated costs, which will be funded by the sale of the proposed houses.

### **Conclusion**

The application includes an Environmental Statement (ES) which sets out the results of an Environmental Impact Assessment ('EIA') of the proposed development. This has been carried out due to the scale and nature of the proposals and the location and characteristics of the site. The ES (July 2014) and Addendum (October 2015) have considered the current conditions identified (the baseline), and the potential effects of the development, and identify a range of both adverse and beneficial effects from the development.

The ES notes that in each case where adverse environmental effects of the proposed development have been identified, measures to avoid or mitigate these effects have been identified and described. The principal mitigation measures included in the development proposals and recommended in the Environmental Statement are summarised in Table 3.1 of the ES. The principal environmental effects of the proposed development after the implementation of the mitigation measures which have been identified and proposed, that is the "residual environmental effects" of the proposed development, are summarised in Table 3.2.

It is concluded therefore that, subject to the implementation of the relevant mitigation measures outlined in the ES, the environmental impacts identified are acceptable.

It should also be noted that officers have entered negotiations with the applicant to secure planning obligations through a Section 106 Agreement. Whilst these are limited due to the viability issues associated with the site, nevertheless, there are benefits arising from development. These include the contribution towards the Vale's required housing supply and the delivery of affordable housing; the provision of public open space; and off-site highway improvements.

It is therefore concluded that the application should be approved subject to conditions and subject to a Section 106 Legal Agreement.

### RECOMMENDATION

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

- Procure that 20% (24 No.) 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 75% would be social rented properties, and the remaining 25% would be intermediate properties.
- To require the developer to enter into a highway legal agreement under the Highways Act 1980 with the Council, to provide the identified improvements to Pendoylan Lane (to chainage 400 metres) as approved under this application, which be fully completed prior to the occupation of the 100<sup>th</sup> dwelling or within 48 months from the commencement of development and to secure any required Traffic Regulation Orders appropriate to the highway safety of the scheme as a whole in accordance with a scheme which shall first have been submitted to and agreed in writing by the Local Highway Authority.
- The landowner shall safeguard the land (identified to undertake the remainder of the highway improvements to Pendoylan Lane) and not at any time dispose of or carry out any development of the land, in order to allow the Council the option to undertake highway improvements (for a period of 10 years).
- Pay a contribution of £500,000 for the provision or enhancement of education facilities towards meeting the needs of future occupiers.
- A scheme to ensure appropriate provision for future maintenance for the on-site public open space.
- The developer shall pay a contribution of £1.2m to Dwr Cymru Welsh Water to increase capacity at the Bonvilston East Wastewater Treatment Works to accommodate an additional 90 dwellings,
- In the event that the final costs of Bonvilston East Wastewater Treatment Works is less than £1.2m, Dwr Cymru Welsh Water shall pay the Council the difference.



APPROVE having regard to all the submitted environmental information in accordance with Section 3(2) of the Regulations and subject to the following condition(s):

APPROVE subject to the following condition(s):

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

Reason:

To ensure that the development is implemented and progresses in a timely manner with specific regard to the current economic circumstances and state of the housing market which have been important material considerations in the determination of this application and the related legal agreement and in accordance with Welsh Assembly Government advice contained in Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update (2009).

2. The development shall be carried out in accordance with the following approved plans and documents:-
  - Site Boundaries, Drg. No. CA10624-018D, 27 September 2016, amended plan received 29 September 2016;
  - Proposed Site Plan, Drg. No. SP411-P01 Rev D, July 2015, amended plan received 12 January 2017;
  - Proposed Site Plan-Plot Locations, Drg. No. SP411-P05 Rev D, August 2015, amended plan received 12 January 2017;
  - Proposed External Works, Drg. No. SP411-P04 Rev C, August 2015, amended plan received 12 January 2017;
  - House type plans for variations:-HA1, HA2,HA3, LCHO2, LCHO3, and Types A-H and J-L, as identified in Key to House Types and Elevational Variations, Drg. No. SP411-P20, August 2015, amended plans received 12 January 2017;
  - Engineering layout, Drg. No. 3758-110 Rev F, June 2015, amended plan received 12 January 2017;
  - General Arrangement Developed Design, Drg. No. SCB-CAP-00-00-DR-CE-001 Rev P06, 24 February 2016, amended plan received 12 January 2017;
  - Drainage Layout, Drg. No. SCB-CAP-00-00-DR-CE-002 Rev P01, 24 February 2016, amended plan received 12 January 2017;
  - Longsection, Drg. No. SCB-CAP-00-00-DR-CE-003 Rev P01, 24 February 2016, amended plan received 12 January 2017;
  - Cross sections (1 of 2), Drg. No. SCB-CAP-00-00-DR-CE-004 Rev P01, 24 February 2016, amended plan received 12 January 2017;
  - Cross sections (2 of 2), Drg. No. SCB-CAP-00-00-DR-CE-005 Rev P00, 24 February 2016, amended plan received 12 January 2017;
  - Vehicle Swept Path Analysis: Refuse Vehicle, Drg. No. SCB-CAP-00-00-DR-CE-006 Rev P00, 23 May 2016, amended plan received 12 January 2017;
  - Street Lighting Layout, Drg. No. SCB-CAP-00-00-DR-CE-007 Rev P00, 23 May 2016, amended plan received 12 January 2017;

- Typical Detailed Section, Drg. No. SCB-CAP-00-00-DR-CE-008 Rev P00, 6 September 2016, amended plan received 12 January 2017;
- Soft Works Layout-Residential Scheme, Drg. No. UG1504-LA-202 Rev 04, 6 January 2017, amended plan received 18 January 2017;
- Soft Works Layout - Pendoylan Lane, Drg. No. UG1504-LA-203 Rev 04, 13 July 2015, amended plan received 12 January 2017;
- Environmental Statement and Technical Appendices, comprising Main Text, Drawing and Figures (July 2015), plus an Addendum to the Environmental Statement (October 2015) and a further Revision of 2015 Environmental Statement and 2015 Environmental Statement Addendum (Ecology) (May 2016);
- Non-Technical Summary to Environmental Statement July 2015;
- Design and Access Statement and Addendum January 2017;
- Planning Statement 11 August 2015;
- Transport Assessment Revision B August 2015;
- Travel Plan Framework August 2015;
- Flood Risk Assessment June 2015;
- Drainage Strategy received 26 August 2015;
- ArbTS Arboricultural Report July 2015; and
- Wardell Armstrong Arboricultural Report December 2014;

Reason:

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

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

Reason:

In the interests of visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

4. Prior to the commencement of development, full details of the finished levels of the site in relation to existing ground levels, including cross-sections, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

In the interests of neighbouring and visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

5. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policies ENV27-Design of New Development and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

6. The detailed drainage scheme shall pay particular regard to the following:-
  - Surface water drainage, showing how road and roof/yard water will be dealt with. If infiltration techniques are used, then the plan shall include the details of field percolation tests. Any calculation for onsite attenuation or discharge should also be included. The scheme shall be designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event plus climate change and not in any part of any building for the 1 in 100 year rainfall event plus climate change;
  - Scheme to provide an appropriate level of runoff treatment and will follow the principles identified within the submitted Flood Consequence Assessment;
  - An implementation/construction plan of the drainage systems to be provided;
  - Identification of all existing surface water drainage structures within the site and demonstrate that they are still utilised for their intended use, or that alternative provision is made;
  - Scheme shall demonstrate that flows within said structures are maintained during construction works and thereafter;
  - A written declaration detailing responsibility for the adoption and maintenance of all elements of the drainage system prior to beneficial occupation;
  - A maintenance schedule for the surface water system, including soakaways and infiltration basins; and
  - Provision of as-built drawings for the surface water drainage system.

Reason:

To minimise the risk of flooding and prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policies ENV7-Water Resources, ENV27-Design of New Development and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

7. No more than 30 dwellings shall communicate with the public sewerage system until the necessary improvements to Bonvilston East Wastewater Treatment Works to accommodate the foul flows from the development hereby approved have been completed and confirmed in writing by the Local Planning Authority.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policies ENV27-Design of New Development and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

8. Notwithstanding the submitted plans, full engineering details of the proposed highway works, including highway drainage, shall be submitted to and agreed in writing with the Local Planning Authority before their implementation on site. The development shall be implemented thereafter in accordance with the approved details.

Reason:

In the interests of highway safety in accordance with Policy ENV27-Design of New Developments of the Unitary Development Plan.

9. The approved access (including the associated works to Pendoylan Lane with the site frontage), internal road layout and car parking provision, including private curtilage parking and on road bays, as identified on Drg. No. SP411-P01 Rev D shall be implemented in full before the first beneficial occupation of their associated residential units. The car parking provision shall thereafter be retained and maintained for use exclusively in connection with their associated residential units.

Reason:

To ensure adequate access and off-street parking in the interests of highway safety in accordance with Policies ENV27-Design of New Developments, and TRAN10-Parking of the Unitary Development Plan.

10. The development hereby permitted shall be implemented in accordance with the Travel Plan Framework dated August 2015 and prepared by Capita.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Strategic Policies 2 and 8 and ENV27-Design of New Developments of the Unitary Development Plan.

11. Prior to the commencement of any works within the site or associated with new access, a Construction Traffic Management Plan, which shall include, details of construction site access (haulage routes); traffic management; hours of delivery; etc., shall be submitted to and approved in writing with the Local Planning Authority. All construction works shall fully accord with the agreed CTMP and no other local roads shall be used by construction traffic other than that agreed 'Construction Traffic Access Route'

Reason :

In the interests of maintaining highway efficiency and public safety and in accordance with Policy ENV27-Design of New Developments of the Unitary Development Plan.

12. The development hereby permitted shall be implemented in accordance with the recommendations contained in the Environmental Statement and Technical Appendices (July 2015), plus Addendum to the Environmental Statement (October 2015) and a further Revision of 2015 Environmental Statement and 2015 Environmental Statement Addendum (Ecology) (May 2016).

Reason:

In the interests of ecology and biodiversity and to ensure adequate mitigation for protected species in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, TAN5-Nature Conservation and Planning, and the Conservation of Habitats and Species Regulations 2010.

13. The clearance of the site shall be carried out in accordance with the Method Statement in Appendix 2.4.13 and the Methodology in Section 2.4.361 of the Environmental Statement.

Reason:

In the interests of ecology and biodiversity and to ensure adequate mitigation for protected species in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, TAN5-Nature Conservation and Planning, and the Conservation of Habitats and Species Regulations 2010.

14. Before the commencement of development, a scheme for the protection and enhancement of biodiversity on site shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall consider, but not be exclusively limited to:-
- Wildlife friendly (newt friendly) drainage;
  - Mammal/amphibian underpasses (dependent upon topography);
  - Wildlife kerbs;
  - Provision of bird nesting boxes on 25-50% of new residential units on site (target species are Swift, Starling, House Sparrow and House Martin);
  - Provision and protection of vegetated Dark flight corridors for light sensitive species of bat;
  - Retention of mature and semi-mature trees;
  - Retention of water features in a natural condition;
  - 7m buffer to water features;
  - 100mm gaps under all fences;
  - Native species in the planting scheme; and
  - Native wild flowers mix for open areas, rather than low diversity grass mixes.

The approved scheme shall be implemented on site and thereafter retained at all times in line with any agreed timescales.

Reason:

In the interests of ecology and biodiversity enhancement in accordance with Policy ENV16-Protected Species of the Unitary Development Plan, TAN5-Nature Conservation and Planning, and the Conservation of Habitats and Species Regulations 2010.

15. Before the commencement of development, a Japanese Knotweed strategy shall be submitted to, and approved in writing by the Local Planning Authority. The strategy will detail measures to be implemented to prevent the spread of Japanese Knotweed. The development shall be implemented thereafter in accordance with the approved scheme.

Reason:

In the interests of the environment in accordance with Policy ENV29-Protection of Environmental Quality of the Unitary Development Plan, and to address Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

16. 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:

In the interests of visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

17. In line with the ArbTS Arboricultural Report (July 2015), a scheme providing for the fencing of the trees and hedgerows 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/hedgerow protection shall be so retained on site for the duration of development works.

Reason:

To ensure the existing trees/hedgerows to be retained are safeguarded and in the interests of visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

18. Notwithstanding the submitted plans, further details of the means of enclosure associated with the development hereby approved, shall be submitted to and agreed in writing by the Local Planning Authority. The details shall pay particular regard to the external boundaries of the site, including the relationship between the proposed acoustic fencing and retained hedgerows, to ensure that the development reflects its rural location. The means of enclosure shall be implemented in accordance with the approved details prior to the first beneficial occupation of the associated residential units, and thereafter retained and maintained as such.

Reason:

In the interests of visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

19. 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 Condition 17, shall be erected, constructed or placed on plot No.s 1, 2, 8, 13, 14, 18-21, 43, and 45-50 without the prior written consent of the Local Planning Authority.

Reason:

In the interests of visual amenity and the character and appearance of the rural setting and Bonvilston Conservation Area, in accordance with Policies ENV4-Special Landscape Areas, ENV10-Conservation of the Countryside, ENV20-Development in Conservation Areas, ENV27-Design of New Developments and HOUS8-Residential Development Criteria of the Unitary Development Plan.

20. Full details of the layout of the public open space areas, including details of surfacing, enclosures, play equipment, seating, and the future management and maintenance of the sites to allow public access, shall be submitted to and approved in writing by the Local Planning Authority. Each area of public open space shall be implemented in accordance with the agreed details before the first beneficial occupation of any one of the neighbouring residential properties hereby permitted.

Reason:

In the interests of visual and neighbouring amenity, and the adequate provision of public open space, in accordance with Policies ENV27-Design of New Developments, REC3-Provision of Public Open Space for New Developments, REC6-Children's Play Facilities, and REC7- Sport and Leisure Facilities of the Unitary Development Plan.

21. The development shall be implemented in accordance with the proposed noise mitigation measures outlined in the accompanying Environmental Statement prior to the first beneficial occupation of any individual dwelling for which the mitigation measures have been identified.

Reason:

To ensure that adequate noise mitigation is implemented for those properties adversely affected in accordance with Policies ENV27-Design of New Developments, ENV29-Protection of Environmental Quality of the Unitary Development Plan and national guidance contained in TAN11-Noise.



22. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorscheme.org.uk](http://www.considerateconstructorscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policies ENV27-Design of New Developments and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

23. No construction work associated with the development hereby approved shall take place on the site on any Sunday or Public Holiday or on any other day except between the following hours:

0800 – 1800 Mon – Fri  
0800-1300 Saturday

Unless such work –

- (a) is associated with an emergency (relating to health and safety or environmental issues);
- (b) is carried out with the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policy ENV27-Design of New Developments of the Unitary Development Plan.

### REASON FOR RECOMMENDATION

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.

It is considered that the development complies with the sustainable development principle and satisfies the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

Having regard to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV4-Special Landscape Areas, ENV7-Water Resources, ENV10-Conservation of the Countryside, ENV11-Protection of Landscape Features, ENV14-National Sites of Nature Conservation Importance, ENV15-Local Sites of Nature Conservation Significance, ENV16-Protected Species, ENV17-Protection of Built and Historic Environment, ENV18-Archaeological Field Evaluation, ENV19-Preservation of Archaeological Remains, ENV20-Development in Conservation Areas, ENV21-Demolition 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, HOUS11-Residential Privacy and Space, HOUS12-Affordable Housing, TRAN9-Cycling Development, TRAN10-Parking, REC3-Provision of Public Open Space for New Developments, REC6-Children's Play Facilities, REC7- Sport and Leisure Facilities, and Strategic Policies 1 & 2-The Environment, 3-Housing, 7-Transportation Network Improvement, 8-Transportation and 14-Community Facilities of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Amenity Standards, Affordable Housing Draft, Biodiversity and Development, Design in the Landscape, Model Design Guide for Wales, Parking Standards, Planning Obligations, Trees and Development, and the Bonvilston Conservation Area Appraisal and Management Plan; and national guidance contained in Planning Policy Wales (Edition 9, 2016) and TAN1- Joint Housing Land Availability Study, TAN2-Planning and Affordable Housing, TAN5-Nature Conservation and Planning, TAN6-Planning for Sustainable Rural Communities, TAN10-Tree Preservation Orders, TAN11-Noise, TAN12-Design, TAN16-Sport, Recreation and Open Space, TAN18-Transport, and TAN23-Economic Development, it is considered that, based on the material considerations outlined within the report, the proposal represents an acceptable and sustainable form of residential development, that justifies a departure from the current development plan. In addition it is considered that, subject to appropriate conditions, the proposal should have no significant adverse impact on highway safety; the character and appearance of the area, including the Bonvilston Conservation Area and the surrounding rural landscape of the nearby Special Landscape Areas; neighbouring and general amenities; and other issues such as ecology, drainage, flood risk, noise, and archaeology. The proposals therefore comply with the relevant national planning policies and supplementary planning guidance.

**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. In accordance with Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the Local Planning Authority took into account all environmental information submitted with this application.**
- 4. Surface water run-off from the proposed development must not connect either directly or indirectly (i.e. via any existing or proposed private drainage system) to the public foul sewer under any circumstances.**
- 5. Any works to watercourses, including ditches and streams where defined by the Land Drainage Act 1991, require Land Drainage Consent by the relevant drainage body (Lead Local Flood Authority – Vale of Glamorgan Council). Works include permanent and temporary works, including temporary crossings during construction phases.**
- 6. Where any species listed under Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010 is present on the site, or other identified area, in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place unless a licence to disturb any such species has been granted by the Welsh Assembly Government in accordance with the aforementioned Regulations.**

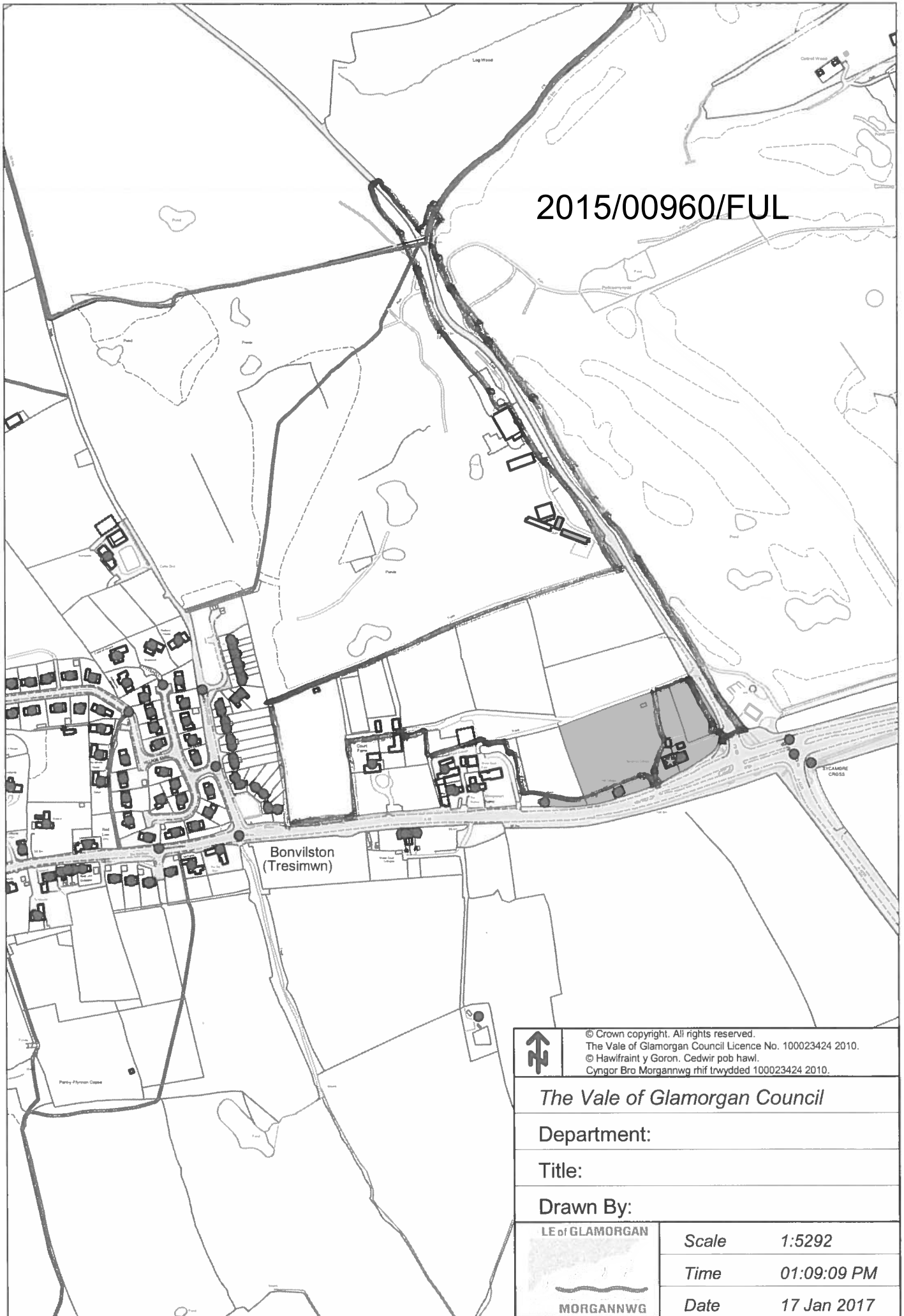
**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual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



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

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

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

2015/00960/FUL



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	<i>The Vale of Glamorgan Council</i>	
Department:		
Title:		
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	Time	01:09:09 PM
	Date	17 Jan 2017



15/00960/FUL 'A'

## St Nicholas with Bonvilston Community Council

CLERK: D. Meirion Evans, Glan-y-Nant, Peterston-super-Ely, CARDIFF, CF5 6LG

Telephone: [REDACTED]

Email: [REDACTED]

6 Oct 2015

Chief Planning Officer  
Planning Department  
The Vale of Glamorgan Council  
Dock Office  
Barry CF63 4RT

Dear Sir

Planning Application by Bonvilston Vale Ltd and Village Homes Ltd : Land to the East of Bonvilston

Your Ref: 2015/00960/FUL

### 1. Application Premature

This application by Bonvilston Vale Ltd and Village Homes Ltd to build 120 houses is premature. Many representations and objections to the proposals contained in the LDP with regard to the land east of Bonvilston (LDP MG 2 - 37) have been submitted. To consider a planning application before the LDP process is complete would be to ignore the detailed objections submitted and deny the community the right of representation. With reference to PPW paragraph 2.6.3 this development is substantial in terms of Bonvilston and will have a significant impact on the settlement.

### 2. Development in Open Countryside

The proposed site is on agricultural land and would represent a major incursion into the open countryside. Paragraph 4.7.8 of Planning Policy Wales recognises that minor extensions in the countryside to existing settlements may be acceptable. An increase of 89% in the number of houses in the core of the village of Bonvilston cannot be described as a "minor extension". This proposed development would have a major negative impact on the existing character of the minor rural settlement of Bonvilston.

### 3. Sustainability

Local services in the Community of Bonvilston are limited to a small shop and public house. There is also a church and village hall and regular bus service.

The location of the proposed development would encourage the use of vehicles to gain access to these services. A bus service, which is expensive for short journeys, would encourage residents to make frequent car journeys to access all other services.

The preferred form of transport to access to all other services will be by private car given the high cost of public transport. This will be counter to the Sustainability Objectives defined by PPW, Section 4.4 which are to:

- i. Promote resource efficient and climate change resilient settlement patterns
- ii. Locate developments so as to minimize the demand for travel, **especially by private car.**

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The summary of the Council's assessment of the allocated site (page 883 of the Sustainability Appraisal Report) shows a positive impact for only two sustainability objectives and shows a negative impact for 5 objectives if those related to accessibility are included. The appraisal shows that there is a net negative impact that demonstrates the site is unsustainable.

The summary states "*assessment generates a negative result given the loss of good quality agricultural land and the proximity of the site to features within the historic environment. Positive scores are generated as a result of affordable housing provision and the possibility of improved local services and facilities as a result of s106/CIL.*" This would suggest that the site is viable only if affordable housing is included. This application includes only 25 affordable homes a level of 21% somewhat below the LDP requirement of 35% and well below the recently proposed level of 40%. Additionally the level of improvements to local services and facilities are not made clear within this planning application.

#### 4. Scale of Development

The application relates to 120 new houses. This proposal would increase the core of the village by 89%. The proposed development at a density of 15 houses per hectare is of a completely different scale compared with the adjacent Conservation Area where the average density is 5.5 houses per hectare.

The Welsh Assembly Government in a response to the Vale of Glamorgan Council regarding the draft LDP dated 20 December 2013 stated "*Allocations in some minor rural settlements, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities.*"

This scale of development is totally out of proportion to the existing settlement of Bonvilston and in contravention of paragraphs 4.5 and 7.5 of the Deposit LDP.

#### 5. Need

The proposed development includes 20 affordable homes. While the need for affordable houses in the main settlements of the Vale of Glamorgan is recognised, Table 6.13 of the *Local Housing Market Assessment Report* confirms that there is no net need for affordable houses in Bonvilston and the East Vale.

#### 6. Access to Site

To the North of the proposed entrance to the development, is a narrow section of road, which only allows single track movement. It would be advantageous to all if the width of this short section of road could be increased by at least a vehicle width. This would relieve the existing problem of queuing at the A48 traffic lights and blocking access to the North.

The changes as proposed merely move the traffic 'pinch point' 100 metres to the North.

#### 7. Public Open Space

While the areas of POS marked in the submission total the required 0.63 ha the small size of each of these plots affords no substantial open space to support the development. At the minimum level this could provide facilities for the proposed development while leaving the established settlement with no equivalent facility. There has been no adequate outdoor facility in the village since the loss of the playing fields

15/09/2016/FM 'A'<sub>3</sub>

**8. Local facilities – Sustainability**

Substantial investment would be required to provide adequate facilities to support such a development. There is no public open space in the village. The village only has a church, a small shop and a public house.

**9. Public Consultation**

Reference is made in the DAS to a public consultation. Based on the 'closed question' nature of the questionnaire it is very difficult to see how the statements included have been arrived at. We would ask that no weight be given to the responses in determining this application. A copy of the questionnaire is included for your reference.

**10. Development Timescale**

The LDP indicated a timescale for the 120 houses in Bonvilston - 60 houses over the period 2016 – 2021 and 60 houses 2021 – 2026. There is no reference in the application as to timescales for the development.

St Nicholas with Bonvilston Community Council object to the planning application, for the reasons stated above, and request that planning permission be refused.



D Meirion Evans

Clerk, St Nicholas with Bonvilston Community Council





Dŵr Cymru  
Welsh Water

15/00960/FUL 'B'

Developer Services  
PO Box 3146  
Cardiff  
CF30 0EH

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E bost: developer.services@dwrcymru.com

Vale of Glamorgan County Council  
Dock Office  
Holton Road  
Barry Docks  
Barry  
CF63 4RT

**Date: 03/01/2017**  
**Our Ref: PLA0014202**  
**Your Ref: 2015/00960/FULL**

Dear Sir

**Site: Land at Sycamore Cross, Pendoylan Lane north of A48 Bonvilston**  
**Development: 120 Homes including affordable homes, new vehicle, pedestrian and cycle works, improvement to pendoylan lane, drainage, landscape works**

I refer to the above proposed development and I acknowledge that it is your intention to report the application to your Planning Committee shortly. I can therefore provide an updated response to our original consultation response dated 19<sup>th</sup> October 2015.

As you will be aware the site would drain to Bonvilston East Wastewater Treatment Works which has limited capacity and would not be able to accommodate the foul flows deriving from the 120 units proposed. However, we have since confirmed to you and the Applicant that we are able to accommodate 30 units in advance of any improvements to this asset.

The Applicant commissioned a Feasibility Study of the WwTW which identified a solution to accommodate the site without detriment to the local environment. This solution primarily consists of the installation of a new inlet screen, new trickling filter and a new settlement tank. The most appropriate mechanism for securing the funding to deliver this solution at the WwTW is via a S106 Planning Obligation Agreement, of which Dŵr Cymru would be a signatory. Accordingly, subject to appropriate controls contained with a S106 Agreement which ensures the completion of the solution in advance of the communication of flows to the public sewerage network, we are content that an objection to this planning application can be removed. However, for the avoidance of doubt if the required works to upgrade Bonvilston WwTW's are not included within the Section 106 Agreement we would have no alternative but to object to the proposed development.

Notwithstanding the above and since the study was originally undertaken in June 2015, our preference would be to revisit the study and consider whether there are any possible improvements that can be made to the solution. Further, our recommendation is that a flow and load survey of the Works is undertaken now to provide greater assurance that the solution is appropriate. However, given the current position and timescales, provided your Authority and the Applicant are satisfied with the current solution then I am content to support the inclusion of the current scope of improvement works within a



We welcome correspondence in  
Welsh and English

Dŵr Cymru Cyf, a limited company registered in  
Wales no 2366777. Registered office: Pantwyn Road,  
Nelson, Treharris, Mid Glamorgan CF46 6LY

Rydym yn croesawu gohebiaeth yn y  
Gymraeg neu yn Saesneg

Dŵr Cymru Cyf, cwmni cyfyngedig wedi'i gofrestru yng  
Nghymru rhif 2366777. Swyddfa gofrestru: Heol Pantwyn  
Nelson, Treharris, Morgannwg Ganol CF46 6LY

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Mae Dwr Cymru yn eiddo i Glas Cymru – cwmni 'nid-er-elw'

S106 Planning Obligation Agreement. I can also confirm at this stage that following completion of the scheme the WwTW, any unspent funds would be returned to you.

### **Conditions**

In order to secure the delivery of the WwTW upgrade scheme in advance of the occupation of more than 30 properties at the site, I respectfully request that the following condition is included as part of any planning consent granted for the development to sit alongside the obligations under the S106 Agreement.

*No more than 30 dwellings shall communicate with the public sewerage system until the necessary improvements to Bonvilston East Wastewater Treatment Works to accommodate the foul flows from the development hereby approved have been completed and confirmed in writing by the Local*

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

I also request the following condition (and advisory notes) is included to secure the submission of a drainage strategy to serve the site;

*No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.*

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

### **Advisory Notes**

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

*The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into*



Welsh Water is owned by Glas Cymru – a 'not-for-profit' company  
Mae Dŵr Cymru yn eiddo i Glas Cymru – cwmni 'nid-er-elfw'

We welcome correspondence in  
Welsh and English

Dŵr Cymru Cyf, a limited company registered in  
Wales no 2366777. Registered office: Pentwyn Road,  
Nelson, Treharris, Mid Glamorgan CF46 6LY

Rydym yn croesawu gohebiaeth yn y  
Gymraeg neu yn Saesneg

Dŵr Cymru Cyf, cwmni cyfyngedig wedi'i gofrestru yng  
Nghymru rhif 2366777. Swyddfa gofrestredig: Heol Pentwyn  
Nelson, Treharris, Morgannwg Ganol CF46 6LY

*public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.*

I trust the above is helpful and provides clarification on our current position. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



**Owain George**  
**Planning Liaison Manager**  
**Developer Services**



Welsh Water is owned by Glas Cymru – a 'not-for-profit' company  
Mae Dwr Cymru yn eiddo i Glas Cymru – cwmni 'nid-er-elw'

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Nghymru rhif 2366777. Swyddfa gofrestruedig: Heol Pentwyn  
Nelson, Treharris, Morgannwg Ganol CF46 6LY.

15) 00960/FUL C!

The Malthouse  
47 Village Farm  
Bonvilston  
CF5 6 TY

8 November 2015

Head of Planning and Transportation  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
CF63 4RT

D.E.E.R
RECEIVED
ACTION BY: jmc/yp.
NO: 1
ACK:

RECEIVED

10 NOV 2015

ENVIRONMENTAL  
AND ECONOMIC  
REGENERATION

Planning application no 2015/00960/FUL

Dear Sir / Madam

I fully endorse the Council's desire to provide more housing, including affordable housing, in the Vale of Glamorgan. However it is my opinion, based on everyday observation, that the problem is being approached from the wrong angle.

The situation requires an over-view which seems to be lacking in the various proposals throughout the Vale. As I understand it, the various planning applications from Bridgend eastward will result in a massive increase in the volume of traffic, particularly on the A48. Transportation for the goods and services to serve these developments will exacerbate the situation. As I am sure you are already aware, the congestion on the A48, particularly in the morning and evening, is currently a matter of concern for residents and commuters in the area.

With regard to the development in Bonvilston, the application refers to an area which is not within walking distance of any facilities of any kind. Each of the 120 houses will be obliged to own at least one car and drive to schools, shops, medical facilities etc. This begs the question about the affordability of such housing for many families. This application alone will have a significant effect on the traffic issues in the area adding to present traffic queues at Culverhouse Cross.

An additional traffic problem will arise on the lanes between the A48 at Sycamore Cross and the villages of Peterston and Pendoylan. Both roads can be used to access Cardiff and the M4 and both are single track roads with passing places. The lanes are now more likely to be used as an access route, given the predictable increase in congestion at Culverhouse Cross already mentioned, thus increasing the volume of traffic on these lanes and resulting in further congestion.

I would therefore request that you start the planning application process with a proposal to improve the infrastructure, particularly regarding roads and transport, before embarking on any of these developments.

15/00960/FUL 'C'<sub>2</sub>


I am also concerned about what is known as ribbon development which I understand is anathema to the building application process and which would be ignored were this application to succeed. Various other plots have been sold adjacent to this one. One can see a pattern of development for the future which would be difficult to refuse, once acceptance for this site has set a precedent.

I would also like to draw attention to the fact that the application falls within a Conservation Area and would request an answer to the question: 'what do we need to conserve in this area?', before this application goes ahead.

Some 100 years ago, a development plan, known as Garden Suburbs, was implemented and is still held in high esteem today. We have here an ideal opportunity to design a model village complete with amenities, instead of a ramshackle and ad hoc scattering of houses on green belt land. The site at Llandow would have as its principal advantage access to a rail service, thus having less impact on our precarious road network. Modern and full facilities, included in the overall design, would be to the advantage of all. The Vale Council has an opportunity to lead the way in ecological housing and community development for the 21st century, as did the developers a century ago.

Please do not consider this a complaint from a NIMBY. I fully appreciate the current housing shortage and the need to solve the problem. We all need the security of a roof over our heads but let us look again at all the proposals with fresh eyes and find a more imaginative solution to the problem.

Yours sincerely,

A large black rectangular redaction box covering the signature of Anne Hughes.

Anne Hughes

15/00960 FVLC<sup>1</sup><sub>3</sub>

3 Cottrell Drive  
Off Village Farm  
Bonvilston  
CARDIFF  
CF5 6TY

RECEIVED

Head of Planning and Transportation  
The Vale of Glamorgan Council  
Dock Office  
Barry Docks  
BARRY  
CF63 4RT

D.E.E.R
RECEIVED
ACTION BY: Jmc/yp.
NO: 7
ACK

10 NOV 2015

ENVIRONMENTAL  
AND ECONOMIC  
REGENERATION

Ref: 2015/00960/FUL

6 November 2015

## OBJECTION TO THE PROPOSED DEVELOPMENT OF 120 HOMES IN BONVILSTON

Dear Sir/Madam,

I felt the need to write this letter to highlight to you the feelings of the real families living in Bonvilston and the impact that this proposed development will have on us all here. This is a small village with a close-knit community and we are all very concerned at the moment. I rarely put pen to paper but feel very strongly about our community and the fact that it may be changed for the worst forever if something is not done now about this extreme proposal.

There are main 3 issues which need to be raised regarding the development proposal. They are as follows:

- 1. The Size and Scope of the Development.** The proposal to build 120 homes effectively doubles the size of the current village! This number of homes does seem very excessive indeed and will put a real strain on the community and the very modest facilities currently available to it. Perhaps the community could take up to 30-40 new homes but 120 is an extreme figure and is completely out of proportion for any small, rural community to absorb.
- 2. The Current Road Situation in and around Bonvilston.** You are probably already aware that the A48 is severely congested in the mornings and evenings. This is a very busy road and the pinch points for congestion are generally Bonvilston, St Nicholas and Culverhouse Cross. The road layouts in these areas are struggling to cope with the current amount of traffic, adding 120 new homes and new vehicle access around Sycamore Cross is going to make this even more congested at one of the worst pinch-points on the A48— not a clever place to put a new, large development!

Pendoylan Lane is also woefully inadequate and will likely be a prime route to the M4 for the people living in this new development. I see that there are plans for 'improvement works' to Pendoylan Lane but I expect that they would not go all the way to the end of the lane near the M4 junction. I suspect the improvements would only go as far as the limits of the Cottrell Park Golf Course and thus move the current bottleneck further down the lane toward Pendoylan. If this is the case, then it makes the situation in the lane far worse.

The further strains caused by this new development on an already inadequate A48 and Pendoylan Lane will make life even more difficult for the current residents who struggle to get onto the A48 most of the time due to the constant flow of traffic.

15/00960/FULC4

3. **The Education and Schooling of our Children.** My youngest son has to go to Pendoylan School at the moment, which is not particularly convenient or nearby. The only Schools within relatively near proximity from Bonvilston are St Nicholas Primary School and Pendoylan CIW Primary School. These schools already struggle to cope with the amount of students in the Bonvilston/St Nicholas areas so what is the plan if an additional 120 families move into Bonvilston? Where are all these new children going to go to school? No doubt there will be considerable travel involved on already congested roads to get them to a school somewhere – not ideal really?

Thank you for taking the time to read this letter. Most of us who live in Bonvilston understand that more houses need to be built in the Vale of Glamorgan and do not mind having our fair share – but 120 houses is absolutely ridiculous and will change our community and our lives for the worse forever.

I hope you see some sense in the issues I have listed above. Most families in Bonvilston feel the same way and are very nervous about this project. You are in a position of authority and influence with the Council and we do have faith in you to act in the best interests of us all.

Kind regards,

  
Mark & Kimberley Williams and Family

15/00960/FUL'C'S

We wish to object to the proposed development of 120 houses at Bonvilston / Sycamore Cross on the following grounds —

- The development will take place in a Conservation Area. What is the point of designating it as a Conservation Area if it will be developed in this way and not conserved? Surely there are brownfield sites available which would be suitable alternatives?
- The size of the development and density of housing on the proposed site is totally out of character for a village setting. 120 houses will almost double the size of this small village which has already had a development of modern houses placed in its centre at Village Farm.
- There will be a significant increase in traffic and associated congestion in the narrow lanes in the vicinity, especially the roads towards Peterston-super-Ely and Pendoylan. Considering the target demographic of the intended residents, this is likely to be particularly problematic at peak hours with residents travelling to and from work and school.
- The developer has proposed to widen the lane to its junction with the roads to Pendoylan and Gwern-y-Steeple. Those of us that use the lane on a daily basis to get to work and school and are already familiar with the daily bottlenecks know that this will not be enough to alleviate traffic congestion and the lanes would have to be widened right down to the other villages. This development would therefore alter the character of not only the village of Bonvilston but also several of its surrounding villages notably Pendoylan and Peterston.
- Traffic resulting from the development which is not using those lanes will need to use the A48 and again at peak times, the junction at Sycamore Cross can be heavily congested with long tailbacks.
- There is little local employment and insufficient public transport options. Council cuts have resulted in the recent withdrawal of the bus services to Barry and Cardiff via Peterston. Walking and cycling options are limited along the country lanes so most households would require at least one car for each working person in order to travel to work and to get their children to school.
- Local schools are already oversubscribed so there will be no capacity for additional pupils from this development. No additional provision has been made for this nor requirements put on the developer to contribute to any community, educational and amenity facilities on the site.
- The proposal for the site is a dense development of houses with little green space. This is totally out of character with the existing residential units which are well separated and have significant areas of green space and trees surrounding them.
- Combined with the proposed planning application for 79 houses in St Nicholas and 4 new houses at Court Farm, the resulting 200 new houses in one Community Council area will change the area from semi rural to urban sprawl. This will inevitably result in an almost continuous strip of ribbon development along the A48 between Bonvilston and Culverhouse Cross within a few years.
- The plans give the impression that that the area to the south of Court Farm will remain as green space but a separate application (2015/01030/FUL), if approved, would result in this being lost to 4 executive houses.
- We would have reservations about surface water drainage from the site. In times of heavy rainfall in the past, the main A48 road has been on occasions, reduced to a single lane in width by flood water. Building on the land will further reduce its ability to soak up excess rainwater.
- Any provision of cycle paths within the development would be largely redundant since neither the narrow local roads nor the busy A48 are particularly suitable for cyclists.
- Good agricultural land, hedgerows, flora and fauna will be lost for future generations. This development is not about fulfilling the Vale Council's housings needs but more about profiting the developer and landowner.

We urge the Council to reject this application.

RECEIVED

09 NOV 2015



15/00960/FUL D

Alun Cairns MP  
Vale of Glamorgan



HOUSE OF COMMONS  
LONDON SW1A 0AA

Cabinet Officer  
Vale of Glamorgan Council  
Civic Offices  
Holton Road  
Barry  
CF63 4RU

SS 4

17 October 2015

**Planning objection: 2015/00960/FUL**

Dear Mark

I am writing on behalf of my constituents in Bonvilston in objection to the plan to build new 120 new houses at Sycamore Cross as outlined in 2015/00960/FUL.

Sycamore Cross is an inappropriate site for this number of new dwellings. The size of the development at 120 houses, would overwhelm the existing village of Bonvilston, which has 166 dwellings. The development represents an extreme increase in the size of the village by 72%.

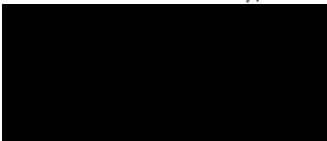
The impact on the character and community life in the village will undoubtedly be changed significantly and irreversibly.

There is also likely to be an even larger rise in the number of vehicles situated in Bonvilston. There is a real possibility of localised gridlock at peak commuting times as new residents attempt to join the A48. This will cause disruption and could contribute to accidents.

As a greenfield site, this plan will necessarily deprive a historic village and thriving community in the Vale of Glamorgan of a green piece of their countryside heritage.

Sites such as Sycamore Cross should not be considered while large brownfield sites within the authority boundary go unexploited.

Yours sincerely,



Alun Cairns MP  
Vale of Glamorgan

**2016/00115/OUT** Received on 7 April 2016

Cogan Hill Ltd., Jehu/Hendre, c/o Agent  
Mr. John Wotton, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL

### **Land at Cogan Hill, Penarth**

Ground plus 4 storey new build proposal to provide 44 affordable housing units

### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is of a scale and / or nature that is not covered by the scheme of delegation.

### **EXECUTIVE SUMMARY**

The application site is a 0.37ha site on Cogan Hill, Penarth, to the east of the car park serving Cogan Railway station. The proposal seeks erect a four to five storey building to provide 44 affordable apartments (24 one bedroom units and 20 two bedroom units). There have been previous applications on the site including 2011/00284/OUT for 34 apartments which the Planning Committee resolved to approve although was 'finally disposed of' by the LPA after the applicant failed to enter into the requisite legal agreement.

At the time of writing this report 3 no. of letters of representation have been received to date raising the following principal issues car parking; air quality; design; lack of infrastructure; access and inadequacy of access and road network.

Noting the position of the site within the settlement boundary it is considered that the principle of residential development at this site is acceptable, subject to compliance with the relevant criteria identified in Policies HOUS8, ENV27, ENV29 and TRAN10, which will seek to ensure the development proposed has an appropriate design and scale, no detrimental impact upon neighbouring amenity, pollution issues (including air, noise and contaminated land), highways implications and amenity space. These matters, along with ecology, drainage, & tree removal and S106 obligations will be considered in the following report.

Having considered the above, it is considered that the development of the site as proposed is acceptable and would contribute positively providing much needed affordable housing on a prominent brownfield site. As such the application is recommended for approval subject to conditions and the applicant entering into a S106 agreement. However members are advised that due to viability issues a reduced S106 contribution of £50,000 has been agreed.

## SITE AND CONTEXT

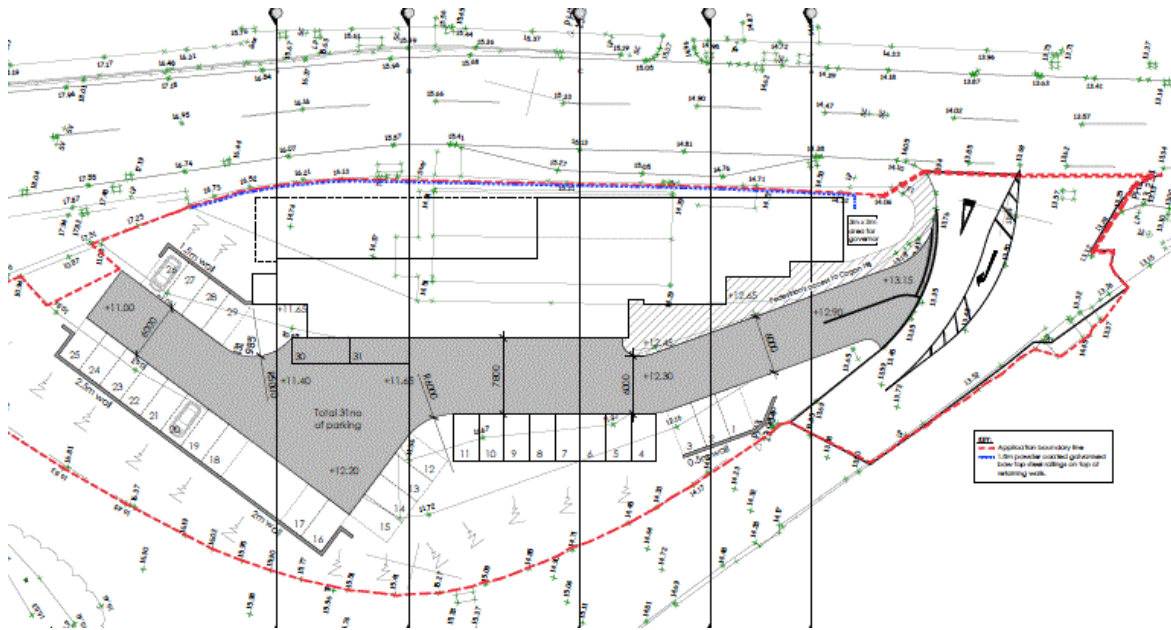
The site relates to approximately 0.37ha area of land on Cogan Hill leading into Penarth from the Cogan Spur interchange. The site is largely overgrown and unused. There is a vacant building on the site, formerly used as a day centre. There are trees on the perimeter of the site including conifers and ash. A main sewer crosses the site and a blocked tunnel is located to the northern end of the site. The site is accessed from the public highway via an entrance which serves the Cogan railway station, a builders' merchants, and a taxi business.

The site was formerly part of the access road into the Penarth Dock area and as such it lies generally below the level of Cogan Hill and the mini roundabout, with approximately 4m levels difference across the site, but rises up to a plateau to meet that road and the car parking and access area serving the adjoining railway station and 'park and ride' car park. An aerial photograph showing the position of the site is shown below:



## DESCRIPTION OF DEVELOPMENT

The application is submitted in Outline with approval sought for access, appearance, layout and scale with landscaping as a reserved matter. The application proposes the erection of a four-five storey flatted block that would provide 44 units of affordable accommodation comprising of 24 one bedroom units and 20 two bedroom units. 31 car parking spaces would be provided on site and the parking area would be accessed off the shared access road (un-adopted in part). Ancillary accommodation including bin and cycle storage is proposed at ground floor level. A site layout plan is shown below:



The proposals as amended would comprise of a four storey block as viewed from the carriageway and five storey when viewed from the west. The proposed block would be finished in a variety of materials including buff brick, spandrel panelling and different cladding materials. The windows proposed would be dark grey UPVC. Elevations of the proposals are shown below:



Proposed western elevation as viewed from the car park serving Cogan Station



Proposed East Elevation

Proposed eastern elevation as viewed from Windsor Road / Cogan Hill



Proposed north (left) and south (right) elevations

## PLANNING HISTORY

2015/01046/PND : Cogan Hill, Penarth - Demolition of existing building at Cogan Hill, Penarth - Approved 04/10/2015

2013/00547/OUT : Land at Cogan Hill, Penarth - Redevelopment of vacant site to provide 34 affordable residential units - Finally Disposed of 26/06/2014

2011/00284/OUT : Land at Cogan Hill, Penarth - Redevelopment of vacant site to provide 34 residential units - Finally Disposed of 22/01/2013 . However it is noted that there was a resolution at committee to grant planning permission subject to the applicant entering into an appropriate legal agreement, although no agreement was entered into.

2009/00243/OUT : Land at Cogan Hill, Cogan, Penarth - Redevelopment of a vacant site located on Cogan Hill for residential development of 18 two bedroom apartments - Withdrawn 25/08/2009

1990/00831/OUT : Penarth Waste Disposal, Windsor Road, Cogan, Penarth - Housing development comprising 6 no. linked 2 bed units and 2 no. 3 bed detached units - Refused 02/10/1990

1986/00274/OUT : Adjacent to existing Penarth Waste Disposal Lorry Park and the Cogan Station Car Park, Penarth - Proposed two bedroomed detached bungalow adjacent to existing Penarth Waste Disposal Lorry Park to be occupied by the proprietor - Refused 15/05/1986

## CONSULTATIONS

**Penarth Town Council** stated with regard to the original application that they favour a development on a gateway route into Penarth although raise concerns that the proposal is dominant, does not need to be as tall and does need to be so close to the road. As such they recommend that a building should set back and down and accompanied by a suitable scheme of landscaping to seek to soften the impact of the development, although do not believe that a reduction in the number of units would be required. They raise queries with regard to land ownership and with regard to the height of the development in this prominent position.

**The Council's Highway Development section** were consulted with regard to the application and note that 'it is considered the previous highway observations (planning reference 2011/00284/OUT) raising an objection in relation to the means of access to the site are still applicable to the current proposals.' These concerns related to a deficiency in on site parking provision; the proposed junction arrangement onto Windsor Road resulting in a conflict of movements to the detriment of highway safety and no segregated footway to provide safe pedestrian access from Windsor Road to the apartments is indicated."

However they note that should the LPA be mindful to grant planning consent, they request that 3 no. conditions should be attached to any planning consent relating to the details of the works to support the adjacent highway; the provision of a travel plan prior to beneficial occupation of the development; and further details of cycle parking to be provided.

**Public Rights of Way Officer** was consulted with regard to the application although no comments had been received at the time of writing this report.

**The Council's Education Section** were consulted with regard to the application and confirm that whilst there is capacity at secondary level, the proposals would likely result in increased demand for places within primary and nursery education that cannot currently be catered for.

**Cardiff County Council** were consulted with regard to the application and confirm that they have 'no adverse observations' to make with regards to the application.

**The Operational Manager Highways and Engineering (Drainage)** : They note that 'this site is partially located in DAM Zone B indicating there is a risk to the site from tidal or fluvial flooding. NRW maps indicate there is a high risk of surface water flooding to the north of the site. There are known capacity issues on the surface water network in this area.' As such they initially objected to the application requesting the a Flood Consequences Assessment be submitted, details of full drainage shall be provided, details that no detriment shall occur to the surrounding area in a 1 in 100 year critical storm and a SUDS management and maintenance strategy be provided. Following the submission of the Flood Consequences Assessment they provide amended comments indicating that whilst further information is required this can be secured by condition attached to any permission given. This includes a full scheme of surface water drainage in accordance with the submitted FCA which should also include a maintenance strategy.

**Shared Regulatory Services (Pollution control)** were consulted with regard to the application. They initially raised a number of queries with regard to the air quality assessment submitted. Following the receipt of further details they noted that they are 'satisfied with the comments submitted in relation to my queries' although note that further details of dust monitoring during the demolition and construction phase, would be required.' They also provided comments with regard to the submitted noise details indicating that notwithstanding the submitted details that a scheme of mitigation would be required due to the noise exposure categories that the apartments would fall within.

**Natural Resources Wales** 'do not object to the development'. They note that having reviewed the site investigation report, demonstrates that there is no gross contamination of the site. In terms of Air Quality, they also note that the site is beyond 200m of the assessment areas and do not therefore consider there will be a likely impact from increased road traffic from this development on designated sites.

**Dwr Cymru Welsh Water** were consulted with regard to the application and recommend that a condition be attached to any planning permission requiring a comprehensive drainage scheme to be submitted for approval prior to commencement of development and also note that the application site is crossed by a 1200mm public surface water sewer and 375mm combined public sewer. They indicate that no operational development shall be carried out within 6 metres of the public surface water sewer 3 metres of the combined sewer.

**Network Rail** initially raised an objection to the proposals given that the applicant had included land within Network Rail's ownership within the red line boundary of the application. However following the submission of an amended ownership certificate they withdrew their objection subject to the applicant reaching commercial agreement with Network Rail prior to works commencing. They also note it would be their preference that the site is brought forward for use as a transport interchange. In addition to the above they also provide a number of comments in relation to other matters including fencing, layout, foundations, landscaping and lighting which were forwarded to the applicant for their attention.

Comments were received from **South Wales Fire and Rescue Service**. They note that the applicant should provide for adequate water supplies and access for emergency firefighting appliances.

**The Council's Ecology Officer** was consulted and raised no objection subject to the 2 conditions being attached to any planning consent given requiring the provision of 2 no. bird boxes within the development and also the submission of a method statement for the clearance and demolition of the building on the site.

**The Council's Affordable Housing Enabling Officer** note that there is a demonstrated need within the Vale of Glamorgan for affordable housing within the Local Housing Market Assessment (LHMA) determining that 559 additional affordable housing units were required each year to meet housing need. They note that the Homes4U waiting list demonstrate that there are 345 applications for one bedroom homes within Penarth and 231 households requiring a two bedroom home. They also indicate that there is substantial need within the neighbouring Llandough ward. As such they state that 'consequently we fully support this scheme.'

**The Council's Transport and Road Safety officer** indicates that the Council have been working with Welsh Government to investigate the use of the site as a transport interchange.

**Cornerswell Ward members** were consulted with regard to the application. Councillor Peter King indicates that he welcomes 'the development as it should tidy-up this gateway route into Penarth as well as provide much needed affordable housing units.' However he raises concern with regard to air quality due to its proximity to then Air Quality Monitoring Area affecting the stretch of the lower portion of Windsor Road.

**South Wales Police Designing Out Crime Officer** was consulted with regard to the application. They note that 'building on such a site could be deemed beneficial by bringing a derelict area into active use'. They do however raise issues with regards potential shortage of car parking spaces and potential increase in traffic.

**Public Health Wales** were consulted with regard to the application and considered that the likely 'public health impacts from the proposal to be low; we therefore have no grounds for objection based upon the public health considerations contained within the application.' They also confirm that they are satisfied that the submitted details provides reassurance that the adjacent Air Quality Management Area (AQMA) for nitrogen dioxide will not be breached.

## REPRESENTATIONS

The neighbouring properties were consulted on 19 April 2016 and 9 January 2017, site notices were also displayed on 26 April 2016 and 10 January 2017 and the application was also advertised in the press on 26 April 2016. At the time of writing this report, 3 no. of letters of representation have been raised to date raising the following:



- Car parking
- Position of site adjacent to air quality management area
- Demolition of the building during bird nesting season
- Design out of keeping with the area
- Lack of adequate infrastructure to support the application including local doctor's surgeries and sewerage facilities
- Access and road network not adequate to cope with additional traffic

## REPORT

### Planning Policies and Guidance

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

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

#### *Strategic Policies:*

POLICIES 1 & 2 - THE ENVIRONMENT

POLICY 3 - HOUSING

POLICY 7 – TRANSPORTATION NETWORK IMPROVEMENT

#### *Policy:*

POLICY ENV 4 – FLOODING

POLICY ENV 11 – PROTECTION OF LANDSCAPE FEATURES

POLICY ENV 16 – PROTECTED SPECIES

POLICY ENV25 – REGENERATION OF URBAN AREAS

POLICY ENV 26 - CONTAMINATED LAND AND UNSTABLE LAND

POLICY ENV 27 – DESIGN OF NEW DEVELOPMENTS

POLICY ENV 28 – ACCESS FOR DISABLED PEOPLE

POLICY ENV 29 – PROTECTION OF ENVIRONMENTAL QUALITY

POLICY HOUS 2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

POLICY HOUS 8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY HOUS 2 SETTLEMENTS

POLICY HOUS 12 - AFFORDABLE HOUSING

POLICY REC3 – PROVISION OF OPEN SPACE WITHIN NEW 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, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*'2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).'*

*'4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.'*

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 9, 2016) (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 5 of PPW sets out the Welsh Government guidance for Conserving and Improving Natural Heritage and the Coast.

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

#### **Technical Advice Notes:**

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

- Technical Advice Note 1 – Joint Housing Land Availability Study (2015)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 16 – Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 20 – Planning and the Welsh Language

#### **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
- Affordable Housing
- Biodiversity and Development
- Model Design Guide for Wales
- Parking Standards (Interactive Parking Standards Zones Map)
- Planning Obligations
- Public Art
- Trees and Development

#### **Local Development Plan**

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which have been the subject of public consultation in September / October 2016. Further hearing sessions will take place in January 2017.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.14.1 of Planning Policy Wales (Edition 9, 2016) states:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses)
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response)
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015
- LDP Housing Land Supply Trajectory 2011-26 ( September 2016)
- (LDP Hearing Session 2 and 3, Action Point 4, 6, 7, 9 and 10 response)Housing Provision Background Paper (2015) (Also see LDP Hearing Session 2 and 3 Action Point 3 and 5 response)
- Housing Supply Background Paper (2013) (Also see LDP Hearing Session 2 and 3 Action Point 5 response)
- Open Space Background Paper (2013)
- Community Facilities Assessment (2013)
- Education Facilities Assessment (2013)

## Other relevant evidence or policy guidance:

E.g. Circulars, Corporate documents, Technical Reports, DCLG guidance. Letters from Minister etc.

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Office Circular 13/97 - Planning Obligations

## Issues

### Principle of the Development

The application seeks consent for 44 affordable housing units. The site lies within the identified Residential Settlement Boundary of Penarth. UDP Policy HOUS2 – Additional Residential Development outlines that housing infill, small scale development/redevelopment is acceptable in principle within settlements, subject to the proposals meeting the criteria listed in Policy HOUS8 – Residential Development.

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'*.

This sentiment is reflected throughout 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'*.

The location of the site for housing is, therefore, considered to be in compliance with the provisions of both the development plan and national planning policy, given its proximity to local facilities and services and being located within the settlement of Penarth.

Furthermore, the land is previously developed land formerly comprising part of the railway serving Penarth Dock and more recently housing a hall. Policy ENV25 - Regeneration of Urban Areas indicates that the UDP seeks to encourage the regeneration of derelict and degraded land within the fabric of urban areas. The re-use of such sites provides opportunities for the provision of residential developments, whilst ensuring that the need for Greenfield sites is reduced.

Planning Policy Wales reiterates the position of Policy ENV25 by outlining that that previously developed land should be used in preference to Greenfield sites. In particular, paragraph 4.9.1 and 4.9.2 outlines the following: -

*4.9.1 Previously developed (or brownfield) land (see Figure 4.3) should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value. The Welsh Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health.*

*4.9.2 Many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites:*

- In and around existing settlements where there is vacant or under-used land, commercial property or housing;*
- in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;*
- Which secure land for urban extensions, and;*
- Which facilitate the regeneration of existing communities.*

Accordingly, it is considered that the principle of residential development at this site is acceptable, subject to it complying with the relevant criteria identified in Policies HOUS8, ENV27, ENV29 and TRAN10, which will seek to ensure the development proposed has an appropriate design and scale, no detrimental impact upon neighbouring amenity, pollution issues (including air, noise and contaminated land), highways implications and amenity space. These matters, along with ecology, drainage, & tree removal and S106 obligations will be considered in the following report.

#### Affordable housing need

Policy HOUS12 seeks to ensure that *'the Council will where there is demonstrable need, seek to negotiate with developers for the inclusion of a reasonable element of affordable housing in substantial development schemes'*. It should be noted that Hafod Housing Association, one of the Council's partner RSL's are involved in the submission of this application and as such 100% of the 44 dwellings proposed in this instance will be affordable housing.

Upon consultation with the Housing Strategy department of the Council it was outlined that there is a demonstrated need for additional affordable housing in the Vale of Glamorgan, as evidenced by the 2015 Local Housing Market Assessment (LHMA), which determined that 559 additional affordable housing units were required each year to meet housing need in the area. The LHMA identified Penarth as being the area in most need of affordable housing

In addition to this, the Homes4U waiting list, shows there is considerable current need in Penarth with 345 householders requiring one bedroom homes and 231 households requiring a two bedroom home. They also indicate that in the neighbouring Llandough ward there is a waiting list of 70 for one bedroom homes and 45 for two bedroom homes.

Accordingly, it is considered that the 44 units proposed in this instance would appreciably and positively affect the Council's ability to meet the demonstrable need for affordable housing with the Penarth area. In response to the application the Housing strategy department are strongly supportive of this application which will deliver much needed affordable one and two bedroom properties to Penarth. This is a significant material consideration in favour of the proposed development.

### Visual impact

Noting the edge of town centre location of the site, the application site sits in a street scene of significant variety, with commercial premises to both the east and south and Cogan Railway Station to the west. There are however residential flatted developments accessed from Andrew Road to the south-west of the site and more traditional residential dwellinghouses to the south of the site on Windsor Road. As such it is evident that there is a mix of varied accommodation including family homes, flats and commercial premises within the context of the application site. It is considered that the provision of flatted accommodation such as this would not be out of character with the pattern of uses within the area.

The application site sits in a visually prominent position adjacent to the main vehicular access into Penarth from Cardiff. As such the potential visual impact of the proposals need to be carefully assessed in the determination of the application, noting that appearance and layout are matters for which approval is being sought under the current application. In terms of scale, the building is clearly a large building that will have an immediate visual impact on this prominent site. The topography of the site slopes down away from Cogan Hill and rises back up to the car parking area for the station. The design seeks to accommodate levels and reduce the buildings' impact when viewed from Cogan, with a rise in height to the north of the site. Nevertheless, even taking into account topography, the development will significantly alter the street scene at this gateway route into Penarth town centre.

Concerns were raised during the application with regard to the design of the proposals as originally submitted, particularly noting the prominent location of the building. Further to this negotiation, an amended scheme has been submitted which seeks to break the mass and bulk of the building, through the use of asymmetric window designs and changes in materials. The amended proposals are considered to utilise a high quality palette of materials, which not only serves to break the general mass and bulk of the building but also adds a significant degree of visual interest.

The roof slope of the building seeks to reflect the change in levels on the site, thus further reducing the bulk of the building, particularly when viewed from the north or south approaching the site along Cogan Hill / Windsor Road. The use of a flat roof effectively reduces the bulk of the development and aids in reducing the overall visual impact of the development.

In terms of design, the context to the site is varied and contains a mix of commercial and residential buildings of varying form and design. In this respect the contemporary design is considered to be acceptable and will not detract from the appearance of the site in this location.

Although landscaping is a reserved matter for which approval is not being sought, the proposals include incidental areas which would allow for a degree of planting that could serve to soften the impact of the development to some degree. A landscaping scheme would need to be considered fully with a future reserved matters application.

Given the scale and siting of the building, it will undoubtedly be prominent from surrounding views and have an immediate impact upon the street scene. However, the design is considered to be of sufficient quality, such that it would contribute positively to the local built environment.

#### Impact upon amenity of neighbouring residential properties

The application site sits a substantial distance from the nearest residential dwellings and as such it is considered that the proposed development of the site would not adversely affect the residential amenities enjoyed by occupiers of neighbouring residential dwellings.

#### Amenity Space and Public Open Space

The development proposals make very little provision for on-site amenity space to serve the future occupiers of the development. The plans do not show any balconies or private amenity areas. There will be some incidental areas adjacent to the car parking areas, although these will provide visual rather than a useable, practical external space, although appropriate levels of bin and cycle storage are provided within the building at ground floor level. Landscaping remains to be approved at reserved matters stage.

For flatted developments, the Council's Supplementary Planning Guidance requires 20 sq. m. of amenity space to be provided per resident and it is clear that the submitted scheme would fall short in this respect. However, it is considered that in an edge of town centre location such as this where higher densities of residential developments are both sustainable and appropriate, there is justification in relaxing these standards.

There is no provision within the site for Public Open Space or recreational facilities although it must be noted that the site lies within close proximity of the sports facilities at Penarth Leisure Centre (approximately 150 metres away), open space within Penarth Marina (approximately 200 metres) and Windsor Dingle (approximately 400 metres away). Substantial S106 monies towards improvements of Public Open Space have also recently been secured through the Penarth Heights development.



Therefore, noting the proximity of nearby open spaces, it is considered that the basic outdoor amenity needs of the future occupiers would be met sufficiently met, in accordance with the Policies ENV27 and HOUS8 of the UDP and the aims of the Council's SPG.

A contribution towards Public Open Space would usually be expected for a development of this nature although the applicant has demonstrated viability issues associated with the development of this site and therefore such a contribution has not been sought in this instance. Further discussion with regard to S106 contributions and viability is included later within the report.

### Highways issues

The application has been supported by a Transport Statement prepared by Asbri Transport dated July 2016. The statement concludes that *'the proposed development is in an appropriate and accessible location. It will benefit from safe access and provide suitable and adequate parking for its residents and visitors. The traffic generated by the development can be accommodated by the surrounding highway infrastructure.'*

It is agreed that the site is well located in relation to public transport and community facilities, particularly noting its position adjacent to Cogan Railway Station and shopping facilities in Penarth Marina and Penarth Town Centre.

### Access

The proposals make provision for a single vehicular access into the site, from the access road into the Cogan railway station off Cogan Hill. The plans include new road markings at the entrance to the railway station Park and Ride, including a designated right turn into the development site. Pedestrian access is provided alongside the vehicular access.

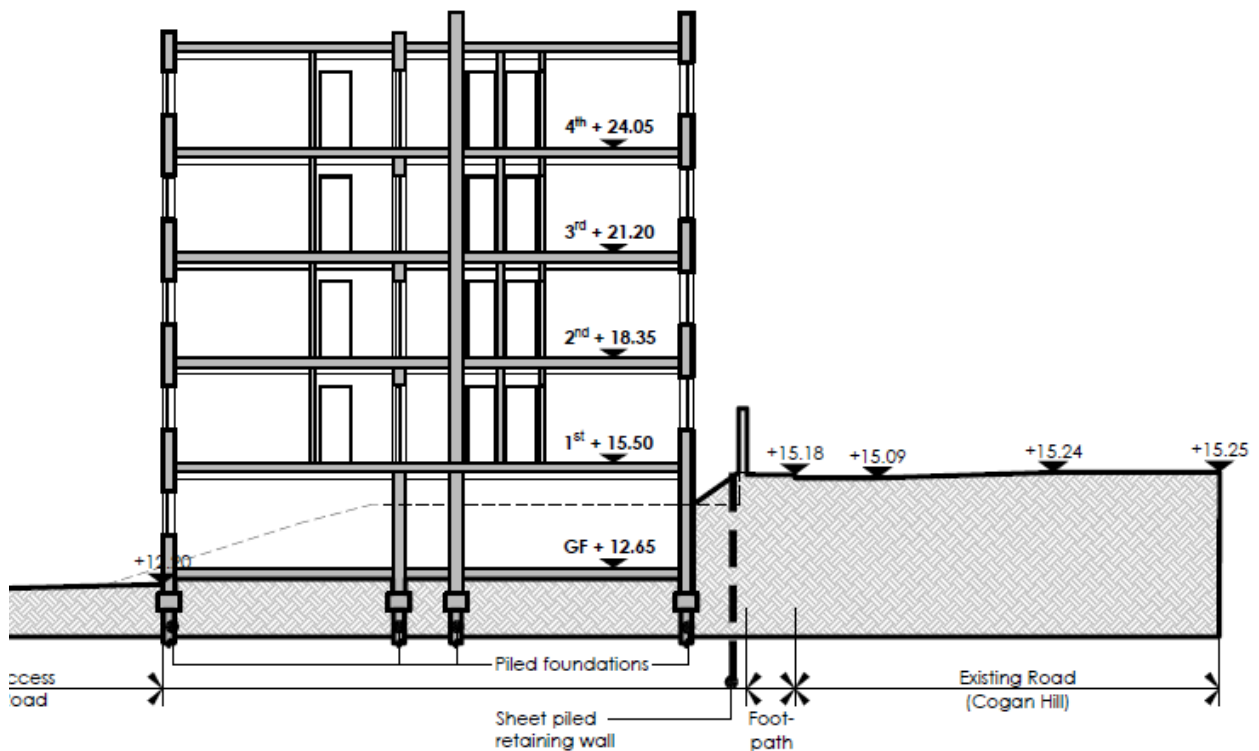
The Highway Development Team have objected to the access proposals (as per the previous application 2011/00284/OUT) at the site due to the close proximity to the nearby road junctions with Cogan Hill and the Cogan railway station Park and Ride, considering that these would create hazards to the detriment of highway safety. They advise the proposed junction arrangement onto Windsor Road, as indicated in the submissions will create a conflict of movements to the detriment of highway safety.

Whilst these concerns are noted, Members are advised that a similar access was proposed under application 2011/00284/OUT, which the committee resolved to approved subject to a legal agreement. Whilst it is noted that the current proposals result in a modest increase in the number of units on the site compared to the previous submissions, it is considered that the scale of development is such that it is unlikely to generate traffic movements to such a degree that it would cause conflict to the detriment of highway safety in the vicinity. The submitted Transport Statement indicates that the proposals would only generate 9/10 peak hour traffic movements which is modest and will not result in unacceptable detriment to highway safety.

It is also relevant to note that the site previously accommodated community uses with access and parking provided in a similar location. Furthermore, the access already exists in that it served the Community Hall onto the site, with this access arrangement being the only feasible option to serve the proposals. Therefore it is not considered that such a reason for refusal could be sustained in this instance.

### Highway Structure

The Highway Development Team have also stated that the proposed structure (as illustrated below) that will support the adjacent highway along Cogan Hill, must be located within the extent of the adopted highway. It is also requested that it must be constructed to adoptable standards and offered for adoption by the Highway Authority. This is secured under **Condition 11**.



### Transport Hub

The comments raised by the Council's Transport and Road Safety officer are noted which state that the Council have been working with Welsh Government to investigate the use of the site as a transport interchange. Whilst this is noted, the site is not allocated as a transport hub/interchange in the UDP or emerging LDP. On the basis that there is no policy to safeguard the site as a transport hub/interchange, there are no grounds to refuse planning permission, to safeguard an alternative future use of the site,

## Parking

A total of 31 car parking spaces are proposed to serve 44 no. residential units. This level of parking does not meet the approved Parking Guidelines which in such areas requires one space per bedroom plus one visitor space for every five dwellings. As such the standards would require a maximum of 64 spaces and 9 visitor spaces.

However, the Parking Guidelines recognises that where sites are in sustainable locations, the parking provision can be reduced. Appendix 6 of the Parking Guidelines states that “sustainability points” will be awarded where developments meet criteria for their proximity, in terms of walking distances to :

- local facilities (food store, leisure centre, schools etc.)
- public transport (bus stop or railway station)
- cycle routes

and frequency of local public transport.

Such an award of these sustainability points can result in a reduction in parking requirement.

Based on of the location of the site and its proximity to all of the above facilities and services, the Parking Guidelines would support a reduction of 1 space per unit, which would reduce the overall requirement from 73 to 29.

Moreover, the guidelines recognise that in certain developments such as student accommodation and housing association developments, where there is evidence of low car ownership levels, a relaxation of the parking requirements may be considered. Indeed within the Council's adopted Parking Standards SPG (page 15, point 5) states “*For developments where clear evidence has been supplied that car ownership levels will be lower than normal, a more flexible approach to numbers of parking spaces may be taken*”.

Planning Policy Wales (Edition 9, 2016) states that car parking provision is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate (paragraph 8.4.2 refers).

The submitted transport statement provides additional details with regard to lower demand for car parking in association with Housing Association Developments, including details derived from the Census 2011. This information indicates that 23% of households in Wales have no access to a car and 53% of social rented households have no access to a car. This level is consistent with that observed in both the Vale of Glamorgan as a whole (54%) and Cornerswell Ward itself (52%). This figure is significantly lower than that observed in both privately owned and rented accommodation.

The site is well served by public transport (as assessed under Appendix 6 of the Parking Guidelines) with regular scheduled bus services passing along Windsor Road and a regular train service which is adjacent to the site to Cogan Railway station. This provides ready connectivity throughout the Vale of Glamorgan as well as regional destinations such as Cardiff and Bridgend.

In light of the above, given the high proportion of one bedrooms units, the housing tenure and the highly accessible nature of the site and the advice contained within the Wales Parking Standards and Planning Policy Wales, it is considered that the applicant has demonstrated that an appropriate level of parking has been provided.

### Ecology

The application has been supported by an Ecological Assessment prepared by David Clements Ecology dated August 2015. This report states that *'overall, the adverse impacts are assessed as affecting mainly the local context, though some small areas of high local value may be adversely affected. The development could potentially have an effect on certain protected species, however provided adequate mitigation is implemented, the redevelopment of this site should be unduly constrained by biodiversity and nature conservation considerations.'*

Following consultation with the Council's Ecologist and Natural Resources Wales, it is considered that there is not an ecological constraint restricting the grant of planning consent. The Council's Ecologist recommends that two conditions be attached to any consent granted with regard to bird boxes and the provision of a method statement for the clearance of the site particularly with regard to breeding birds and reptiles (Conditions 14 and 20 refer).

### Trees

The application is supported by a Pre-Development Tree Survey and Assessment prepared by TDA dated 8<sup>th</sup> April 2016. The tree survey identifies 1 category A (high quality and value) and 2 category B (moderate quality and value) trees although these fall outside of the application area being located within a landscaping area within the adjacent park and ride car parking serving Cogan Station and will be unaffected by the proposed development of the site. In total 11 trees, one group of trees and two areas of shrub are indicated within the confines of the site and would be removed as part of the application although these are all identified as being category C (low quality and value) or category U (to be removed).

Given the low quality of these trees/shrubs, their loss would not represent a reason to refuse planning permission in this instance. It should also be noted that the current application is in outline with landscaping a reserved matter for which further approval is required. Whilst the proposals would result in a significant change and more urban feel to the site, it is however considered that there is scope for additional landscaping within areas to the south, west and north of the site which would assist in softening the impact of the works to some degree.

Being mindful of the above, it is considered that the loss of trees on this site (subject to appropriate conditions relating to ecology) does not represent a reason to refuse planning permission in this instance. An appropriate scheme of landscaping would be considered under any future application for approval of reserved matters.

### Noise

The application is supported by a Environmental Noise Survey prepared by Hunter Acoustics dated 29<sup>th</sup> January 2016. The report indicates that habitable rooms in the eastern elevation facing onto the A4160, will require up-rated double glazing and mechanical ventilation or whole house ventilation systems to ensure desired levels detailed within BS8233:2014, although windows to the western elevation would not require upgraded glazing or ventilation systems.

Windows within the western elevation fall within NEC B. In this regard Technical Advice Note 11: Noise (TAN11 1997) states that *'noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection.'*

Having regard to the guidance contained within TAN11 it is noted that the openings to the north, south and eastern fall within NEC C, which states: *Planning permission should not normally be granted. Where it is considered that permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.'*

Whilst being mindful of the above, it must be noted that the application relates to the provision of affordable housing on a brownfield site at a key entrance to the settlement of Penarth. As highlighted before, there is a significant need for affordable housing within Penarth and the Vale of Glamorgan as a whole, whilst the introduction of a beneficial use to this sustainable and prominent site, would have a significant benefit to the character of the local area. Furthermore the submitted details indicate that appropriate noise mitigation measures can be incorporated within the development that would suitably mitigate the impact of noise upon future occupiers of the dwellings in question, namely through the provision of upgraded thermal glazing and alternative ventilation. In this regard therefore it is considered that this mitigation can be accommodated without fundamentally impacting upon the character and design of the dwellings or upon the visual amenities of the wider area. Following consultation with the Environmental Health Officer they indicated notwithstanding the submitted details, that a noise mitigation scheme should be submitted for approval by the Local Planning Authority. This is required under recommended Condition 12.

In view of the above it is considered that, with appropriate conditions, that the residential development of the site can be controlled in order to ensure that the NEC B and NEC C requirements to control / mitigate development in order to protect residential amenity in line with the requirements of Table 2 of Technical Advice Note 11.

## Air Quality

The application site lies in close proximity to an Air Quality Management Area (AQMA) declared by the Vale of Glamorgan Council due to exceedance of the annual mean nitrogen dioxide objective. The application is supported by an Air Quality Assessment prepared by Air Quality Consultants dated May 2016 and a subsequent addendum in response to comments raised by the Council. These documents measured Nitrogen Dioxide levels at a number of receptor points within close proximity to and from within the site. The assessment concludes that *'increases in pollutant concentrations resulting from these additional traffic movements [as a result of the development] will have negligible impact on nitrogen dioxide, PM<sub>10</sub> and PM<sub>2.5</sub> [fine particle matter].'*

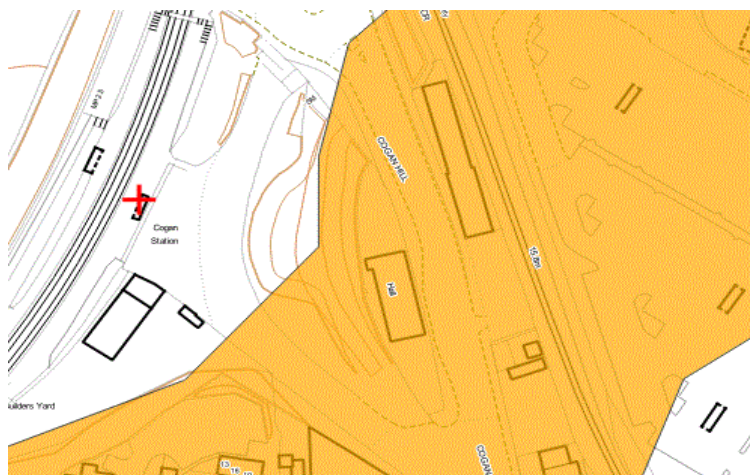
With regard to future residents of the proposed flats the report states that *'air quality conditions for new residents within the proposed development have also been considered. Pollutant concentrations are predicted to be below the air quality objectives at the worst-case locations assessed, and air quality conditions for new residents will be acceptable.'*

It is noted that some representations have been raised with regard to existing air quality at and near to the site. The Council's Specialist Services Officer relating to air quality aspects, has considered the details within the submitted report and addendum and are satisfied with the submissions, subject to further details relating to control and monitoring of dust levels during the construction process. It is considered that this can be controlled through a construction environmental management plan that would be secured by way of planning condition attached to any permission given (condition 9 refers).

Being mindful of the submitted details and the comments of the air quality officer, It is not considered reasonable to refuse the application because of existing air quality concerns and the scale and type of development itself (i.e. 44 flats with reduced parking levels) is not likely to significantly affect traffic pollution levels given the relatively low trip generation resulting from the development of the site.

## Drainage and flooding

The application site falls within Flood Zone B as designated by the Welsh Assembly Governments Development Advice Maps (DAM) as shown on the map below:



Flood Zone B is defined as 'areas known to have been flooded in the past evidenced by sedimentary deposits'. The site may therefore be at risk from tidal or fluvial flooding. It is also noted that NRW maps indicate that there is a high risk of surface water flooding to the north of the site, whilst the Council's drainage engineer indicates that there are known capacity issues on the surface water network in this area. The application as initially submitted was not supported by a Flood Consequences Assessment (FCA) and as such the Council's Drainage Engineer raised an objection pending the submission of this document. An FCA prepared by JBA Consulting dated September 2016 was subsequently submitted. This assessment concludes that '*the risk of flooding at the proposed site following mitigation is low and flood consequences within the site and to third parties are considered acceptable, The proposals are therefore compliant with the requirements of TAN15.*'

The submitted FCA indicates mitigation measures for the surface water flood risk at the site, including geocellular storage tanks which will discharge to the public sewer, whilst further water would pond on the surface to the north of the site. Following receipt of this information the Council's Drainage Engineer does not object to the proposals subject to conditions requiring a scheme of surface water drainage to be submitted for approval and also relating to details of the adoption and maintenance of all drainage systems. Dwr Cymru Welsh Water also do not object to the development of the site subject to a condition requiring a comprehensive drainage scheme to be submitted for approval, whilst indicating that all alternative options for surface water proposals should be considered prior to connection to the public sewerage network.

It is also noted that Dwr Cymru Welsh Water detail that the site is crossed by a public water sewer and combined public sewer indicating that works should be restricted within close proximity of these services. From examining the submitted plans it would appear that the works would not be within these areas although an informative would be attached to any permission granted in this regard.

Being mindful of the above, it is considered subject to appropriate conditions (see conditions 6 and 7) that drainage and flooding do not represent a reason to refuse planning permission in this instance.

#### Land contamination

The application has been supported by a Site Investigation Report prepared by Integral Geotechnique dated May 2015. The submitted report indicates that there would be limited risk to future occupiers of the development from potential contaminants on the site. Following consultation with the Council's Environmental Health Officer, they do not raise an objection subject to the works being undertaken in accordance with recommendations contained within the submitted within the report. (Condition 18 refers)

## S106 Planning obligations

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. The SPGs sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to all relevant material circumstances. The updated Draft Planning Obligations SPG (approved by Cabinet on 14 December, 2015 and at the Council's Economy and Environment Scrutiny Committee on 5th January) is now used as a material consideration in the Development Management process.

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the application seeks outline planning permission or the development of 44 affordable units on a brownfield site within the settlement of Penarth.

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. An application of this type would usually require contributions in terms of affordable housing, education, public open space, public art and community facilities. The relevant planning obligation issues are outlined below followed by analysis of the development viability issues affecting the deliverability of such obligations.

### Viability

Following discussion with the applicant, they have indicated that due largely to significant abnormal costs associated with the development of the site, that they would be unable to provide the required S106 contributions in full. The applicant has submitted further information in this respect and it is considered that they have satisfactorily demonstrated that the viability of the development would be undermined by the level of contributions that would be sought in respect of these issues in accordance with the SPG. It should also be noted that the applicant in this case is a non-profit making organisation. However, the applicant has offered to provide a contribution of £50,000 to seek to offset, to some degree, the impacts of the development of this 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. It states: “The two key issues for local planning authorities in terms of viability in a volatile and uncertain market are: how to be convinced that the scheme is unviable with S106 contributions in full [...]; and what to do once they are convinced.”

### Affordable Housing

The application proposes 100% affordable housing and exceeds the Councils Policy requirements in respect of Affordable Housing.

In terms of the need for a legal agreement to secure the properties as affordable housing, the following advice in TAN 2 is noted:

*“12.2 Development plans and/or Supplementary Planning Guidance (SPG) should set out the circumstances where local planning authorities will use planning conditions or planning obligations to ensure that the affordable housing provided is occupied in perpetuity by people falling within particular categories of need. Local planning authorities should not normally impose additional occupancy controls where a registered social landlord is to be responsible for the management of the affordable housing”*

In this case the applicant (Hendre) are one of the Council’s partner RSLs and therefore, in line with the above advice, it is considered that a condition rather than a legal agreement is appropriate to secure the affordable housing tenure of the scheme.

### Education

All new residential developments which are likely to house school aged children create additional demand on places at existing schools. PPW (ed. 9,2016) Paragraph 4.4.3 emphasises that in order to achieve a ‘More Equal Wales’, development should promote access to services like education. PPW recognises that education is crucial for the economic, social and environmental sustainability for 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.

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. Whilst the Council’s Unitary Development Plan (1996-2011) is time-expired, this policy remains in line with national guidance contained within PPW.

The Council's formula for calculating pupil demand contained in the Planning Obligations SPG (including 18% fees) indicates that the development of 20 two bedroom dwellings (minus 24 one bedroom flats) would ordinarily generate the need for education facilities for 2 nursery school age children, 6 primary school age children, 4 secondary (aged 11-16) school age children and 1 secondary place for pupils post-16years. Following consultation with the Council's Education section they considered given current capacity that contributions towards only nursery and primary school would be required.

Based upon the Council's formula and capacity at local schools, the Council would under normal circumstances seek to secure the following as a section 106 contribution for Education provision:

- Nursery school children – 2 children x £17,446 = £34,892
- Primary school children – 5 children x £17,446 = £87,230

In total, the Council would ordinarily require the developer to pay a contribution of £122,122 towards education facilities (based on the SPG requirement at the time the application was submitted). Following consultation with local members it was considered that the money offered by the developer would be best used to mitigate the impact of the development upon local schools and as such officers recommend that members agree that the £50,000 referred to under "viability" be spent to improve local education facilities near to the site including at Cogan Primary School and Ysgol Pen Y Garth.

#### Sustainable Transport, Community Facilities and Public Art

The size of the development is such that contributions would normally be sought in respect of sustainable transport facilities, community facilities and public art. These issues have been discussed with the applicant, however, the Housing Association have advised that the scheme would be unviable if commitment was made to further contributions.

Being mindful of Welsh Assembly Government guidance aforementioned and the viability information submitted by the applicant satisfactorily demonstrate that the development would be undermined should further contributions be sought in respect of these issues.

In addition to the above, it is accepted that the site is located in a highly sustainable location and the development itself would result in significant benefits, both in terms of the level of affordable housing provision which would help to address an identified shortfall and the redevelopment of a vacant, brownfield site at a prominent location.

It is, therefore, considered that there are material considerations in this specific case, given the viability issues raised and the level of affordable housing being provided, that support the adoption of a flexible approach in terms of these issues. Accordingly, contributions are no longer sought in this case in respect of sustainable transport, community facilities and public art.

## **Planning obligations administration fee:**

Separate to any planning obligation, 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. In this instance the administrative fee would be £1,000.

## RECOMMENDATION

### Approve

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

- The developer shall pay the sum of £50,000 towards local education facilities at Cogan Primary School and Ysgol Pen Y Garth

and in addition, to pay £1,000 to implement and monitor the terms of the legal agreement.

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

1. Approval of the landscaping of the development (hereinafter called "the reserved matters") shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters hereinbefore referred to must be made not later than the expiration of three years beginning with the date of this permission.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than whichever is the later of the following dates:

(a) The expiration of five years from the date of this permission.

(b) The expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matters to be approved.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

4. Plans and particulars of the reserved matters referred to in condition 1 above shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason:

The application was made for outline planning permission and to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

5. The development shall be carried out in accordance with the following approved plans and documents:

Site Location Plan LP01; Design and Access Statement Rev. B\_18.01.16; Ecological Assessment dated August 2015 prepared by David Clements Ecology LTD; Environmental Noise Survey 3691/ENS1 prepared by Hunter Acoustics dated 08 February 2016; Pre Development Tree Survey and Assessment dated April 2016 prepared by TDA received 8 April 2016; Planning Statement prepared by Asbri and Site Investigation Report prepared by Integral Geotechnique dated May 2015 received 19 April 2016; Air Quality Assessment: Cogan Hill and Response to Council Comments on Air Quality Assessment: Cogan Hill both prepared by Air Quality Consultants received 23 May 2016; Transport Statement prepared by Asbri Transport dated July 2016 received 27 July 2016; Flood Consequence Assessment dated September 2016 received 10 October 2016; Proposed site sections A-A & B-B ref SS01 Rev C, Proposed site sections C-C & D-D ref SS02 Rev C, Proposed site sections E-E ref SS03 Rev C received 28 November 2016; Proposed site layout SL03, Proposed Elevations East & North PE01 Rev C received 7 December 2016; Proposed Elevations West & South PE02 Rev C, Proposed plans Ground Floor and First Floor PL10 Rev D, Proposed Plans Second floor/third floor, Proposed Plans Fourth Floor PL12 Rev C received 16 January 2017

Reason:

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

6. 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

7. A scheme for the comprehensive and integrated drainage of the development site, including details of how foul water, surface water and land drainage will be dealt with shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The approved scheme of drainage shall be implemented and completed in full accordance with the agreed details prior to the first operational use of the business and/or occupation of the dwelling on the site.

Reason:

To ensure the effective drainage of the site and that no adverse impact occurs to the environment in accordance with Policies ENV27-Design of New Developments and ENV29-Protection of Environmental Quality of the Unitary Development Plan.

8. The implemented drainage scheme for the site required by condition 7, 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.

9. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The CEMP will utilise the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

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

10. Prior to the commencement of development, details of the finished levels of the site and the proposed building in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

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

11. Notwithstanding the details submitted, prior to the commencement of development, full details of a scheme of retaining works to support the adjacent highway (which shall be adoptable standards) shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out and completed in full accordance with the approved details prior to the beneficial occupation of the dwellings hereby approved.

Reason:

In the interests of preserving the integrity of the adjacent highway and interests of highway safety.

12. Notwithstanding the submitted details, further details of the noise mitigation measures within the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The submitted scheme shall ensure that all rooms achieve an internal noise level of 35dBA by day and 30dBA by night and that a LA<sub>maxfast</sub> of 45dB is not exceeded. The mitigatory measures identified shall be implemented in accordance with the approved details prior to the beneficial occupation of the dwellings.

Reason:

In the interests of the amenities of future occupiers of these dwellings in accordance with policies ENV27 and ENV29 of the Development Plan and the advice contained within Technical Advice Note 11: Noise.

13. Prior to commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the dwellings are designed and constructed so as to ensure that vibration dose values do not exceed 0.4m/s<sup>1.75</sup> between 07.00 and 23.00 hours, and 0.26m/s<sup>1.75</sup> between 23.00 and 07.00 hours, as calculated in accordance with BS 6472-1:2008, entitled "Guide to Evaluation of Human Exposure to Vibration in Buildings", [1Hz to 80Hz]. The dwellings shall be constructed in accordance with the approved scheme.

Reason:

To ensure that the amenities of future occupiers are protected.

14. Prior to the commencement of any development works (including site clearance and demolition), a Method Statement for site clearance methodology with respect to reptiles and breeding birds shall be submitted to, and approved in writing by the LPA. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of ecology on site and to safeguard protected species to meet the requirements of Policy ENV16 of the Unitary Development Plan.

15. The dwellings hereby approved 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.

16. 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 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.

17. The cycle parking shown on the approved plans shall be completed prior to the first beneficial occupation of the development hereby approved and thereafter kept free of obstruction and available for the parking of cycles associated with the development, unless otherwise agreed in writing by the Local Planning Authority.

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.

18. All ground remediation works shall be carried out in accordance with the 'Site Investigation Report prepared by Integral Geotechnique dated May 2015' and should during the works further contamination be encountered which has not previously been identified, then details of the assessment of any additional contamination and an appropriate remediation scheme shall be submitted to and agreed by the Local Planning Authority. Upon completion of works, a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the agreed remediation works are complete, quality assurance certificates and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, shall be submitted and approved by the Local Planning Authority. Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented and at all times carried out as approved.

Reason:

In the interests of public safety, and to ensure compliance with Policies ENV7, ENV26 and ENV29 of the Unitary Development Plan.

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

Reason:

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

20. Details of 2 no. bird boxes shall be submitted to and approved in writing by the local planning authority prior to the beneficial occupation of the building. The boxes shall be installed in accordance with the approved details prior to the first beneficial use of the site for residential purposes and shall be so retained on site at all times.

Reason:

In the interests of ecology on site and to safeguard protected species to meet the requirements of Policy ENV16 of the Unitary Development Plan.



## REASON FOR RECOMMENDATION

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 , ENV11-Protection of Landscape Features, ENV16-Protected Species, ENV26-Development of Contaminated Land and Unstable Land, ENV27-Design of New Developments, ENV28-Access for Disabled People, ENV29-Protection of Environmental Quality, HOUS2-Additional Residential Development, HOUS8-Residential Development Criteria, HOUS12-Affordable Housing, TRAN10-Parking, 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, including Amenity Standards, Trees and Development, Biodiversity and Development, Draft Affordable Housing, Draft Planning Obligations, Parking Standards and Model Design Guide for Wales; and national guidance contained in Planning Policy Wales, TAN1-Joint Housing Land Availability Study, TAN2-Planning for Affordable Housing, TAN5-Nature Conservation and Planning, TAN10-Tree Preservation Orders, TAN12-Design, TAN15-Development and Flood Risk, , it is considered that the proposal represents an acceptable form of residential redevelopment of the site that should not result in any significant harm to the visual amenity of the area. The proposal should also not detract from the neighbouring and general residential amenities of the area or highway safety. In addition, subject to appropriate conditions, there should be no detriment to ecology interests on the site, and sufficient evidence has been submitted to show that there would not be unacceptable harm caused by noise or air pollution and this should not preclude its development, and that provisions for the adequate drainage of the site can be made.

It is considered that the development complies with the sustainable development principle and satisfies the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

### NOTE:

- 1. 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.**
- 2. This consent does not convey any authorisation that may be required to gain access onto land not within your ownership or control.**

- 3. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 4. 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 please contact Dwr Cymru Welsh Water's Network Development Consultants on 0800 9172652.**
- 5. In order to comply with Section 71ZB(5) of the Town and Country Planning Act 1990 ( as amended), the applicant/developer must complete a 'Notification of initiation of development' form, which can be found in Schedule 5A of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016. The notification shall be submitted in the form specified to the Local Planning Authority.**

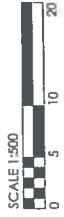
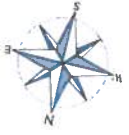
**At all times when the development is being carried out, a notice shall be firmly affixed and displayed in a prominent place at or near the place where the development is being carried out. The notice shall be legible and easily visible to the public without having to enter the site and printed on a durable material. The notice shall be in the form specified in Schedule 5B of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016.**

**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.**



2016/00115/OUT

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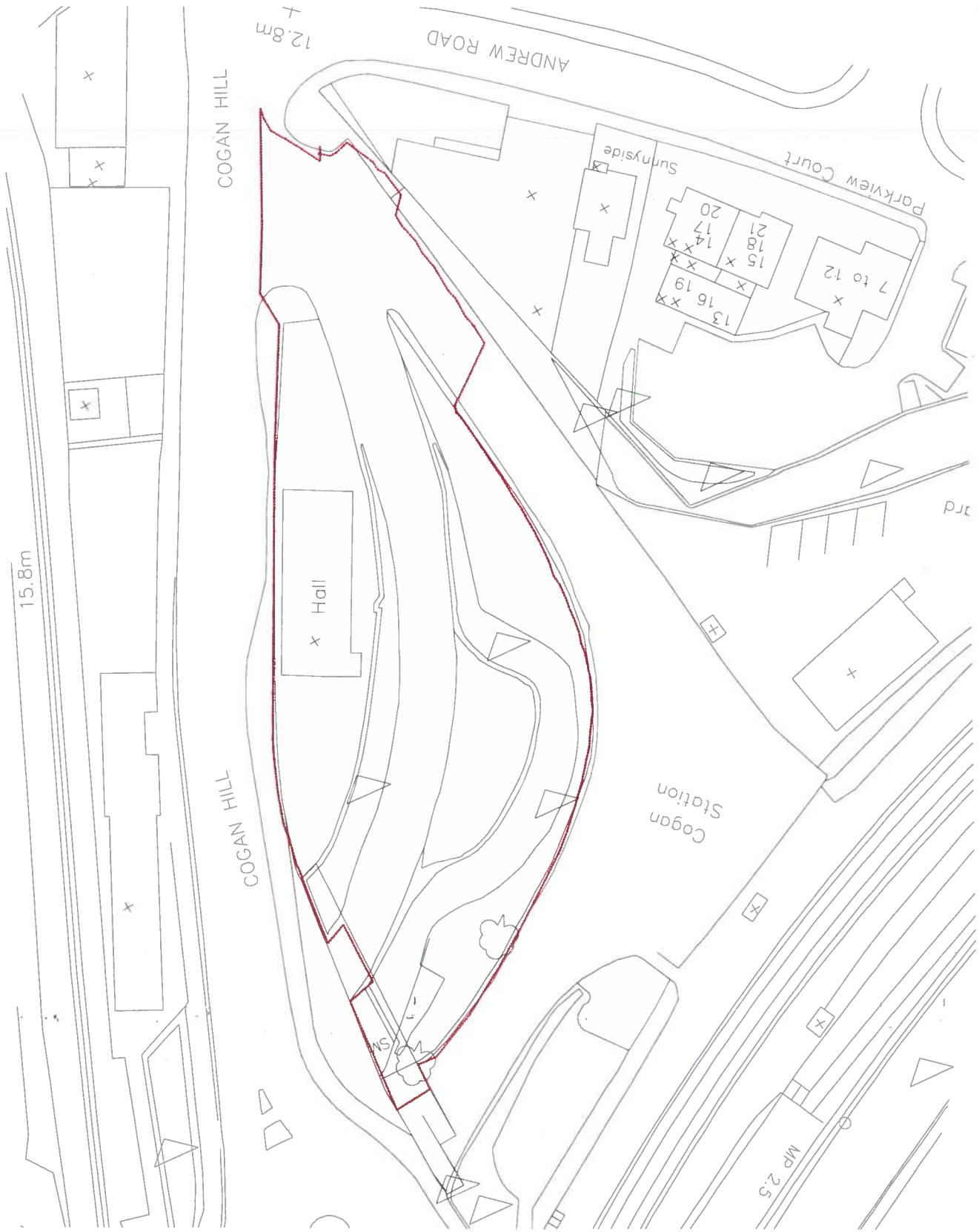
Jehu/ Hendre

COGAN

Penarth

LOCATION PLAN

job no.	225	date	15/08/15	created by	CD
drawn by	LP 01	date	12/01/16	created by	CD



**2016/00659/FUL** Received on 28 June 2016

Mr. Steve Simpson Equorium, c/o Agent  
John Wotton John Wotton Architects, Greyfriars House, Greyfriars Road, Cardiff,  
CF10 3AL

### **Ashdene Manor, Bridgeman Road, Penarth**

Conversion of existing building into 3 apartments with new build extensions of 6 apartments

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr. Clive Williams due to concerns over the accuracy of drawings, impact on neighbours and structural implications of the proposed work.

#### **EXECUTIVE SUMMARY**

The proposal seeks to convert and extend the existing dwelling in the Penarth Conservation Area to provide nine apartments. A previous application (2013/00268/FUL) for a different scheme providing a total of seven apartments was withdrawn prior to determination.

There have been letters of objection from three neighbours citing the following issues:

- Not fitting in with the Conservation Area;
- Increased parking and traffic on Bridgeman Road;
- Overdevelopment of the site;
- Overlooking neighbours; and
- Impact to boundary retaining walls.

The main issues are considered to be:

- The effect of the proposed development on the character and appearance of the Conservation Area and Windsor Gardens Registered Park;
- The size and design of the proposed extensions;
- The impact on neighbouring properties; and
- Access and parking.

The application is recommended for approval subject to a Section 106 legal agreement securing affordable housing and open space contributions.

#### **SITE AND CONTEXT**

The site consists of a large three-storey house known as Ashdene, together with its curtilage, within a residential area in the settlement of Penarth. The property is currently vacant and has been for some years.

The area is characterised by large detached dwellings, set within large curtilages. The site is within the Penarth Conservation Area, noted for its late Victorian architecture. This area is also noted within the Penarth Conservation Area Appraisal and Management Plan 2011 as characterised by spacious plots, extensive gardens, set back frontages and high boundary walls. Ashdene is typical of the character of this area and is identified as a 'Positive Building.'

The house has a facing red brick façade under a slate roof with tall chimneys and ornate metal work to balustrades and canopies. There is a high stone wall to the front boundary, with access off Bridgeman Road. The property has an area of hardstanding to the front and a large garden to the rear, which backs onto Windsor Gardens (a Cadw/ICOMOS Registered Park/Garden).

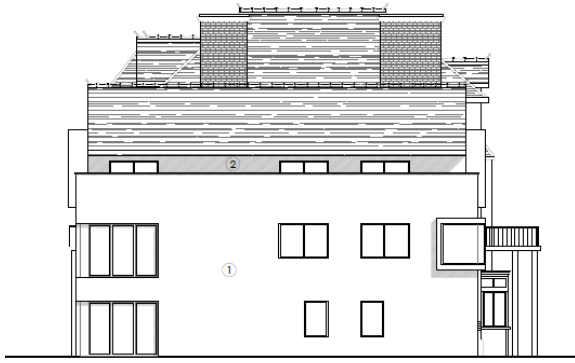
The Esplanade and the coastline are in close proximity to the east. Ashdene is on a significantly higher ground level than the Esplanade as the land rises towards the west. This results in Ashdene being relatively prominent when viewed from surrounding areas.

### DESCRIPTION OF DEVELOPMENT

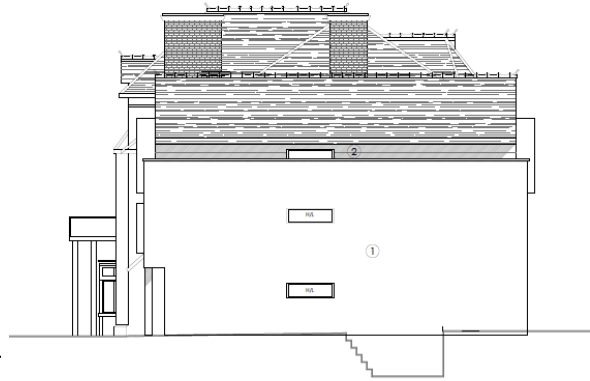
The application relates to amended plans received on 28<sup>th</sup> September 2016. The proposal seeks to convert and extend the existing dwelling to provide nine apartments. This would be achieved by converting the existing house and adding extensions to either side to provide three apartments on each level as shown on the plans below.



Proposed East (Rear) elevation



Proposed north side elevation



Proposed south side elevation



Proposed West (Front) Elevation



### Proposed site layout

The proposed extensions are to the side of the existing house, which would require the removal of some existing features such as the side entrance to the house and the canopies. The side extensions are set lower than the existing house, with brick, 'Portland stone' and zinc proposed for the elevations. The proposal is of an overtly contemporary nature although reflecting some of the characteristics of the host building and the wider conservation area.

The extensions would extend approximately 8.7m from the existing side elevations and both extensions would extend back approximately 15m from their front elevations. Both extensions are set back from the front elevation.

Access into the site is as existing, with vehicular access off Bridgeman Road to the front. Eleven parking spaces are provided to the front of the building. The front of the building would be primarily hardstanding for the parking provision, although there is a large garden area to the rear with boundary landscaping, together with pedestrian access into Windsor Gardens on the rear boundary.

There is a large rear garden, which is to be used as a communal amenity space for future occupants.



## PLANNING HISTORY

2013/00268/FUL: Ashdene Manor, Bridgeman Road, Penarth - Conversion of Ashdene Manor existing building into three apartments with extensions providing a further four apartments with associated appropriate cycle and car parking and amenity spaces. Apartments all being two bed with en-suite - Withdrawn 24/02/2015

1989/01210/FUL: 'Ashdene', Bridgeman Road, Penarth - Alterations to existing boundary wall to existing dwelling - Approved 17/11/1989 (case officer - AF)

1986/00841/FUL: Ashdene, Bridgeman Road, Penarth - Renewal of 81/01474, change of use to nursing home - Approved 04/11/1986

1981/01474/FUL: 'Ashdene', Bridgeman Road, Penarth - Change of use to Nursing home - Approved 15/10/1981

## CONSULTATIONS

**Penarth Town Council** - were consulted on 4 July 2016. They objected to the application as follows:

“...THAT the application be REFUSED on the basis of

- 1) The plans don't fully reflect reality; neighbour extensions exists a lot closer to the boundary to that on the plan.
- 2) Aware of structural problems on both sides of the party wall.
- 3) Visually disturbing and detrimental to the conservation area.
- 4) Overly large for a footprint.
- 5) Need to see a sympathetic proposal to Ashdene Manor and also Normandy next door.”

**Highway Development** - advised they have no objections, but required 16 parking spaces, turning space within the site and a 4.8m wide access onto Bridgeman Road.

**Environmental Health (Pollution)** - were consulted on 4 July 2016. No comments have been received to date.

**The local ward members** - were consulted on 4 July 2016. Cllr. Williams has requested the application be called in for determination by Planning Committee.

**Dwr Cymru Welsh Water** - advise they have no objection subject to standard drainage conditions being imposed.

**The Ecology Officer** - was consulted on 4 July 2016. No comments have been received to date.

**Estates (Strategic Property Estates)** - noted the site shares a boundary with asset number 02163 [Windsor Gardens] which must not be interfered with.

**Waste Management** - were consulted on 4 July 2016. No comments have been received to date.

**Cadw** - advised that if the planning application were approved then any original Victorian features in the garden should be retained to enhance the setting of the Victorian Villa and Windsor Gardens.

**Housing Strategy** - advised that “As this proposal constitutes a net gain of 8 units, under the thresholds set by 5.10 of the draft Supplementary Guidance for affordable housing, we would expect to see provision of 40% affordable homes in the Penarth ward, plus a 0.2 contribution of the AHC. In addition we ask for a tenure mix of 70% social rented and 30% intermediate units.”

## REPRESENTATIONS

The neighbouring properties were consulted on 4 July 2016 and a site notice was also displayed on the 30 September 2016. The application was also advertised in the press on 5 July 2016. There have been three letters of objection, citing issues summarised below:

- Not fitting in with the conservation area;
- Increased parking and traffic on Bridgeman Road;
- Overdevelopment of the site;
- Overlooking neighbours; and
- Impact to boundary retaining walls.

Please see **Appendix A** for copies of the letters received from neighbours to the site.

## REPORT

### Planning Policies and Guidance

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

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

POLICY ENV16 – PROTECTED SPECIES  
POLICY ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT  
POLICY ENV20 – DEVELOPMENT IN CONSERVATION AREAS  
POLICY ENV21 – DEMOLITION IN CONSERVATION AREAS  
POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS  
POLICY HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT  
POLICY HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY  
HOUS 2 SETTLEMENTS  
POLICY HOUS11 - RESIDENTIAL PRIVACY AND SPACE  
POLICY 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, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*'2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).'*

*'4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.'*

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 9, 2016) (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, paragraph 4.2.2 in particular states **“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 [...] taking decisions on individual planning applications”

Chapter 6 of PPW sets out the Welsh Government's guidance for preserving and enhancing the historic environment. Para 6.5.21 is of particular relevance "There will be a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level. In exceptional cases, the presumption may be overridden in favour of development considered desirable on the grounds of some other public interest. Preservation or enhancement of a conservation area can be achieved by a development which either makes a positive contribution to an area's character or appearance or leaves them unharmed. Mitigation measures can also be considered which could result in an overall neutral or positive impact of a proposed development in a conservation area."

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing. In particular paragraph 9.3.4 is of relevance which 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."

#### **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 (2016)

#### **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
- Affordable Housing
- Penarth Conservation Area
- Planning Obligations
- Trees and Development
- Penarth 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 Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions will be held in January 2017.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.8.1 of Planning Policy Wales (Edition 9, 2016) is noted. It states as follows:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan that is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses)
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response)
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015
- LDP Housing Land Supply Trajectory 2011-26 ( September 2016) (LDP Hearing Session 2 and 3, Action Point 4, 6, 7, 9 and 10 response)
- Housing Provision Background Paper (2015) (Also see LDP Hearing Session 2 and 3 Action Point 3 and 5 response)

- Housing Supply Background Paper (2013) (Also see LDP Hearing Session 2 and 3 Action Point 5 response)
- Joint Housing Land Availability Study (2014)
- Vale of Glamorgan Housing Strategy - (2015-2020)
- Population and Housing Projections Background Paper (2013)
- Small Sites Viability Report (2013)
- VOGC and DCWW Statement of Common Ground ( 2016) (LDP Hearing Session 4, Action Point 2 response)
- Open Space Background Paper (2013)

**Other relevant evidence or policy guidance:**

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 13/97 - Planning Obligations
- Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended)
- Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

**Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Procedural Note

Concerns have been raised regarding the accuracy of the drawings with particular reference to the extension to the neighbouring property Ty-Llwyd not being shown in the submission. This was raised with the agent and it is noted that this has been taken from the Ordnance Survey base. Whilst the OS mapping and the application drawings do not show this information the impacts of the proposal were assessed as part of the site visit undertaken in consideration of the application. Therefore, the report below considers the 'as existing' situation in reaching a conclusion.

## Issues

The main issues are considered to be the effect of the proposed development on the character and appearance of the Conservation Area and Registered Park, the size and design of the proposed extensions and alterations, the impact on neighbouring properties, and access, parking and amenity space.

## Principal of Development

The proposals are for the conversion, alteration and extension of the large three storey detached house into nine two-bed apartments over three floors of accommodation.

The site is within the 'Settlement Boundary' of Penarth as defined in the UDP and therefore there is no objection to the principle of the proposed residential development in this location (UDP Policy HOUS2 - Additional Residential Development refers). However, this would be subject to the criteria found with UDP Policy HOUS8 (Residential Development Criteria), which includes consideration of such issues as design, neighbour impact and parking provision.

The house and its plot are considered large enough for a conversion to apartments. There are also other examples of converted large dwellings in the vicinity and therefore this proposed conversion would not be out of character with the area.

## Size and Design, and the Effect on the Character and Appearance of the Conservation Area

The proposals relate to a large and prominent detached dwelling in the Penarth Conservation Area. The house is also adjacent to the historic Cadw/ICOMOS registered Windsor Gardens, which is east of the site towards the Esplanade and coast. Considering the above, UDP Policies ENV20 (Development in Conservation Areas) and ENV17 (Protection of Built and Historic Environment) are relevant as part of the assessment of the proposed development. The Penarth Conservation Area Appraisal and Management Plan identified Ashdene as within the Esplanade and Gardens Character Zone and states that certain dwellings within this zone are 'Showpiece Elements'. Ashdene, together with the neighbouring properties either side, are considered as such showpiece elements.

The proposed conversion includes extensions to either side of the original house. These are substantial extensions, projecting towards the side boundaries. However, both side extensions are to be set with their eaves and ridges lower than the height of the eaves and ridge to the original house. This allows for the extensions to appear subservient, which is considered a suitable approach. The extensions are visually separated by a 'glazed link' which encloses circulation and lift access to the various apartments. This approach, in principle, is considered an appropriate form of development within the historic environment. It provides a clear demarcation between the historic building and the proposed extensions.

The extensions to either side lie approximately on the building line formed by the original house. The proposed side extensions would project approximately 1.3m further into the rear garden area than the original house, though this is not an unusual feature of extensions and it is considered the rear garden area is large enough to accommodate the additions to the house.

The site boundaries also taper so that the frontage to Bridgeman Road is significantly wider than the rear frontage to Windsor Gardens. Concerns have been raised in the process of this planning application that the side extensions submitted in the originally proposed plans projected too close to the boundary of the site. The area is characterised by large houses, often within spacious plots. It was considered that the proposed extensions should be set off the boundary and not span with width of the site, to improve the scale of the development and to help retain the spacious character.

The extensions to the side of the house as proposed have been amended and set off the boundary. The gap is approximately 4m from the front corner of the proposed extension with the boundary with Ty Llwyn (to the south). Also there is a gap of approximately 6m to the side of the extension with the boundary with Normandy to the north. These gaps between the proposed extensions and the boundary ensure some degree of visual separation remains and will also allow for further landscaping to the side boundaries, especially towards Normandy (to the north-east).

The neighbouring property, Normandy, also has had a similar scaled residential proposal approved under application 2004/01645/FUL although this has not been implemented. This proposal included a two storey section of residential development built off the boundary wall with Ashdene.

Overall, whilst the extensions proposed are substantial, this is a large plot which can accommodate such a development. It is also noted that there are other developed plots within the vicinity of similar scales. As such, the proposed development would not be uncharacteristic with other developments in the area.

From a design perspective, an unashamedly contemporary approach has been adopted, although the extensions do reflect some of the characteristics of the wider conservation area. This includes the vertical emphasis of the windows and the pitch of the roofs. The use of brick and 'Portland stone' is intended to reflect characteristic materials of the conservation area whilst not masking the contemporary nature of the extensions. The north side elevation facing towards the boundary with Normandy is particularly sensitive as this elevation is prominent, with Normandy being on a significantly lower level. This elevation has been amended to include enhanced detailing, including increased vertical emphasis with the windows, which is considered to improve the appearance of this elevation. However, it is considered that a condition should be included to require samples of materials to ensure their suitability in preserving the character or appearance of the Conservation Area.



The proposed extensions do not have the same level of detailing as the original house, although given the contemporary nature of the proposal this is considered appropriate and would maintain the primacy of the original house and its features. The extensions, as shown on the plans, appear to reflect the proportions of the original house without attempting to mimic every detail and feature. This is considered a suitable approach and the overall design and appearance of the extensions should not result in any adverse impact to the character of the Conservation Area.

The house is currently in need of repair works and it is considered that the development will result in improvements to this building, which is prominent and is considered to make a positive contribution to the character and appearance of the Conservation Area. As such, it is considered that the proposed development would enhance the Conservation Area through the restoration of this significant building, albeit with the addition of new extensions. It is noted that the proposals would result in the loss of some historic features of the house, such as the side and rear canopy and the side entrance. Whilst the loss of these features is regrettable it is considered to be acceptable especially having regard to the overall improvement in the condition of the building that would result from the development. However, the quality of detailing to these elements of new build which makes reference to the original features is crucial and will be controlled by condition.

#### Neighbour Impact

The proposals include the extension to both side elevations towards the boundaries. The extension to the south would be in close proximity to the boundary wall with Ty-Llwyd. However, this is a high boundary retaining wall, with the neighbouring property Ty-Llwyd on a significantly higher ground level than the application site. The extension is set off the boundary and therefore should have no adverse impact on the boundary wall. The first floor side elevation windows as proposed face towards the boundary with Ty-Llwyd. These windows serve the kitchen/living rooms and are secondary windows. The principal windows to this room are to the east overlooking the gardens within the application site. There is a large side window in the extension at Ty-Llwyd that looks towards Ashdene. However, the proposed windows are off-set from this existing neighbour's window and therefore, considering the orientation and distances involved, would not result in any significant overlooking impact.

There are bedroom and kitchen/living room windows facing towards Normandy. This is an uninhabited house in a poor condition, though it has had planning permission for substantial redevelopment as flats. If a similar scheme was implemented the approved plans show mainly blank elevations facing towards Ashdene and the retaining wall to the boundary. There is one secondary bedroom window shown for 'bedroom 2' at Normandy which could be overlooked by the side elevation windows towards the front (en-suite, utility room and the secondary window for a bedroom). As such, these windows could be conditioned to be obscure glazed to avoid any potential overlooking impact in the future (see condition 9).

The side extension towards Normandy would have some potential to overshadow this neighbouring property. However, this would be relatively limited. Furthermore, the added space between the extension and the boundary with the revised plans further reduces any potential impact. Overall, the potential overshadowing is not considered to be at a level that would warrant the refusal of this planning application.

Concerns have been raised over the potential impact of the development on the boundary wall between the application site and Ty-Llwyd. Discussions with the Council's Building Control section suggest that there is no technical reason why the extension could not be built without affecting this wall, however, a condition requiring details of the foundations to be used in this part of the development will ensure this aspect of the proposal (see condition 3).

External terrace areas are proposed at first floor, but given their location relative to the neighbouring properties these will not adversely affect neighbouring amenity to any significant degree in terms of overlooking.

Overall the proposals, primarily the side extensions, would have the potential to cause some impact to neighbour amenities. However, with suitable conditions and considering the amendments made to the plans it is considered that the proposals would not result in any significant neighbour impact.

#### Impact on Windsor Gardens

Windsor Gardens is a Cadw/ICOMOS registered garden immediately to the east of the site. There is a pedestrian access from the rear garden of Ashdene into the historic Windsor Gardens. Cadw have been consulted with the application and stated that the proposals should "not have a direct impact" on Windsor Gardens but suggest that any Victorian garden features should be retained to enhance the setting of the gardens. The retention of features within the garden are outside the remit of planning control, however, the proposals do retain the majority of the existing Victorian house, with the rear elevation (facing towards Windsor Gardens) being largely retained. Furthermore, the extensions are designed to be sympathetic additions to the original Victorian appearance of the house. Therefore it is not considered that the development would have an adverse impact on the setting of the registered park.

#### Parking and Access

The vehicular access will remain as existing, with an access point off Bridgeman Road to the front of the site. The area to the front of the building, adjacent to the front boundary wall, would be used for the parking and manoeuvring of vehicles and a bin store. The site lies in Zone 3 (Urban) for the purpose of the Parking Guidelines which suggest 1 space per bedroom (maximum 3 spaces) and 1 space for 5 units for visitors. However, being consistent with the advice in Planning Policy Wales these should be treated as maximum rather than minimum parking standards. Eleven parking spaces are indicated for this area which is considered sufficient for the nine apartments in this location, close to Penarth Town Centre and the amenities of Penarth Esplanade as well as public transport in the vicinity. Furthermore, there is parking space available on street in the vicinity of the site.

It is considered that the use of the property for flats would be likely to increase traffic to and from the site, although not to a degree that would have a significant impact on traffic flows along Bridgeman Road or the local highway network or on the amenity of neighbouring properties.

### Amenity Space

The site would include a rear garden area of approximately 850sqm to act as a shared area of amenity space for the future residents. This could be accessed directly from the ground floor flats, or from around the side of the proposed extensions for the upper floor flats. The rear garden is considered to provide an acceptable layout and quality of amenity space for occupiers, when considering the standards as set out within the Supplementary Planning Guidance 'Amenity Standards'. It is also noted that these flats would be adjacent to Windsor Park and close to other areas of public open space along with the coastal path.

### Ecology Issues

As there are no significant works proposed to the existing roof there is no requirement for a bat survey. However, the applicant should note that if there is any works to the roof (including soffits, lead flashings etc) then Natural Resources Wales should be contacted for advice. An informative has been added to advise.

### Trees and Landscaping

To accompany the application there is a Tree Survey (Tree Scene, May 2016). This highlights several trees within the curtilage of the site, many of which are towards the boundaries. It is considered that most of the trees identified can remain, with the exception of the Ash (T7) to the side of the house (which would have to be removed to make way for the extension). The submitted tree survey categories this as a category 'C' tree i.e. "low quality with an estimated remaining life expectancy of at least 10 years" and its loss is considered to be acceptable.

It is considered that where possible the other trees should be retained and protected through the course of construction, though with landscaping enhancements to improve the setting of the development within this prominent Conservation Area location. A condition requiring details of landscaping (including new tree planting) plus tree protection measures is therefore to be included (conditions 4 and 5 refer).

### 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.

The need for planning obligations based on the type of development proposed has been considered taking account of the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies.

In light of the particular circumstances of this development, the following planning obligations have been considered and agreed by the developer:

#### Affordable Housing

The site falls within Penarth and LDP Policy MG 4 (as amended by the focused changes) requires all residential sites within this area resulting in a net gain of 1 or more dwellings to provide an element of affordable housing. As considered above, the site should deliver 40% affordable housing. Paragraph 5.10, page 11 of the Draft SPG for Affordable Housing sets out that based on a net gain of 8 units, the site should deliver a minimum of 3.2 affordable housing units, comprising of 3 affordable units to be delivered on site and incorporated appropriately into the scheme, plus an off-site contribution for the remaining 0.2 which has been calculated as £15,486.

#### Public Open Space

Under UDP Policy REC3, new residential developments are expected to make provision for public open space. Given the size and constrained nature of the site, there is no scope for on site provision. Therefore, an offsite contribution of £22,968 will provide or enhance public open space off site to serve the needs of future occupiers in accordance with the advice in the supporting text to REC3 and TAN16 (Sport, Recreation and Open Space).

#### RECOMMENDATION

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

- that 3 of the dwellings built pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity, of which 2 would be social rented properties and 1 would be intermediate properties;
- A contribution of £15,486 is payable for off-site affordable housing; and
- A contribution of £22,968 to provide or enhance public open space in the vicinity of the site.

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

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

Reason:

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

2. The development shall be carried out in accordance with the following approved plans and documents: LP00, P12B, P13C, SP00, PE01, PE02, PE03 Rev A, PE04, PP00, PP01 Rev A, PP02, PP03, Design and Access Statement received on 27 May 2016, Tree Survey and accompanying plan 20000/001/DPC/DLO received on 27 May 2016.

Reason:

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

3. Prior to the commencement of the extension to the south-west of the existing building hereby approved, details of the foundation design of that extension (adjacent to Ty-Llwyd) are to be submitted to, and agreed in writing by, the local planning authority. The approved scheme shall be fully implemented in accordance with the approved details prior to first beneficial occupation of any of the development hereby approved.

Reason:

To protect the integrity of the retaining wall to Ty-Llwyd and to ensure compliance with the provisions of Policy ENV20 of the Unitary Development Plan.

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

Reason:

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

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason:

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

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

Reason:

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

7. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) or any Order amending or revoking that Order, no gates, fences, walls or other means of enclosure shall be erected, constructed or placed on site, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of highway safety and to protect the character and appearance of the Conservation Area in accordance with Policies ENV20 and ENV27 of the Unitary Development Plan.

8. No part of the development hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas, have been laid out in full accordance with the details shown on plan 104B, or such other details otherwise agreed in writing by the Local Planning Authority. The parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved, unless otherwise approved in writing by the Local Planning Authority.

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.

9. The windows in the side (northeast) elevation, facing towards the property known as Normandy/Oakhurst, serving the utility rooms, bathrooms, ensuite and Bedroom 1, shall be fitted with obscure glazing at the time of the construction of the development hereby approved and prior to the first beneficial use of the flat it serves and shall thereafter be so maintained at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

10. Notwithstanding the submitted plans, full details of the windows and balustrades hereby approved, including materials and finish details, to be illustrated using drawings at a 1:10 or 1:20 scale, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

In the interests of visual amenity and to ensure the development accords with Policies ENV17, ENV 20 and ENV27 of the Unitary Development Plan.

11. 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 Policies ENV20, ENV17 and ENV27 of the Unitary Development Plan.

12. Notwithstanding the submitted information, details of the external surfacing works to the rear garden, to include patios and terraces, plus details of materials and any levels changes, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details prior to the first beneficial occupation of the extended property the development hereby approved, and the development shall not be carried out otherwise than in full accordance with such approved details.

Reason:

In the interests of visual amenity, and to protect the character and appearance of the replacement dwelling as required by Policy ENV 27 and ENV 20 of the adopted Unitary development Plan.

13. The layout of the rear garden area, including the extent of communal amenity space and dedicated amenity space for occupiers of the development hereby approved, shall be laid out and used in full accordance with submitted Plan 104 Revision C prior to the first beneficial occupation of the property, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of providing suitable amenity space and also in the interests of visual amenity, and to protect the character and appearance of the development as required by Policy ENV27 of the adopted Unitary development Plan.

14. Notwithstanding the submitted information, details of exterior restoration works, including that of the balconies, walls and roof, shall be submitted to and approved in writing by the Local Planning Authority prior to their use in the development hereby approved, and the development shall not be carried out otherwise than in full accordance with such approved details.

Reason:

In the interests of visual amenity, and to protect the character and appearance of the replacement dwelling as required by Policies ENV 27 and ENV 20 of the adopted Unitary development Plan.

#### REASONS FOR RECOMMENDATION

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 27 (Design of new developments), ENV 20 (Development in Conservation Areas), HOUS 2 (Additional residential development), HOUS 8 (Residential Development Criteria), ENV 17 (Protection of built and historic environment), HOUS 11 (Residential Privacy and Space), ENV 16 (Protected Species) and TRAN 10 (Parking) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, plus Penarth Conservation Area Appraisal and Management Plan 2011 and Supplementary Planning Guidance 'Amenity Standards' 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 Conservation Area or the amenities of neighbouring occupiers. The proposals therefore comply with the relevant planning policies and supplementary planning guidance.



**NOTE:**

1. You are advised that there may be species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP  
General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).
2. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.
3. Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. You should therefore contact the DCWW Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Please note that under the Water Industry Act 1991 DCWW has rights of access to its apparatus at all times.

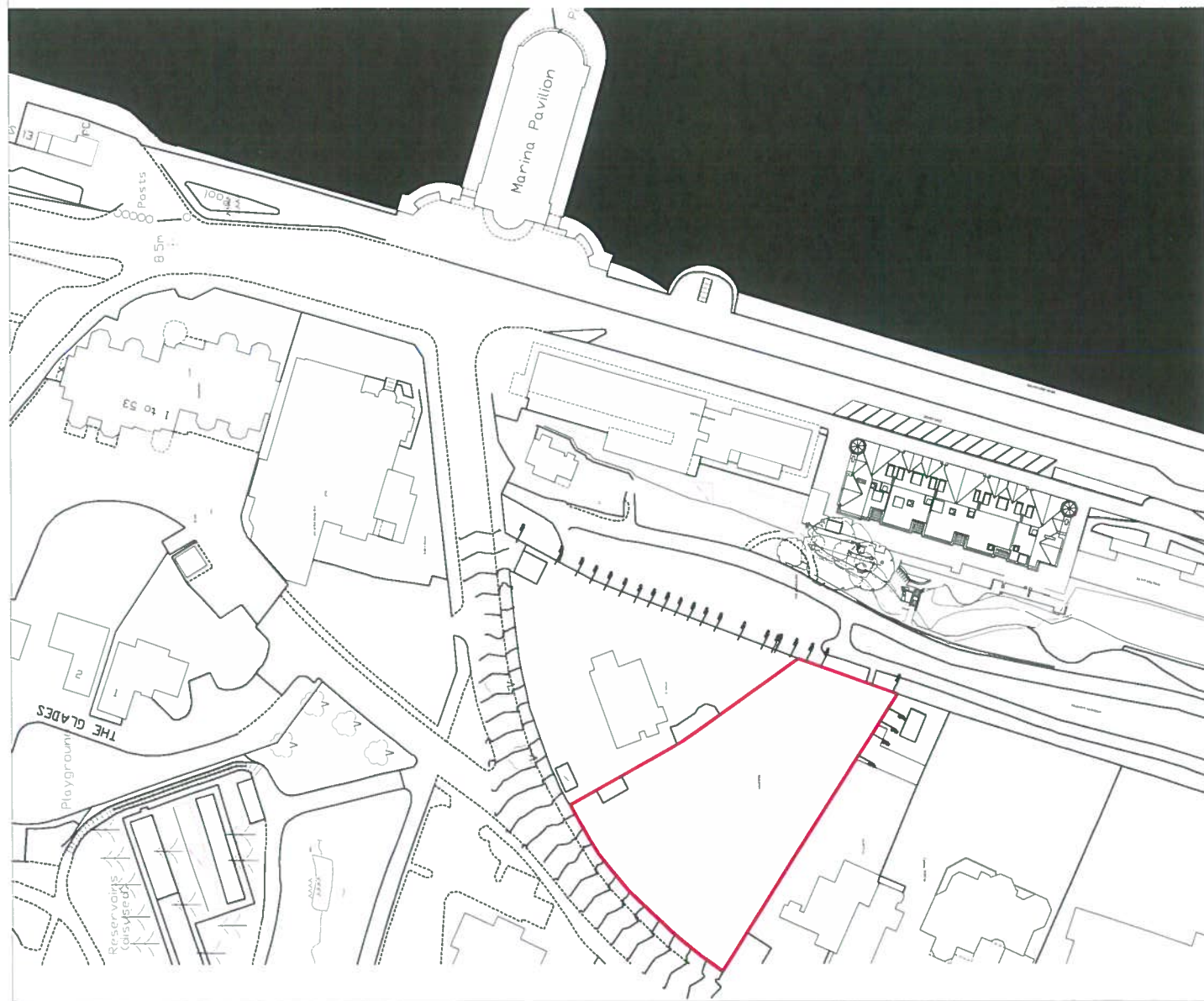
Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual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

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

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

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

2016/00659/FUL



rev nclie date

Greyfriars House, Greyfriars Road, Cardiff CF10 3AL  
T: 029 2022 6757

**JOHN WOTTON ARCHITECTS**

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**EWM**  
Property company libe

Ashdene manor  
PENARTH

title  
Location plan

job no.	232	dig no.	LP00	rev
scale	1:1250 (@A4)	date	29 09 16	checked by
		drawn by		

13.7.2016

8 Glynne Tower  
12 Bridgeman Rd  
Penarth  
CF64 3AW

APPENDIX A'0

2016/00659/FUL


Application No 2016/00659/FUL

Dear V. L Robinson

I strongly object to the planning for the apartments to be built on the site of Ashdene Manor, Bridgeman Rd Penarth.

They would not fit in with the conservation area, too much traffic and far too many on a site of that size.

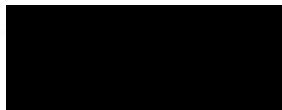
Yours sincerely



19 JUL 2016

Regeneration  
and Planning

TY LLWYD  
11 BRIDGEMAN ROAD  
PENARTH  
VALE OF GLAMORGAN  
CF64 3AW



Vale of Glamorgan  
Planning Dept.  
Dock Office  
Barry  
CF63 4RT  
y/r P/DC/SZ/2016/00659/FUL

D.E.E.R
RECEIVED
ACTION BY: SOB/ HIC
NO: 4
DATE:

15 July 2016

Dear Sirs,

Re: ASHDENE MANOR BRIDGEMAN ROAD PENARTH

We have been notified by you of an application for nine apartments on the above property.

We would strongly object to this as having seen the plans the correct footprint of our property Ty Llwyd has not been shown on the location plan. The plans as deposited do not truly show the close proximity of the new build to our existing building.

As Ashdene is angled and not in line with our property all apartment from first floor up will be directly looking over our property thus affecting our privacy. The design as it stands at present has many windows and Juliet balconies overlooking us which would allow residents to have unrestricted views into our bedrooms and living space.

Whilst we appreciate that at some stage Ashdene will be developed we consider that this scheme is overdevelopment of the site, not sympathetic to the existing and does not take into account whatsoever the development of an outstanding Victorian residence and the fact that it is in a Conservation Area. We were under the impression that Conservation meant retaining the architecture and style of an area and not allowing box-like additions to a beautiful house.

We are also extremely concerned by the proximity of the extension to our side which appears to be only 1 metre from the boundary wall which is some 3 metres high. We

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ACK:
NO:

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Regeneration and Planning

have already had to have part of this wall strengthened to prevent it collapsing and we are fearful that any excavation near it may bring it down which would cause our foundations to be affected.

Furthermore we are concerned at the number of extra vehicles that would have to be allowed for in 9 apartments going onto what has now become a very busy road, what with making the Esplanade one way, with the access and egress point being on a bend.

We understand that the earlier application for 7 units by architect David Preece was withdrawn. Whilst we put in an objection to this at the time at least the architect had designed a scheme that was sympathetic to the building and the area, which this present scheme is not.

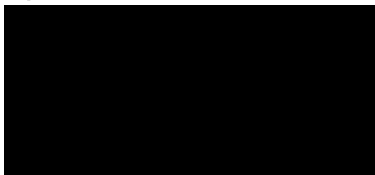
We hope that this application is rejected and that the applicant is asked to reconsider his design.

Yours faithfully,



Derek J Marles FRICS

Wendy E Marles



RECEIVED  
16 JUL 2015  
Regeneration  
and Planning

From: Planning  
 Sent: 13 July 2016 13:41  
 To: Planning  
 Subject: New comments for application 2016/00659/FUL

New comments have been received for application 2016/00659/FUL at site address: Ashdene Manor, Bridgeman Road, Penarth

from Mrs Jennifer Barber [REDACTED]

Address  
 Robinwood Bridgeman Road Penarth, CF64 3AW

Comments:

My objection to the planning proposal centres on the intention to construct 9 flats in the property. This will generate an unreasonable expansion in vehicles accessing the property which has been a single house to date. The highway changes to The Esplanade to become a one-way route has meant that Marine Parade and Bridgeman Road are now busy roads for vehicles accessing the Esplanade. This proposal adds to the traffic demands on Bridgeman Road triggering health and safety problems.

Case Officer:  
 Mrs. Hayley Kemp

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 13 JUL 2016  
 Regeneration  
 and Planning

D.E.E.R  
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 ACTION BY: HKI SDB  
 NO: 1  
 ACK:

**2016/00809/FUL** Received on 12 August 2016

Churchill Retirement Limited Millstream House, Parkside, Ringwood, BH24 3SG  
Mr. Simon Cater Planning Issues Limited, Millstream House, Parkside, Ringwood,  
BH24 3SG

### **Land to the rear of Westgate (East of Eagle Lane), Cowbridge**

Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is of a scale and / or nature that is not covered by the scheme of delegation.

#### **THE PURPOSE OF THIS REPORT**

The applicants have made an appeal with the Planning Inspectorate for the non determination of the application by the Council. The appeal was started on 5<sup>th</sup> December, 2016, and is linked to the appeal that has also been made in respect of the non determination of the 2016/00833/CAC application which sought consideration Area Consent for the demolition of the buildings currently occupying the site. The purpose of this report is to seek the resolution of the Planning Committee as to the stance the Council are to take at the appeal on the proposed scheme of development.

The report sets out the policy background and issues relating to the scheme. The report will also provide direction for the Local Planning Authority's case in the current appeal.

#### **EXECUTIVE SUMMARY**

The application site is to the rear (north) of a number of commercial and residential properties on West Gate, Cowbridge. The site is also previously developed land, as defined in section 4.9 of PPW, being already occupied by a number of buildings and central yard area. The site is within the Cowbridge with Llanblethian Conservation Area.

The application proposes the demolition of all buildings on the site and the construction of 38 residential apartments aimed at the retirement market, with the building accommodating some shared living space at its main entrance. The majority of the building will be three storey (partly accommodated within the roof space) with a maximum height of some 12.5 metres.

The principle issues to consider are the principle of the development, the design of the development in terms of its impact on the character of the surrounding area, Conservation Area, the adjoining listed building, the amenity of adjoining occupiers, amenity space provision, loss of business premises, highway safety and parking, archaeology, ecology, drainage, planning obligations and the need for the development proposed.

The report recommends a stance that the application should be refused for the following reasons: harm to the Conservation Area and listed buildings, adverse impact on neighbouring amenity, inadequate amenity space for its occupiers, loss of existing businesses on the site, potential impact on archaeology, failure to meet the tests for derogation in respect of European protected species,

## SITE AND CONTEXT

The application site is to the rear (north) of a number of commercial and residential properties on West Gate, Cowbridge and also bounds the adopted highway, Eagle Lane, to the east. The site is occupied by a collection of buildings along the western, eastern and northern boundary with a central hard surfaced yard area serving a number of the buildings. The buildings along the northern boundary of the site are residential in use and the remaining buildings are either occupied for commercial purposes or vacant. Current vehicular access is provided from West Gate, between Eagle House and 5, West Gate.

The properties to the south of the site (along West Gate) are predominantly commercial at ground floor with residential uses above. There are also residential properties to the west of the site and to the east, on the opposite side of Eagle Lane. To the north is the public open space that includes a public footpath adjacent to the northern boundary of the site, playing fields, a play area and Cowbridge Leisure centre.

There is a listed building (known as 1 to 3 Westgate) adjacent and to the south of the site, on the corner of West gate and Eagle Lane. There is also a listed wall to the east of the site, on the opposite side of Eagle Lane. This is a boundary wall for the property known as Eagle Cottage and 83 High Street. 83 High Street (also known as Woodstock House) is also a listed building. The site is within the Cowbridge with Llanblethian Conservation Area.

A more detailed description of the character of the site and the surrounding area is provided later in this report.

## DESCRIPTION OF DEVELOPMENT

The application proposes the demolition of all buildings on the site (also considered under the separate Conservation Area Consent application reference 2016/00833/CAC), and the construction of 38 residential apartments. The accommodation will be aimed at the retirement market, with the building accommodating some shared living space at its main entrance.



Proposed layout:



The residential units will be accommodated within an 'L' shape building close to the northern and eastern boundary of the site. The majority of the building will be three storey (partly accommodated within the roof space) with a maximum height of some 12.5 metres. The southern and western of extremities of the building will reduce to two storey with a minimum height of some 9 metres. Each wing of the building will have a depth of some 19 metres and the overall footprint of the building is approximately 1,200 metres.

A mix of materials are proposed to be used in the building, including slate effect tiled for the roof and, for the elevations, a mixture of natural stone cladding, coloured render, re-constituted stone, painted brick, cement slates and coloured brick. Details of window and door openings have not been provided. Within the site and the curtilage of the building landscaped communal amenity space will be provided along with a 17 space car park, battery car store and cycle store. Access will be retained from Westgate, but with the point of access being widened by the part removal of no. 5 Westgate.

North facing elevation - facing the Public Open Space:



East facing elevation – facing Eagle Lane:



West facing elevation- facing the rear of the properties on The Broad Shoard:



South facing elevation – facing the rear of the properties on West Gate:



## PLANNING HISTORY

Whilst there is a detailed planning history to the site, the following applications are considered relevant to this report:

**2016/00833/CAC:** Land to the rear of Westgate (East of Eagle Lane), Cowbridge – This is the CAC application linked to the proposal subject of this appeal. Consent is sought to demolish all buildings on site. This application is currently under consideration.

**2006/00642/FUL:** 4, Eagle Lane, Cowbridge (the building along the eastern boundary of the site) - Change of use to fitness suite. Approved 05/09/2006

## CONSULTATIONS

**Highway Development** – The proposal was still being considered by the Council's Highway Engineer at the time of writing. Whilst their formal comments have not been provided, their concerns with regard to the development and the negotiations that have taken place are as set out in this report. The principle matters considered are traffic generation, parking and site access.

**Public Rights of Way Officer** – The public right of way adjacent to the northern boundary of the site is noted and the Officer suggests that the development should not have an adverse effect on the right of way.

**Cowbridge with Llanblethian Town Council** – The Town Council has a number of objections to the proposed scheme. These are as follows:

- i. the proposal represents an over-development of this area resulting in adverse issues of overlooking and loss of privacy to neighbours.
- ii. the widening of the access to the site will alter the nature of Westgate.
- iii. traffic generation on an already busy highway.
- iv. insufficient parking.
- v. Lack of facilities within the building for the elderly.

**Highways and Engineering (Drainage)** – Comments have been provided by the Council's highway Engineer in respect of site drainage. The proposal is to retain the existing separate arrangement of foul and surface water is considered to be acceptable. However further information is required in the form of a comprehensive Drainage Scheme.

**Environmental Health (Pollution)** – The Council's Environmental Health Officers have not objected to the proposal but have sought controls with regard to the noise generated by the proposed plant.

**Conservation (Planning)** – The Conservation Officer has objected to the development on the basis of impact on the conservation area and the setting of the listed buildings close to the site. A copy of his comments are provided at **Appendix A**.

**Dwr Cymru Welsh Water** – Whilst no objections have been made, Welsh Water have requested standard conditions with regard to drainage.

**The Ecology Officer** - Has not objected to the development, but suggested that, in the light of the presence of Pipistrelle Bats, the relevant derogation tests are applied.

**Glamorgan Gwent Archaeological Trust** – The Trust have considered the desk based assessment and, in light of its conclusions, have requested a field evaluation. This request is considered in the report below.

**Housing Strategy** – Details with regard to the need for Affordable Housing in the area have been provided. These are considered in more details in the main body of the report.

## REPRESENTATIONS

### **6 letters of representation have been received.**

The neighbouring properties were consulted on 23 August 2016.

A site notice was also displayed on 13 September, 2016.

The application was also advertised in the press on 8 September, 2016.

The following matters have been raised in the representations received:

- Impact on amenity and privacy on adjoining and nearby occupiers.
- Impact on the conservation area due to the size of the development proposed and the demolition of part of a property on Westgate.
- Noise generated by the Plant room.
- Traffic generated on West Gate and Eagle Lane.
- Lack of parking provision proposed.
- The loss of housing for families in Somerset House.

## REPORT

### Planning Policies and Guidance

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

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 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 8 – TRANSPORTATION  
POLICY 11 - SPORT & RECREATION

*Policy:*

POLICY ENV16 – PROTECTED SPECIES  
POLICY ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT  
POLICY ENV18 – ARCHAEOLOGICAL FIELD EVALUATION  
POLICY ENV19 – PRESERVATION OF ARCHAEOLOGICAL REMAINS  
POLICY ENV20 – DEVELOPMENT IN CONSERVATION AREAS  
POLICY ENV21 – DEMOLITION IN CONSERVATION AREAS  
POLICY ENV26 - CONTAMINATED LAND AND UNSTABLE LAND  
POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS  
POLICY ENV28 – ACCESS FOR DISABLED PEOPLE  
POLICY ENV29 – PROTECTION OF ENVIRONMENTAL QUALITY  
POLICY HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT  
POLICY HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY  
HOUS 2 SETTLEMENTS  
POLICY HOUS12 - AFFORDABLE HOUSING  
POLICY EMP4 – PROTECTION OF LAND FOR EMPLOYMENT USES  
POLICY TRAN10 – PARKING  
POLICY REC3 – PROVISION OF OPEN SPACE WITHIN NEW  
RESIDENTIAL DEVELOPMENTS  
POLICY REC4 - PROVISION FOR THE DISABLED AND ELDERLY

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, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*'2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).'*

*'4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- there is no adopted development plan or*
- relevant development plan policies are considered outdated or superseded or*
- where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.'*

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 9, 2016) (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 6 of PPW sets out the Welsh Government guidance for The Historic Environment.

Chapter 7 of PPW on Economic Development.

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

### **Technical Advice Notes:**

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

- Technical Advice Note 1 – Joint Housing Land Availability Study (2015)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 16 - Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)

## Supplementary Planning Guidance:

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

- Amenity Standards
- Affordable Housing
- Biodiversity and Development
- The Cowbridge with Llanblethian Conservation Area Appraisal and management plan
- Parking Standards (Interactive Parking Standards Zones Map)
- Planning Obligations
- Draft Planning Obligations and Affordable Housing
- Public Art

## The Local Development Plan:

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions will take place in January 2017.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.14.1 of Planning Policy Wales (edition 9, 2016) is noted. It states as follows:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses)
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response)
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015
- LDP Housing Land Supply Trajectory 2011-26 ( September 2016) (LDP Hearing Session 2 and 3, Action Point 4, 6, 7, 9 and 10 response)
- Housing Provision Background Paper (2015) (Also see LDP Hearing Session 2 and 3 Action Point 3 and 5 response)
- Housing Supply Background Paper (2013) (Also see LDP Hearing Session 2 and 3 Action Point 5 response)
- Joint Housing Land Availability Study (2014)
- Vale of Glamorgan Housing Strategy - (2015-2020)
- Population and Housing Projections Background Paper (2013)
- Employment Land and Premises Study (2013)
- Local Employment Land Deliverability Paper (2015) (Also see LDP Hearing Session 5, Action Point 8 response)
- Further Advice on Employment Land and Premises Study (2015)
- Habitats Regulations Assessment - Appropriate Assessment Report of Deposit LDP (2013)
- Habitats Regulations Assessment Screening of Focused Changes (2015) and Matters Arising Changes (2016)
- Open Space Background Paper (2013)
- Community Facilities Assessment (2013)

**Other relevant evidence or policy guidance:**

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 11/99 – Environmental Impact Assessment
- Welsh Office Circular 13/97 - Planning Obligations



- Welsh Office Circular 60/96 - Planning and the Historic Environment: Archaeology
- Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended)
- “Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update” (2009)

Also of particular note are the duties imposed under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. Section the Section 72(1) imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.* Section 66(1) states that, *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

### **Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council’s duty and the “sustainable development principle”, as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

#### Issues

The principle issues to consider in this stance report are as follows:

1. The principle of the development.
2. The design of the development in terms of its impact on the character of the surrounding area and the Conservation Area.
3. The impact of the development on the setting of the adjoining listed building.
4. Impact on amenity of adjoining occupiers.
5. Amenity space provision.
6. Loss of business premises.
7. Highway safety and parking.
8. Archaeology.
9. Ecology.
10. Drainage.
11. Planning Obligations.
12. The need for the development proposed.

When considering the above matters, reference will also be made to a number of amendments to the scheme that have been submitted to the Council since the receipt of the appeal subject of this report. Although clarification has been sought from the Planning inspectorate, they have not confirmed which set of plans the appointed inspector will be prepared to consider. Accordingly, the report has been prepared in consideration of the original scheme with some comments made, where applicable, in respect of the amended scheme.

## **1. The principle of the development**

The application site is within the settlement boundary of Cowbridge, as defined in the UDP. The site is also previously developed land, as defined in section 4.9 of PPW, being already occupied by a number of buildings and central yard area. Notwithstanding the issue relating to the loss of the businesses accommodated within the buildings on site (considered later in this report), there is no objection to the loss of the buildings currently on site (as concluded in the consideration of the related 2016/00833/CAC application which seeks conservation area consent for the demolition of the buildings) in terms of their architectural or other merit. The LDP background papers also identify the settlement of Cowbridge as being sustainable and appropriate as a location to accommodate growth.

In view of the above, and notwithstanding the loss of accommodation for the existing businesses, the re-development of the site for the provision of residential accommodation is considered acceptable and in accordance with the provisions of UDP policy HOUS2 as well as PPW.

## **2. The design of the development in terms of its impact on the character or appearance of the surrounding area and the Conservation Area.**

### *Policy and Guidance:*

Whilst the principle of residential development has been accepted, consideration must be given to the details of the proposal, in the light of the relevant development plan policies. These include the general good design criteria of policy ENV27 and the more specific residential development criteria of HOUS8, the principles of which are still considered to be relevant and supported by more recent National Planning Guidance on design given in TAN12.

Further, the Council's SPG on Amenity Standards also has policies relating to design and the impact on amenity (considered later in this report), including policies 1 and 3, which highlight the need to respect existing character. This is in line with national guidance, with paragraph 9.3.4 of Planning Policy Wales (PPW) stating:

*"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."*

In addition paragraph 5.6.2 of TAN12 notes:-

*“In areas recognised for their landscape, townscape, architectural, archaeological and/or historic value, such as National Parks, Areas of Outstanding Natural Beauty, World Heritage Sites and conservation areas, the objective of sustaining character is particularly important and context appraisals should reflect this. The general aspects of the “character” objective of good design should be pursued but more detailed information may be needed in relation to key issues.....”*

As the site is within the Cowbridge Conservation Area the Council is required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas in the discharge of its planning duties. UDP policies ENV17 and ENV20 of the UDP seek to protect the built and historic environment and ensure that development preserves or enhances the character of conservation areas. Criterion (i) of policy ENV20 is most relevant and requires that new development should reflect the scale, design, layout, character, materials and setting of those buildings that establish the character of the area, which is, of course, a principle that is reflected in the general design criteria of both policies ENV27 and HOUS8, as well as the overarching provisions of Strategic Policy 1 – The Environment. Policy ENV17 states that permission will not be granted for development that has a detrimental (negative) effect on the special character, appearance or setting of a building or group of buildings including conservation areas.

These local policies are supported by national guidance including PPW, which sets out the objectives for the protection, management and conservation of the historic environment (section 6.2). The recent changes to the historic environment section of PPW still confirms the importance of conserving and enhancing the historical assets, but recognises the contribution that they can make to the overall sustainable development objectives of PPW.

In addition, the duty imposed on the decision maker under Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 is also worth noting again at this point as it relates to the development of any buildings or other land in a conservation area, and requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. This duty is reflected in PPW where at paragraph 6.5.20 it states:

*“There should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting.”*

Also at paragraph 6.5.21 it states:

*“There will be a strong presumption against the granting of planning permission for developments, including advertisements, which damage the character or appearance of a conservation area or its setting to an unacceptable level.”*

The guidance and remainder of the paragraph does, however, go on to suggest circumstances where other matters can be considered in the planning balance, although it suggests that these must be ‘exceptional circumstances’. It states:

*“In exceptional cases, the presumption may be overridden in favour of development considered desirable on the grounds of some other public interest. Preservation or enhancement of a conservation area can be achieved by a development which either makes a positive contribution to an area’s character or appearance or leaves them unharmed. Mitigation measures can also be considered which could result in an overall neutral or positive impact of a proposed development in a conservation area.”*

It is clear that the effect of the development on the character and appearance of the conservation area and its setting is a significant material consideration to be weighed in the general balance. Recent case law indicates that such impact requires special consideration, and carries substantial weight in the determination of the application.

*Consideration of the impact of the development:*

Turning now to the description of the appeal site and surrounding area, the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan identified Cowbridge as being *“linear in form with Burgage plots defining the formal building frontage on a strong east/west axis with lesser buildings laying behind”* (Page 10). It also states that *“whilst the principal frontage affords a clear appraisal of building, scale, detail and use of materials, the views from behind are more complex and are derived from a rich mix of boundary walls, coach houses and outbuildings”*. This description is applicable to the character and built form of the application site and its setting. The row of terraced buildings along Westgate (including the grade II listed No.s 1 & 3 Westgate) form the principle frontage of this part of the conservation area, these terraced properties adjoining the southern boundary of the site. These are simple two-storey historic buildings fronting Westgate which is the core of the Conservation Area.

To the west of the site are two more modern detached dwellings, forming part of the more modern residential development off The Broad Shoard. To the east of the site the character of built development is typical of that found to the rear of the principle frontage within the Conservation Area. It consists of modest two storey buildings, including historic coach houses and more modern dwellings. The development immediately opposite Eagle Lane is a modern, small, mews type development to the rear of the listed three storey Woodstock House, which forms the principle frontage.

Unlike some other parts of the conservation area, views of the site and its context are extensive, with close views of the site’s eastern boundary afforded from Eagle Lane, expansive views of the northern boundary and its context from the highway and open space to the north of the site, and broken views of the western boundary of the site afforded from the highway (The Broad Shoard) to the west.

Having considered the proposed development from these views and within this context the following comments are made. These are also supplemented by the detailed comments of the Council’s Conservation Officer, which are attached to this report at **Appendix A**.

The development proposed will form an unbroken, predominantly three storey expansive building along the northern and eastern boundary. With regard to its scale and form, when compared to the existing built development within the site's context, the proposal will dominate in terms of both its height and its solid form, resulting in a particularly prominent building. The dominant scale of the building will be appreciated from all vantage points described above. Whilst the development will be set back from the adopted highway on Eagle Lane, Eagle Lane will be overwhelmed by the element of the building along the eastern boundary, particularly as it will be viewed against the context of the Listed No.s 1 & 3 Westgate and the relatively modest Woodstock Mews development. Furthermore, development immediately fronting the highway is a characteristic feature of the conservation area and this set back introduces a further incongruous element detrimental to the character of the Conservation Area.

The development will also be overtly prominent from views from the public open space to the north of the site. Whilst it is accepted that the development will replace existing three storey buildings, those buildings do not extend across the width of the northern boundary and are significantly smaller in footprint than the development proposed along the northern boundary. In addition, these three storey buildings, along with the low level buildings along the western boundary of the site, allow punctuated views into the Conservation area and of the roofscape of the buildings forming the principle frontage along West Gate.

As for views of the development from the core of the Conservation Area, the principle frontage of Westgate would if the development were allowed, be thereafter viewed against the context of the overscaled new building behind it, particularly from views from West Gate via Eagle Lane and in front of the widened site access. The partial demolition of the building along Westgate to allow for the widened access will also interrupt the run of terraced properties along this primary frontage.

The two storey elements of the building, closest to the listed building and eastern boundary, seek to assimilate the development into the existing built development adjoining the site. The amended scheme extends the section of two storey development along Eagle Lane, although the height of this new section of two storey is marginally less than the three storey elements. Whilst this is noted, the remaining building in both the original and amended scheme, which forms the vast majority of the proposed building, is not sympathetic to the character of development that forms the context to the site, where the scale of development reduces in the secondary parts of the Conservation Area behind the principle frontage.

In terms of the design, the proposal seeks to introduce an 'L' shaped building of two, two and a half and three stories. The proposal steps up from two storeys adjacent to the listed building, up to three storeys at the rear of the site. Given the length of the two and a half and three storey elements, the development will serve to alter the primacy of the site from the existing Westgate frontage to the proposed large scale development to the rear of the site. The rear elevation facing the park consists wholly of three storey development and, notwithstanding the existing development, is incongruous when viewed against the rear of the other plots within the Conservation Area.

There is some attempt at articulating the building through the introduction of different facing materials (considered below), together with an irregular building line and building heights. Despite these attempts, the building will read as one large unit lacking the richness of detail that can be found in the terraced buildings throughout the Cowbridge Conservation Area.

The principal building material in the Conservation Area is blue lias limestone. There is limited use of brick in building detailing, quoins for example. The proposal shows significant use of brick and a stone cladding system. Both are considered inappropriate in this sensitive context and would harm the overall character and quality of the Conservation Area in the immediate locality.

In view of the findings above, the development is not considered to be sympathetic to the character and appearance of the surrounding area and, as such, will have a detrimental effect on the character and appearance of the Cowbridge Conservation Area. The development is not, therefore, considered to accord with local policy and national planning guidance, which suggests that there be a strong presumption against such harmful development. It is, therefore, considered appropriate to give the harm identified significant weight in the planning balance.

### **3. The impact of the development on the setting of the adjoining listed building.**

As already noted, the application site is adjacent to the grade II listed No.s 1 & 3 Westgate. Whilst the east facing and south facing elevation of this building form a boundary with West Gate and Eagle Lane, the west and north elevations face the application site, and the rear yard area of the listed building is currently open to the application site. As such, the development is considered to be within the setting of this listed building. In addition to this, the development is also within close proximity to the listed wall on the opposite side of Eagle Lane and Woodstock House (No. 83 High Street). Accordingly, the duty imposed under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 which require:

*“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

In this regard, the comments of the Council’s conservation officer are summarised as follows.

The Welsh Government have recently consulted on a draft guidance document “Setting of Historic Assets in Wales”. This document identifies a four stage process in assessing the impact of proposed developments on the setting of historic assets as follows: Identify the historic assets; Define and analyse the setting; Evaluate the potential impact of change or development; and Consider Options to Mitigate the Impact of a Proposed Change or Development.

A brief assessment completed by the Council's Conservation Officer identified three listed buildings whose setting could be reasonably considered to be affected by the proposed development: **No.s 1 and 3, Westgate; NW Boundary Wall to 83 High Street; and Woodstock House.**

No's 1 & 3 Westgate can be considered to have two settings referred to as external and internal. The external setting can be considered to be along Westgate, Eagle Lane and the Butts. Due to the built up nature of the townscape, the setting is limited in scope but of high significance.

Internally, the nature of the setting of the listed building has been altered significantly with the merging of a number of the burgage plots. The internal setting is also constrained by buildings and can broadly be defined as within the site although this setting does extend to Broadboard and the playing fields to the north.

The impact on the setting of the listed buildings is most pronounced on Eagle Lane. Here the proposed development steps up from two stories to three stories quickly. The mass of the proposed building is therefore considerable and will dominate the listed building. Setting back the proposed building further detracts from the character of the setting (current position and historically). Finally, the nature of the materials proposed exacerbates this situation.

The impact of the setting on the listed building from Westgate will particularly marked in views across the curtilage of Woodstock House.

The setting of the boundary wall is considered to be relatively limited in scope although it has a clear relationship with the application site opposite. The principal impact on the setting of this listed wall will be the change in the character of the Eagle Lane resulting from the setback proposed and, to a less extent, the height of the development.

The setting of Woodstock House is considered to primarily be along Westgate, Eagle Lane and the Butts. Due to the built up nature of the townscape, the setting is limited in scope but of high significance. Woodstock Mews is also considered to be within the setting of the listed building. The principal impact on the setting of this listed building will be the change in the character of the street resulting from the massing of the proposed development, particularly when viewed from Westgate.

In terms of options to mitigate, the Conservation Officer notes that, given the nature of the change of the setting of the No.s 1&3 and generally the nature of the setting of the other two listed buildings, there is no objection in principle to new development on the site. However, this would need to be of a significantly reduced scale to ensure the setting of the listed buildings was not harmed. In addition, it would need to omit the set back currently proposed.

In light of the above, the development proposed is considered to have a detrimental effect on the setting of the listed buildings mentioned above. Accordingly, the proposed development would conflict with UDP policies ENV17 and Strategic Policy 1, as well as national planning guidance in the form of PPW and Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended).

#### **4. Impact on amenity of adjoining occupiers.**

As noted in the site and context section above, there are a number of residential properties along or close to the west, east and south boundaries of the site. These consist of dwelling houses, flatted development and residential units above ground floor commercial premises.

The first principle of sustainable development in PPW (Paragraph 4.3.1) suggests people, and their quality of life now and in the future, should be put at the centre of decision-making. This supports the relevant amenity criteria of policies ENV27 and HOUS8, as well as Policy 1 of the Council's adopted SPG on Amenity Standards, which requires privacy and amenity to be secured in any proposed development. Policy 4 of the SPG requires a minimal distance of 21 metres between opposing principle windows of a dwellinghouse in order to protect the privacy and amenity of the occupiers of each residential unit.

Whilst being close to a significant number of residential units, the building on site will have a particularly close relationship to Coedfryn to the west, Eagle Cottage to the east and the residential flats above Eagle House to the south. The first floor windows on the west facing elevation of the building will be between 19 and 20 metres from habitable room windows in the east facing elevation of Coedfryn. The occupiers of the first floor flat (unit 15), will have direct views into the east facing windows and rooms at Coedfryn where currently there are none. The closest overlooking windows that currently exist within the application site are some 40 metres from Coedfryn (in Somerset House). The occupiers of unit 15 will also have an elevated view into the rear garden of Coedfryn, the windows being some 5.5 to 7 metres from the boundary of the site. Whilst there may be a separate strip of land between Coedfryn and the application site, this land appears to be in use as domestic garden. As such, the residents who enjoy the use of this garden will be overlooked at close range by the occupiers of unit 15. The relationship between the proposed development and the occupiers of Coedfryn is considered to cause harm to the amenity and privacy currently enjoyed by the occupiers of Coedfryn and will result in an unacceptable impact on the privacy of the occupiers of proposed unit 15. Whilst it is noted that the amended scheme has removed one of the west facing windows from unit 15, the development will still result in the infringement of the amenity standards and does not, therefore, overcome the harm caused by the development.



As for the relationship between the development and Eagle Cottage, to the east, whilst there are no windows in the side elevation of that dwelling facing the application site, there are a number of rooflights on the west facing roof slope which serve the first floor bedrooms in that dwelling. The proposed second floor units 34, 35 and 36 will have their principle windows overlooking the west facing roof slope and garden of Eagle Cottage and will, therefore, allow for direct views into the bedrooms and garden of that property. Whilst it is accepted that the application site is separated from Eagle Cottage by Eagle Lane, there are currently no views into the garden of Eagle Cottage from the adjoining lane and there are currently no views into the roof lights and bedroom of Eagle Cottage, save for possible views at an acute angle from Somerset House. Whilst it is accepted that the views from the second floor of the building into the adjoining occupiers' bedroom will also be at an angle, they will be more direct than any current views. Again, this degree of overlooking is considered to cause harm to the amenity and privacy currently enjoyed by the occupiers of Eagle Cottage and will result in an unacceptable impact on the privacy of the occupiers of proposed units 34, 35 and 36.

The amended scheme has removed unit 36 from the proposal, which may assist in the degree of overlooking into the garden serving Eagle Cottage. Nevertheless, this will not mitigate the harm caused in terms of privacy within the existing and proposed habitable rooms.

The first floor south facing windows of units 23 and 24 will allow direct views into the north facing windows at the first floor of Eagle House, at a distance of some 17 metres. These windows will also overlook the amenity space serving these residential units, provided by the first floor balconies. There are currently no elevated windows overlooking the rear of Eagle House. Accordingly, and in the light of the SPG policies, the proposed development would result in an impact on the privacy and amenity of the occupiers of this adjoining property to an unacceptable degree. There are no amendments proposed to alleviate this issue.

Eagle House and the properties at 5 to 11 West Gate are adjacent to the entrance and car park serving the proposed development and will, therefore, experience disturbance from the comings and goings of the occupiers of the new development. However, it is noted that the rear elevation of Eagle House is open to the current Yard area within the application site and the application site as a whole is in active use by a number of commercial operators. As such, it is considered that the degree of impact on the amenity enjoyed by the occupiers of the properties along West Gate that is expected from the proposed development will be similar to that currently experienced.

The impact of the development on the privacy and amenity of adjoining occupiers has been raised as an issue by third parties. In particular the occupiers of Coedfryn and Eagle Cottage have objected to the development on this basis. A copy of their correspondence is attached at **Appendix B and C**.

In view of the findings above, the proposed development will have an unacceptable impact on the living conditions of adjoining occupiers and the privacy that will be enjoyed by some of the occupiers of the development. Accordingly, the development will not accord with UDP policies ENV27 and HOUS8, the SPG on Amenity Standards and PPW.

In addition to the comment above, it is noted that the Council's Environmental Health Officer has commented on the possible issue of noise from the plant rooms. There is no objection, but further information and controls will be required in order to mitigate any impact with regard to noise emanating from the plant.

## **5. Amenity Space Provision.**

The area of usable amenity space serving the development, excluding parking and access drive, amounts to approximately 1,300 square metres. The Policy 2 of the Council's Amenity Standards SPG requires the provision of 20 square metres per person for flatted developments. The development proposes the provision of 38 units, resulting in a need for between 760 square metres (based on a single person occupying each unit) and 1,520 square metres (based on 2 people occupying each unit). The SPG suggests that the amount of amenity space calculated should be based on the maximum amount of people which can be accommodated.

The amenity to be provided is below that required by the SPG. It is minimal and does not at all provide for recreation space that should be provided over and above amenity space (see the comments in the planning obligation section below). However, it is noted that the space proposed is usable and makes provision for both cycle and refuse storage. On balance, it is considered to be unacceptable in terms of the provision of amenity space for its occupiers.

## **6. Loss of business premises.**

UDP policy EMP 4 seeks to protect existing employment sites and states that uses that do not fall within use classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 will not be permitted. This policy is supported by the sustainable development principles of PPW and, in particular, the principles that aim to achieve and maintain a prosperous Wales. Chapter 7 of PPW also recognises the importance of protecting existing employment sites, particularly for small to medium size businesses.

The site is understood to be currently occupied by two businesses, a building contracting company and an engineering suppliers and distribution company. The applicant has not suggested that these businesses propose to move from the site other than, of course, to make way for the proposed development.

The applicant has supplemented the application with a development appraisal that, in short, suggests that the loss of this site will make a negligible difference to the supply of employment land in South Wales, that there is a '*massive supply of employment land in the region*', and that the site is not suitable for modern business occupiers. It is also suggested that there have been problems in letting the premises on site, but this is anecdotal and no supporting evidence has been submitted such as marketing particulars. In contrast, a large portion of the site is currently in active use and there is no suggestion that the current occupiers do not intend to continue their occupation, despite the site's location and the suggested condition of the buildings on site.

The wholesale loss of the existing premises to allow for the proposed development would conflict with UDP policy EMP 4, as well as the sustainable development principles and wellbeing objectives within PPW. Notwithstanding the applicant's contentions, the loss of this employment premises (and conflict with local and national policy) is a matter that is considered to weigh against the grant of planning permission for the development.

## **7. Highway safety and parking.**

The Council's Highway Engineer has considered the scheme of development as submitted and as proposed in the recent amendments. The principle issues with regard to highway safety are considered to be traffic generation, parking and the access to the site.

With regard to parking, 17 spaces were proposed with the scheme as submitted (for 38 units), with a reduction to 16 spaces in the recent amendments to serve 37 units.

Taking into account the nature of the development proposed (for retired occupiers), the Council's approved parking standards suggest a provision of 1 space for every 2 to 4 units. There would, therefore, be a need to accommodate between 10 and 19 spaces. The applicant has agreed to enter into a legal agreement that would limit the occupiers of the development to the elderly. On this basis, the parking provision proposed is considered to be acceptable. Whilst the concerns of local residents with regard to the parking issues they suggest will be created by this development are noted, the nature of the development is such that car ownership will be below the average and a reduction in on-site parking, given the sustainable location of the site, is justified.

The proposal will, of course, generate vehicle movements to and from the site. However, and as noted above, levels of car ownership for this residential development will be less than average. Having considered the current uses of the site and the traffic generated by these businesses, it is considered that the proposal will not generate a level of traffic substantially greater than that generated by the current use.

As for the access to the site, the principle issue is the provision of an access and on site turning facilities that can accommodate vehicle movements, refuse and delivery vehicles in particular. The access is to be widened to accommodate the traffic from the development and a turning facility is proposed within the site. Whilst the details submitted to date do not show the adequate vehicular access width or turning facility to satisfy the Council's Highway Engineer, it is considered that this is a matter that can be resolved within the confines of the site. Accordingly, the officers will continue to negotiate amendments to the scheme through the remaining appeal process in order to secure satisfactory access arrangements to the site.

In view of the comments above, and pending the resolution of the access arrangements and legal agreement with regard to the age of the occupants of the development, the proposal is considered to be acceptable in terms of highway safety and in accordance with the Council's parking standards and the relevant criteria of UDP policies ENV27, HOUS8 and TRAN10 on parking.

## 8. Archaeology.

UDP policy ENV17 requires the environmental qualities of the built and historic environment to be protected, including sites of archaeological interest. Policy ENV18 requires a field evaluation where development is likely to affect a site of known or suspected archaeological significance. Both PPW and Welsh Government circular 60/96 also provides guidance on development involving sites of known or potential archaeological interest.

As noted in the consultations section above, the Glamorgan Gwent Archaeological Trust (GGAT) has commented on the application and note that a archaeological desk based assessment has been undertaken by the applicant. It concludes that, whilst there are no designated sites within the development area, there is a high potential for previously unknown archaeological remains dating to both the Roman and Medieval periods, particularly in those areas not previously heavily developed. GGAT suggest that there is clearly a possibility for significant archaeological remains to be located within the development area. As such it notes the guidance provided in edition 8 of PPW, which, in essence, required an archaeological field evaluation to be undertaken before a decision is made, as required by UDP policy ENV18. However, the latest edition of PPW (Edition 9) makes a subtle change to this requirement. It states:

*“Where archaeological remains are known to exist or there is a potential for them to survive and a study has not already been undertaken by the applicant, the local planning authority should request an applicant to undertake a desk-based archaeological assessment and, where appropriate, an archaeological evaluation. The results of any assessment and/or field evaluation should be provided as part of a planning application and form part of the local planning authority’s consideration of that application. The amount of information and analysis required should be proportionate to the potential impact that the proposal has on the significance of the archaeological remains and sufficient to determine the extent of this impact. If this information is not provided to an appropriate standard, local planning authorities should consider whether it is necessary to request the applicant to supply further information, or whether to refuse permission for an inadequately documented proposal.”*

The guidance only requires a field evaluation to be undertaken where it is considered appropriate. The Council’s advisor on archaeological matters has considered the desk based assessment and considers a field evaluation to be essential to the determination of the application. Accordingly, their request is considered to accord with the new guidance provided in PPW edition 9, as well as the Circular 60/96.

These comments were passed on to the applicant and it was thought that the applicant's archaeological advisor would be in contact with GGAT. The Council have not, however, received any further information or update from the applicant other than to suggest that they will address Archaeological matters in their appeal statement, to be submitted after the preparation of this stance report. In the absence of the requested necessary information to demonstrate that the development will not have an unacceptable impact upon significant archaeological features, the advice of the PPW is noted, which suggests that permission should be refused.

Notwithstanding the conclusion above, GGAT will be consulted on the appellants appeal statement and their advice taken into account in the preparation of the Council's final comments on this appeal.

## **9. Ecology.**

Policy ENV16 of the UDP relates to protected species and states that permission will only be given for development that would cause harm to or threaten the continued viability of a protected species if it can be clearly demonstrated that: (i) there are exceptional circumstances that justify the proposals; (ii) there is no satisfactory alternative; and (iii) effective mitigation measures are provided by the developer. This is supported by the Council's SPG on Biodiversity and Development, and is in line with national guidance including the most recent Conservation of Habitats and Species Regulations 2010 ('habitat regulations'). This requires the establishment of a system of strict protection, with derogations allowed only where the three conditions under Article 16 of the EC Habitats Directive are met (the 'three tests') (TAN5, 6.3.6).

The application subject of this appeal was accompanied by a Preliminary Ecological Appraisal dated June 2016 and a Phase 2 Bat Assessment Bat Survey dated October 2016. These have been considered by the Council's Ecologist and it was noted that buildings on the site provide habitat for Soprano and Common Pipistrelle Bats. As such a Habitats Regulations derogation licence will be required from Natural Resources Wales (NRW) for the development to commence.

In light of this it is necessary to consider tests set out in UDP policy ENV16 and the Habitats Directive.

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

Having considered the impact of the development on the context of the site, the Conservation Area and the setting of the listed building, it is not considered that the proposed development is in the interest of public health and safety, or that there is an of overriding public interest that offers long-term benefits. The harm caused by the development, as set out elsewhere in this report, would substantially outweigh the benefits of the development proposed. It is considered that this test is failed.

- Test ii) - There is no satisfactory alternative

The proposals would result in the comprehensive redevelopment of the site. The alternative to this proposal would be not to demolish the existing buildings. There are alternative opportunities for residential development within close proximity to the application site, most significantly the large scale development and extension to Cowbridge settlement to the west. It is considered that this test is failed.

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

Whilst a method statement has been submitted with the application, detailed mitigation measures have not been provided. This would suggest a failure of the third test.

Bearing in mind that it is necessary to comply with all three of the tests listed above, it is considered that as the proposal fails to meet the tests for derogation. As such, the development will result in detriment to protected species on the site contrary to Policy ENV16 of the UDP, the Council's SPG on Biodiversity and Development, and national guidance contained in TAN5 - Nature Conservation and Planning and the Conservation of Habitats and Species Regulations 2010.

## **10. Drainage**

The Council's Drainage Engineer has considered the proposed development and notes that existing foul drainage is by way of a connection to the sewer system whilst surface water drainage is provided by a soakaway, the location of which is unknown. He has requested that foul and surface water drainage remain separate and that further investigation is required prior to the final design of surface water drainage. A comprehensive drainage plan is, therefore, required. Notwithstanding this, there is no objection to the development on the grounds of drainage and, as such, no conflict is identified with the relevant criteria of UDP policy ENV27 and ENV 7 on Water Resources.

## **11. Planning Obligations and Viability**

The following section of this report initially will set out the Council's position in terms of what planning obligations are necessary to mitigate the impact of this development, and ensure that they can be accommodated by the new development. This section will thereafter consider the viability evidence and information submitted by the applicant to date, to justify a departure from these necessary obligations.

As set out above, an appeal has been submitted to the Planning Inspectorate for the non-determination of this application. However, the applicant has submitted the appeal without a draft Section 106 Agreement or an agreed heads of terms for planning obligations that will attempt to mitigate the impact of this development. Accordingly, at this stage the scheme of development that is subject of the current appeal would fail to comply with the Council's policy requirements.

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) (2012) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. In addition the updated Draft Affordable Housing and Planning Obligations SPGs (which have been updated to incorporate the latest background evidence to the LDP) are now used as a material consideration in the Development Management process. However, each case must be considered on its own planning merits having regard to all relevant material circumstances.

The SPG on Planning Obligations sets thresholds for when obligations will be sought, and indicates how they may be calculated. The purpose of the draft SPG is primarily to update the existing adopted Planning Obligations SPG (adopted in 2012) to reflect inflationary costs and the Council's revised affordable housing thresholds, set out in the LDP (as amended by Focussed Changes and Matters Arising Changes).

The Draft SPGs were approved by Cabinet on 14 December, 2015 and at the Council's Economy and Environment Scrutiny Committee on 5th January, and the Council undertook a six week public consultation on the SPGs between 16 September and 28 October 2016. The Council is currently considering the responses received.

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case the proposals relate to a development of 38 retirement apartments for elderly, including an area for community facilities. On this basis, the following planning obligations are required:

***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*'.

The Council's Adopted SPG on Planning Obligations and Affordable Housing (2012) requires the provision of 30% affordable housing to be delivered on sites with a threshold of 10 dwellings or more. Based upon this policy requirement, the development should, at a minimum, deliver 12 affordable housing units on site. However, as part of the Local Development Plan process, there has been a review of the viability evidence and affordable housing policy requirement resulting in 'focused' and 'minor' changes to the Deposit Local Development Plan (DLDP). These changes are in response to subsequent consultations and the issues raised and are considered necessary to ensure that the LDP is sound.

In response to representations on affordable housing, the Council commissioned a review of its viability evidence base to September 2014, taking account of matters raised by the Home Builders Federation (HBF) and the Welsh Government (WG). The updated viability evidence, contained within the Council's Affordable Housing Viability Update Report (2014), indicates a marked increase in viability within the Vale of Glamorgan, and recommends that the Council should increase the affordable housing targets set out in Policy MG 4 to 40% in the area of Cowbridge. The Council has amended the policy accordingly based upon this evidence. The Council has produced further evidence to support this position following the recent Examination in Public of the LDP which is contained in the Action Point Responses for Hearing Session 6.

The Vale of Glamorgan Local Housing Market Assessment (2015) provides the latest evidence on affordable housing need. The LHMA identifies a net annual need for 559 Affordable Housing Units. The greatest need is for one and two bedroom properties across all areas of the Vale of Glamorgan.

Further evidence of need is shown by the Homes4U waiting list, which provides the most accurate and up to date picture of local need, shows there is considerable current need in the Cowbridge Ward with a total of 97 people requiring:

Housing Need	Cowbridge
1 bed	51
2 bed	29
3+ bed	17
Total	97

PPW (Ed. 9, 2016) advises that 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.



Whilst the LDP policy has not yet formally been adopted, given that the viability evidence to support the policy has been scrutinised at the Examination in Public, it is considered that this should provide the policy basis for development management decisions including the determination of this application.

Furthermore, the following development sites with planning permission demonstrate that the policy requirements are achievable:

- Land to the South of Craig Yr Eos Avenue, Ogmore by Sea (2015/00016/FUL) full application approved for 20 dwellings on 19<sup>th</sup> May 2016. 40% affordable housing being delivered on site. Site under construction.
- Land to the East of St. Nicholas – full application approved for 100 dwellings (2015/00249/FUL) on 8<sup>th</sup> December 2016 – 40% affordable housing to be delivered on site. The developer is on site.
- Land at The Rectory, Wenvoe – full application approved (2015/01129/FUL) for 12 dwellings – 40% affordable housing: 4 units to be delivered on site; off-site contribution for remaining 0.8. Approved on 10/11/2016. Developer on site.
- Land to the north and west of Darren Close, Cowbridge – Outline approved (2014/01505/OUT) for 475 dwellings. S106 signed 12/06/16. 40% affordable housing on site.

Consequently, based upon 38 units, 40% (16) affordable housing should be provided on this site in line with the Council's available evidence contained within Affordable Housing Viability Update Report (2014), and Draft SPG on Affordable Housing. The Council require the affordable housing tenure to be provided at a ratio of 70% social rented, 30% low cost home ownership/intermediate rent consistent with the local housing needs identified in the Council's LHMA.

In addition to the applicant's viability argument (which is discussed in more detail below), the applicant has argued that the scheme is for 'sheltered housing', and therefore it would not be appropriate for affordable housing to be delivered on site; the applicant has argued that the two types of housing are not compatible. The applicant has sought to support this argument by referring to case law and Planning Policy Guidance in England, however, this is not considered to be material or relevant for the purposes of this application given that Wales has its own planning policy framework which in areas such as affordable housing varies significantly from English guidance.

It is not considered that the development can be accurately described as 'sheltered housing', since this indicates that there is an element of affordability and vulnerability of the future occupiers, yet, the proposal is apartments for sale on the open market targeted to retirement aged people, with communal spaces and extra benefits such as a 24 hour on call service. The Council, having considered the issue with its partner RSLs, cannot agree that the mix of tenures are incompatible.

It is disputed that affordable housing would not be compatible with the proposed open market housing, and this ethos is considered to be contrary to the general ethos of PPW, which promotes “cohesive communities”; “social inclusion” and “mixed communities” (Paragraph 4.4.3, Chapter 4). Chapter 9 in PPW (Ed. 9, 2016) paragraph 9.3.5 advises:

*“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.”*

Consequently, the assumption of incompatibility between this type of open market housing and affordable housing cannot be upheld when considering the integration of affordable housing; it is argued that the proposal is just like any other residential development, yet targeted for retirement aged people, and therefore there is no reason why affordable housing cannot be delivered on site.

The developer has also indicated that it is not practicable to manage affordable housing units when they are located within a complex such as this, whether that is within a separate block, or as part of one block. This is disputed, and it is worth noting that the Council’s Housing Department has received an expressed interest from one of the Registered Social Landlords for affordable housing on this site, therefore discrediting this argument.

In summary, your Officers consider that the applicant has not provided any meaningful evidence to demonstrate why the affordable housing should not be delivered on site.

### ***Sustainable Transport:***

Increasing importance is enshrined in local and national planning policies emphasising the need for developments to be accessible by alternative modes of transport than the private car.

PPW (Ed. 9, 2016), Paragraph 4.4.3 recognises that in order to create sustainable and cohesive communities within Wales, improvements to transport facilities and services are required. Paragraph 4.7.4 seeks to ensure that new developments are integrated appropriately within existing settlements, to minimise the need to travel by private car.

National policy contained within Technical Advice Note 18 ‘Transport’ (March 2007) Paragraph 9.20 allows local planning authorities to use planning obligations to secure improvements to the travel network, for roads, walking, cycling and public transport, as a result of a proposal.

In terms of local policy, 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. Whilst the Council's Unitary Development Plan (1996-2011) is time-expired, these policies are supported by the advice in PPW, TAN 18: Transport and Manual for Streets and therefore remain relevant.

In accordance with the draft Planning Obligations SPG, based on the provision of 38 residential units the Council requires a financial contribution of £2,200 per unit which equates to £83,600. This contribution would be used to upgrade the pedestrian and cycling facilities along A4222 (Westgate / High Street, Cowbridge), and within the vicinity of the site, to meet the Active Travel standards, in accordance with the Active Travel Act Wales 2013. More specifically, the contribution would be used for one or more of the following:

- Cowbridge currently has very few cycle standards, therefore the contribution would be used to implement cycle stands at key locations within the town centre for future residents of the development;
- To enhance existing pathways in the town centre, and to ensure surfacing, dropped kerbs, lighting, signage and street furniture is to an appropriate standard, linking the development with key destinations within walking distance of the site.
- To upgrade the bus stop shelters within the vicinity of the site and to improve public transport services for occupiers wishing to travel to wider destinations.

### ***Public Open Space:***

Residential developments are expected to make provision for Public Open Space and/or recreational facilities to meet the needs of the future population they will bring to the area. Open space offers vital opportunities for sport and recreation, and also act as a visual amenity.

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". UDP Policies HOUS8 and REC3 require new residential developments to make provision for public open space.

Where it is impractical to provide public open space on site, the Council requires a financial contribution to provide and enhance off-site public open space and recreational facilities in the vicinity of the development site, to meet the need not catered for on-site. In accordance with the Council's Draft SPG on Planning Obligations, this financial contribution is calculated on the basis of £2,552 per dwelling (or £1,100 per person based upon a 1 bed dwelling), equalling £59,224. This contribution would be used to enhance the facilities at Cowbridge Leisure Centre; the playing fields (known as the Bear Field) and the bowling green to the north of the site to meet the additional demand created by the future occupiers of the development.

It is acknowledged that the developer has provided a minimal area on the Site Layout Plan titled 'Amenity Space'. It is considered that this space is very minimal and necessary for basic amenity space requirements necessary to meet the immediate amenity needs of occupiers (e.g. garden space) and would not satisfy their wider recreational needs.

### ***Community Facilities:***

Community facilities are important for meeting a range of social needs and must be provided locally to serve the needs of the local community and reduce the need to travel. All new residential developments place pressure on existing facilities.

Chapter 4 'Planning for Sustainability' of PPW (Ed. 9, 2016), promotes the importance of equal and cohesive communities, and access to services such as community facilities. Paragraph 4.6.1 of PPW recognises that development can help to arrest the decline in community facilities.

UDP Policy HOUS8 permits new residential development where (inter alia) adequate community and utility services exist or can be readily provided. The Draft SPG on Planning Obligations acknowledges that new residential developments place pressure on existing community facilities and creates need for new facilities. Therefore, it is reasonable to expect new residential developments of this scale to contribute towards the provision of new, or enhancement of existing, community facilities.

The community facilities contribution for the scale of development indicated would be based on the formula of 0.74sqm of community floor space per dwelling. Based upon the formula, there would be a requirement for 28.5sqm. The Ground Floor Plan submitted with the proposal, drawing reference 10088CB-PA02 indicates that there will be a communal lounge for occupiers to use (c. 110sqm), which will benefit from a coffee bar. The developer is providing in excess of this amount, therefore the developer has satisfied the Council's requirement for community facilities.

### ***Public Art:***

Technical Advice Note (TAN) 12 'Design' (March 2016) Section 5.15 recognises the important role of public art in creating and enhancing "individuality and distinctiveness" within a development, town, village and cities. Public Art can bring distinctiveness and material and craft quality to developments, enable local people to participate in the process of change and foster a sense of ownership. It is therefore an important part of achieving design quality.

The Council introduced a 'percent for art' policy in July 2003, which is supported by the Council's adopted SPG on Public Art. It states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, as a rule, public art should be provided on site integral to the development proposal. The public art scheme must incorporate sufficient measures for the appropriate future maintenance of the works.

Public art should be considered early in the design process and be integral to the overall design of a building, public space or place. The choice of artists and the nature of subsequent work should be the subject of full collaboration from the outset between the artist, the local community and professionals involved in the design process. This is in accordance with TAN 12, paragraph 5.15.4. The proposed development has not made any provision for public art as part of the development proposals.

***Development Viability:***

The applicant has not agreed to any of the above necessary Section 106 requirements, except for the community facilities element which the applicant intends to deliver on site as set out above. The applicant has argued that the Council's requirements for the planning obligations are threatening the economic viability of the development.

Welsh 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. In accordance with the Council's draft SPG on Affordable Housing and Planning Obligations, where a developer contends that the s106 requirements are too onerous and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs and sales values and anticipated profits based on properly sourced evidence.

The developer has submitted a viability appraisal, which includes details such as development revenue, development costs, abnormal development costs, professional fees, finance costs and build contingency and land value. This is confidential and contains commercially sensitive information and consequently cannot be released to the public, but is available on file for Member's Inspection under member privilege.

In order to assess the applicant's viability evidence, the District Valuer (DVS) has been appointed by the Council, as agreed by the applicant, as an independent expert to scrutinise, analyse and review the submitted information and advise the Council on the development viability for this site. However, in order to make a full assessment, the DVS has requested additional information from the applicant to justify a series of abnormal assumption costs that they have presented in their viability appraisal. The DVS and the Council's Section 106 Officer have repeatedly requested this information (8<sup>th</sup> November 2016, 5<sup>th</sup> December 2016, 20<sup>th</sup> December 2016, 3<sup>rd</sup> January 2017, 9<sup>th</sup> January 2017), and it has not been forthcoming from the applicant.

The Council can only make sound judgments about site specific development viability on the basis of full and robust development appraisals. Where the Council is satisfied through an independent review that the development cannot meet the affordable housing and planning obligation requirements, the Council will discuss with the developer the options available to achieve economic viability, yet still ensure the development is appropriately mitigated against in terms of impact upon local facilities and infrastructure. It is only where a developer can demonstrate that a scheme is unviable because of the required planning obligations that the Council is prepared to consider a reduction to the planning obligations, and only then where there is sufficient merit in the development proposed having regard to all material considerations and the presumption in favour of sustainable development.

The applicant has indicated that they would prefer to pay an off-site financial contribution for affordable housing and for planning obligations, yet has not clearly put a value to this within their submissions. At this stage, the applicant has failed to provide the supporting evidence required in order for DVS to make a fully informed assessment of the viability evidence submitted by the applicant, to justify a reduction. The DVS have confirmed that they are not in a position to determine whether the viability evidence presented by the applicant is sound, since the assumptions have not been clearly explained or justified.

In conclusion, your officers consider that there are significant gaps within the viability appraisal, and the applicant has failed to robustly demonstrate that the necessary planning obligations would adversely affect the viability of the development. The applicant has failed to enter into meaningful negotiations with the Council, in order to justify a reduced package. Overall, the applicant has failed to mitigate the impacts of the development, and demonstrate that the local facilities and infrastructure can be accommodated by the future occupiers. Accordingly, the scheme is considered to be unacceptable without the required contributions.

Members should note that as the appeal is at an early stage, it is possible for officer's to request a legal agreement and negotiate its terms during the course of the appeal, for consideration by the appointed Planning Inspector.

In the event that during the course of the appeal the applicant robustly demonstrates that planning obligations would adversely affect the viability of a development and the Council agree to a reduced package, in accordance with national guidance and the Council's Affordable Housing SPG 2016, section 6.2 (Prioritising Planning Obligations), the Council would negotiate obligations in the following order: -

1. Works required to secure a safe environment for the community and future occupiers of the proposed development or which are necessary to meet statutory obligations (e.g. satisfactory access arrangements, off-site highway improvements, natural or built environment and flood risk prevention).
2. In the case of residential development, the provision of affordable housing to meet the needs of the local community.

3. Measures required to meet the needs of the future occupants of the proposed development where the failure to provide the measure would impose unacceptable impacts on the local community (e.g. public open space provision and education).

4. Measures required to mitigate the impact of the proposed development on the local community or matters of acknowledged importance (e.g. community safety, public art, employment and training).

### **13. Housing Land Supply and the Need for Housing.**

In considering the need for additional housing land PPW (9.2.3) states that Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.

*Paragraph 6.2 of TAN1 states that 'The housing land supply figure should also 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 or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.'*

A significant material consideration in this application would be the contribution that the proposed development would make to the Council's housing land supply. Currently, in the absence of an adopted LDP, the Council is unable to undertake a formal TAN 1 JHLAS assessment of its housing land supply, but is required to evidence a 5 year housing land supply at adoption of the LDP. The Council's LDP housing land trajectory (September 2016) (see Council's response to Hearing Session 2&3, Action Points 4, 6, 7,9 & 10) indicates that the Council currently has 5.1 years housing supply (at April 2016) which is forecast to increase over the years ahead.

In 2015, 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 559 affordable housing units (for rent or low cost home ownership) are required each year over the next five years. It is noted that no affordable housing is proposed on site, however this is a matter considered in the section above on planning obligations.

Notwithstanding the current and projected position in the trajectory, referred to above, it is accepted that there is a need to maintain sufficient housing supply at all times. In considering the figures outlined above, this site would contribute towards maintaining a 5 year housing land supply. However, whilst there is a need to maintain an adequate Housing Land Supply for future JHLAS and when the LDP is adopted, this is not the determining factor in the consideration of any proposed residential scheme; this alone does not outweigh all other material considerations particularly as in this case the development is considered harmful in other respects.

Whilst the guidance suggests that the current housing land supply position should be given considerable weight, it is suggested that the weight can be reduced in the light of the Council's Housing land Supply trajectory. Accordingly, it is considered that the need to maintain a TAN1 compliant housing supply is a single material consideration that weighs in favour of the development and that this must be balanced against all other material considerations in this case.

### **The Planning Balance**

With regard to the objections to the development subject of this report, these amount to:

- The harmful impact of the development on the character of the surrounding area and the Conservation Area.
- The harmful impact of the development on the setting of the adjoining listed building.
- The harmful impact of the development on the amenity of adjoining occupiers and the living conditions of a number of the occupiers of the development.
- Loss of business premises.
- Archaeology.
- Ecology.
- Planning Obligations.

With regard to the weight that ought to be attributed to these objections, it is noted that national planning guidance (PPW) provides for a presumption against development that harms the character or appearance of a conservation area (paragraph 6.5.21). PPW also provides for a presumption in favour of the preservation of a listed building and its setting. In addition to this advice, there is an additional layer of consideration provided in statute under sections 66(1) and 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. It is, therefore, considered that considerable weight should be attached to the harm that will be caused by the development in terms of its impact on the conservation area and setting of the listed buildings close to the site.

Harm has also been identified in terms of the impact on residential amenity and the loss of business premises. The harm identified in this regard conflict with the sustainable development and Wellbeing principles set out in PPW. Accordingly, significant weight should be afforded to the harm identified.

With regard to the planning obligation matters, it is a fundamental principle of National Planning Policy and legislation that a developer should mitigate the impact of development on local infrastructure and services. The provision of affordable housing is also a priority for this Council and the Welsh Government. The applicant's failure to agree to any planning obligations, or to provide the necessary information to justify a more flexible approach to the requirements for planning obligations, results in conflict with the above mentioned national planning policy and legislation. Again, this matter should be given significant weight.



The Ecology matter is an objection that would not be sustained if a scheme were proposed that, having considered all matters, was acceptable and where appropriate mitigation measures were proposed. This is, therefore, a technical objection to the development, but nevertheless one which currently weighs against the grant of planning permission.

Archaeology is a matter that could potentially be overcome through the remaining course of the current appeal. However, on the basis of the information available to the Council at the time of writing, as it is not certain that the proposed development would not affect remains of archaeological significance, a precautionary approach is justified. Again, this is a matter that weighs against the grant of planning permission, but is one that could potentially be overcome.

The benefit to the scheme that is identified in this report results from the contribution the development would make to achieving and maintaining a 5 year housing land supply. The guidance in TAN1 with regard to the weight that should be given to this matter is noted, although it is suggested that this weight should be reduced in the light of the 5 year housing land supply position set out in the trajectory that has been proposed for the LDP.

Also in its favour is the reuse of previously developed land but given the concerns above regarding the loss of existing businesses on the site, this should be given limited weight.

Having regard to the summary above and the conclusions with regard to the weight that should be afforded to the matters listed, it is clear that the overriding conclusion is against the grant of planning permission for reasons of non-compliance with the Statutory Development plan and the harm identified to the conservation area, setting of listed buildings, harm to amenity, loss of existing employment uses, and lack of mitigation via planning obligations. The conflict with certain sustainability objectives and principles of PPW together with the matters of archaeology and ecology add further to the weight against the scheme.

The reduced weight that should be afforded to the benefit of the scheme, in terms of the current housing land supply position, is woefully short on tipping the balance in favor of the scheme. It is, therefore, recommended that the Council's stance on this proposal is that planning permission should have been refused.

## RECOMMENDATION

That Members of the Planning Committee note the above conclusions and agree that these form the basis of the Council's case in the current non-determination appeal and that the application would have been refused for the reasons set out below, subject to granting delegated authority to the Chief Officer(s) to amend the Council's stance at appeal in light of new material considerations:

1. The development will have a significant detrimental effect on the character and appearance of the site and its surroundings. As such the proposal would neither preserve nor enhance the character and appearance of the Cowbridge with Llanblethian Conservation Area. It is therefore contrary to ENV17-Protection of Built and Historic Environment, ENV20-Development in Conservation Areas, ENV27-Design of New Developments, HOUS8-Residential Development Criteria – Policy House 2 Settlements and Strategic Policy 1-The Environment of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan; and national guidance contained in Planning Policy Wales, Technical Advice Note 12-Design and Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended).
2. The development will cause harm to the setting of three listed buildings within the vicinity of the site, namely No's 1 & 3 Westgate, the wall adjoining Eagle Lane and Woodstock House, and Woodstock House (83 High Street). Accordingly, the development conflicts with policy ENV17-Protection of Built and Historic Environment of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan; and national guidance contained in Planning Policy Wales and Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended).
3. The proposal would have an unacceptable adverse impact on the residential amenities currently enjoyed by the occupants of existing properties and an unacceptable impact on the privacy of some of the future occupiers of the development, contrary to Policies ENV27-Design of New Developments, and HOUS8-Residential Development Criteria – Policy House 2 Settlements of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; Supplementary Planning Guidance on Amenity Standards; and national guidance contained in Planning Policy Wales.
4. The development would result in the unjustified wholesale loss of the existing business premises still in active use and, as such, would conflict with UDP policy EMP 4 – Protection of Land for Employment Uses of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, and national guidance contained in Planning Policy Wales.
5. The applicant has failed to demonstrate that the development would not have an adverse impact upon an archaeological resource. Accordingly, the proposal is considered to conflict with ENV18 – Archaeological Field Evaluation of the of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and national guidance contained in Planning Policy Wales and Welsh Office Circular 60/96 - Planning and the Historic Environment: Archaeology.

6. The proposal will have an impact upon European Protected Species without imperative reasons of overriding public interest nor with evidence that satisfactory alternatives have been explored. Accordingly, the proposal fails to comply with Article 16 of the EC Habitats Directive, Policy ENV16 - Protected Species of the Unitary Development Plan and the Council's adopted Supplementary Planning Guidance on Biodiversity and Development, along with national guidance contained in Planning Policy Wales and TAN5 - Nature Conservation and Planning, plus the Conservation of Habitats and Species Regulations 2010.
7. The applicant has failed to agree to adequately mitigate the impact of the proposed development via an appropriate Section 106 agreement, contrary to contrary to the aims of Strategic Policies 1 & 2 and policies ENV27 - Design of New Developments, HOUS8 - Residential Development Criteria – Policy House 2 Settlements, HOUS12 - Affordable Housing, and REC3 – Provision of Open Space within New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; the Council's Supplementary Planning Guidance on Planning Obligations, Affordable Housing and Planning Obligations and Public Art; and National Planning guidance contained in Planning Policy Wales, Technical Advice Notes 2 - Affordable Housing, 12 - Design, 16 - Sport, Recreation and Open Space and 18 - Transport, and Welsh Government advice contained in "Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update" (2009).

#### REASON FOR RECOMMENDATION

The decision to recommend that planning permission should have been refused 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.

It is considered that the development does not comply with the sustainable development principle and satisfies the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

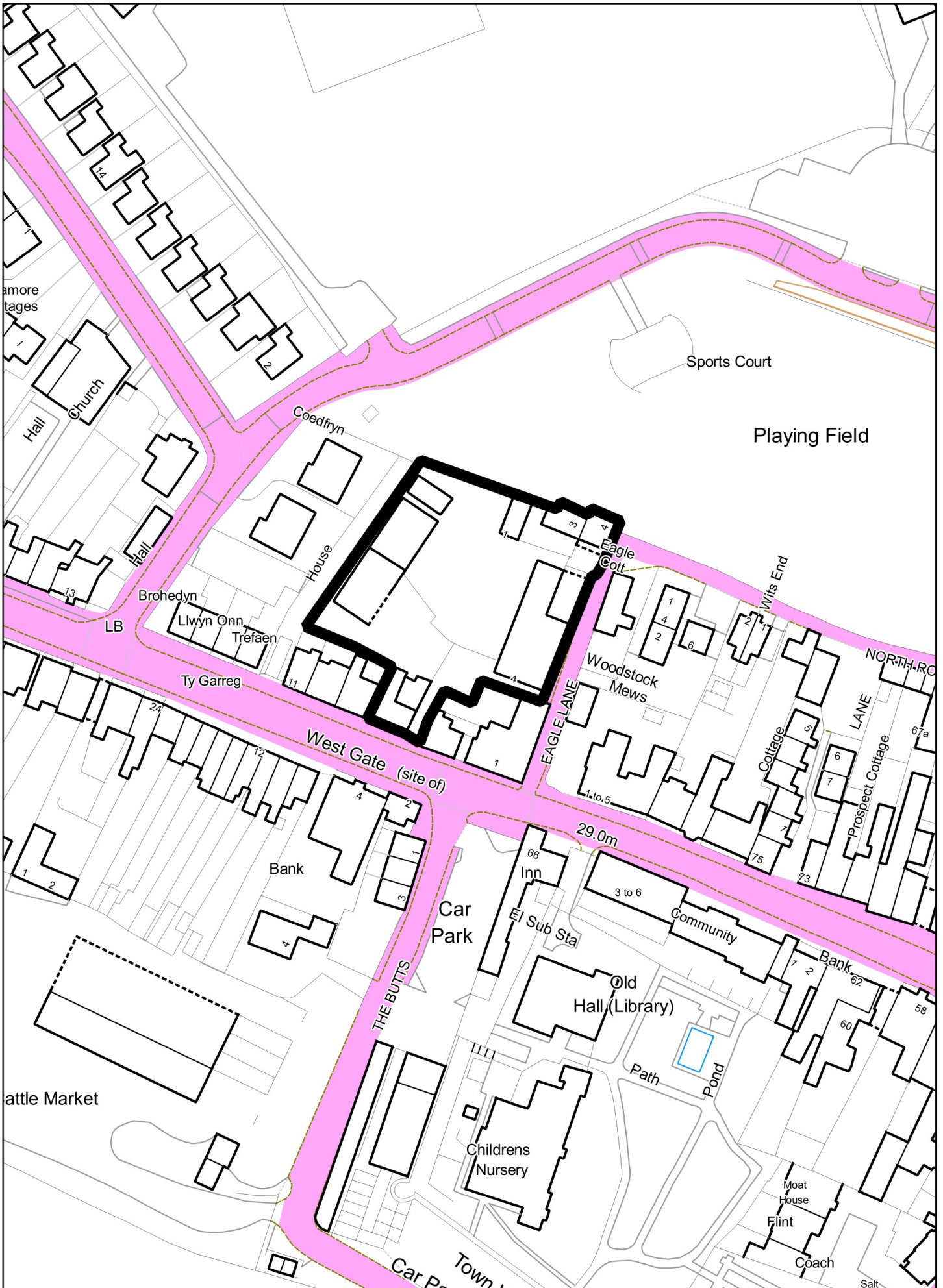
#### NOTE:

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

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

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

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



MEMORANDUM / COFNOD

The Vale of Glamorgan Council  
Development Services  
Dock Office, Barry Docks, Barry, CF63 4RT



To / I:	Yvonne Prichard	From / Oddi Wrth:	Conservation and Design
Dept / Adran:	Development Management	My Ref / Fy Cyf:	
Date / Dyddiad:	07 September 2016	Tel / Ffôn:	(01446) 704628
Your Ref / Eich Cyf:	2016/00809/FUL	Fax / Ffacs:	(01446) 421392

Subject / Testyn: **Planning Application No. 2016/00809/FUL (YP)**  
**Location : Land to the rear of Westgate (East of Eagle Lane), Cowbridge**  
**Proposal : Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping**

The Planning (Listed Buildings and Conservation Areas) Act (1990)

The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out the principal statutory instruments which must be considered in the determination of any application affecting either listed buildings or conservation areas.

Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 69 enables Local Planning Authorities to designate conservation areas. Conservation areas are those areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. Section 72 requires that in the exercise of planning duties special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Recent case law (see particularly *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137) makes it clear that the duty imposed in the Act means that in considering whether to grant permission for development that may cause harm (substantial or less than substantial) to a designated asset (listed building or conservation area) and its setting, the decision maker should give particular weight to the desirability of avoiding that harm. There is still a requirement for a planning balance, but it must be informed by the need to give weight to the desirability of preserving the asset and its setting.

### Assessment of the Proposal

I note the submission of heritage statement which is welcomed. This gives a fairly comprehensive appraisal of the heritage assets potentially affected by the proposed development and will be referred to in my observations. For ease of reference, and to avoid confusion, I will use the same building numbering protocol as that referred to in Figure 4 of the submitted Heritage Statement.

The proposal seeks to redevelop the application site, which is currently occupied by commercial buildings, through the introduction of an 'L' shaped building comprising 38 no. apartments with some communal facilities, vehicular access, car parking and landscaping. The proposed building is located to the rear of buildings along Westgate with the proposed eastern frontage to Eagle Lane, albeit set back. The building features two and three storeys elements. The proposal will entail the demolition of all existing buildings within the application area, including the loss of a significant part of no. 5 Westgate in order to facilitate vehicular access.

The Heritage Statement concludes that Buildings 1 and 2 positively contribute to the character and appearance of the conservation area. Buildings 4, 5 and 6 (which all date from the late 20<sup>th</sup> century) are considered to contribute negatively to the character and appearance of the conservation area. I see no reason to disagree with these findings. On this basis alone, very careful consideration needs to be given to the determination of the CAC application. However, this has been considered separately.

### Westgate Frontage

The scheme is largely based behind the existing Westgate frontage. However, a significant intervention is indicated in order to provide a wider access to the development site. This involves the demolition of No. 5, Westgate. Despite alterations, it forms part of a long terrace that contributes to a significant sense of enclosure in the street scene.

### Eagle Lane Frontage

Eagle Lane features a relatively strong building line. Eagle House is built tight to the road with no pavement. The existing gymnasium building is slightly set back to allow a pavement of circa 1-2m in width. The widest point is immediately adjacent to Eagle House tapering down to its narrowest point opposite Eagle Cottage. This gives a strong sense of enclosure given the relative narrowness of the lane, the relationship of the buildings to the street and the trees to the east of the lane.

Clearly, the modern buildings that form part of this frontage (Building 6) does not contribute positively to the character or appearance of the conservation area, however, it remains true to the strong building line established by Eagle House.

The proposal indicates the building to be significantly set back, opening up the street considerably and introducing green space between the building and street edge. This is a significant departure from the characteristic form of the built environment in the immediate and wider area.

" APPENDIX A "

MEMORANDUM / COFNOD

The Vale of Glamorgan Council  
Development Services  
Dock Office, Barry Docks, Barry, CF63 4RT



To / I:	Yvonne Prichard
Dept / Adran:	Development Management
Date / Dyddiad:	01 November 2016
Your Ref / Eich Cyf:	2016/00809/FUL

From / Oddi Wrth:	Conservation and Design
My Ref / Fy Cyf:	
Tel / Ffôn:	(01446) 704628
Fax / Ffacs:	(01446) 421392

Subject / Testyn: **Planning Application No. 2016/00809/FUL (YP) + 633/CAR**  
**Location : Land to the rear of Westgate (East of Eagle Lane), Cowbridge**  
**Proposal : Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping**

The following is additional information in respect of the above application.

### SETTING OF HISTORIC ASSETS

The development site has an area of 0.3ha, and a maximum height of less than 15m. Therefore the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 requires that consideration be given to scheduled monuments within 1km of the site.

Setting is defined<sup>1</sup> as the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. It often extends beyond the property boundary or 'curtilage' and into the surrounding landscape or townscape. Although many historic assets are visible and their settings are obvious, those that are buried also have a setting.

The setting of a heritage asset can contribute to, or detract from, any of the evidential, historical, aesthetic or communal heritage values identified above and each of these values may be enhanced or harmed by development affecting the setting of a heritage asset.

<sup>1</sup> Welsh Government (2016) **Draft Setting of Historic Assets**, available at [www.wales.gov.uk](http://www.wales.gov.uk)



No Heritage Impact Assessment or Zone of Theoretical Visibility relating to Scheduled Monuments in the 1km buffer zone has been prepared by the applicant, therefore, I have identified the following scheduled monuments that are within this buffer zone and that their setting may be affected by the proposed development.

Consultation with Cadw is therefore required in relation to:

- GM094(GLA) St Quentins Castle
- GM136(GLA) South Gate
- GM100(GLA) Caer Dynnaf

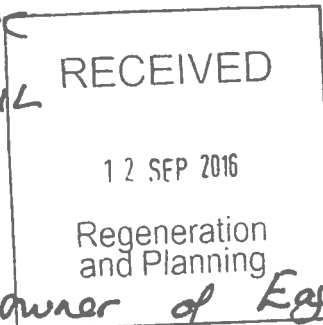
Peter Thomas  
Senior Planner (Conservation and Design)

"APPENDIX B"

Eagle Cottage  
Eagle Lane  
Cowbridge

Re Proposed Development at  
Westgate, Cowbridge  
Application No. 2016/00833/CAC  
- No 2016/00809/FUL

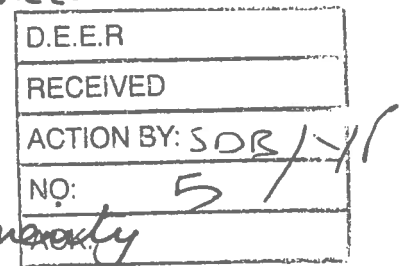
Vale of Glamorgan  
CF71 7AL



Dear Sir / Madam,

As the owner of Eagle Cottage

I am very concerned about aspects of the above planning application as it relates to my property.



My concerns are:

- 1) My loss of privacy and amenity
- 2) The effect on the quiet enjoyment and value of my property
- 3) Traffic issues on Eagle Lane

You will be aware that my property is only separated from the east elevation of the proposed development by the width of Eagle Lane. It is inevitable that I will suffer significantly from noise, dust, vibration and general disturbance and inconvenience during all phases of the scheme. I need to have reassurance that my property will be protected at all times during the works.

I note that the east elevation will run parallel & very close to my property. It is obvious that the three storey units will have windows facing straight down onto my garden

and patio area and the Velux windows of my bedrooms causing a great loss of privacy. If there were only two storeys along the eastern elevation this would not have a negative impact on my property.

My third concern relates to the traffic on Eagle Lane. At the moment vehicles travelling north and south along the Lane are able to use the area in front of Curves gymnasium and F&S stores as a passing area. It appears from the plans that vehicles will have no room to pass each other and the narrow and dangerous bend by my cottage will become even more of a hazard than it is now with the potential for more impact damage to my house.

I have raised these matters with Churchill Retirement Living in June but have had no response from them.

I hope that when the planning committee meet to discuss the present plans my objections will be adequately considered.

Yours faithfully

[Redacted Signature]

(Mrs)

RECEIVED

12 SEP 2016

Regeneration  
and Planning

"APPENDIX C"

**From:** Planning  
**Sent:** 31 August 2016 15:56  
**To:** Planning  
**Subject:** New comments for application 2016/00809/FUL

New comments have been received for application 2016/00809/FUL at site address: Land to the rear of Westgate (East of Eagle Lane), Cowbridge

from Mr Chris Davies [REDACTED]

Address:  
Coedfryn, The Broadshoard, CF717DB

Comments:

Firstly we are concerned that we were not invited to the public meeting in June, even though we are one of the closest neighbours.

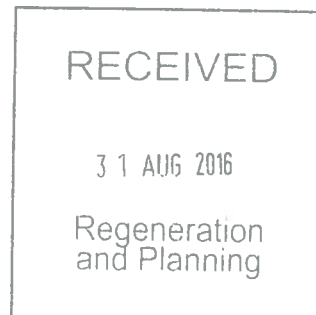
This development, as currently laid out, will result in a serious loss of privacy for us. There are windows in the West Elevation which look directly into our lounge, dining room, kitchen, bedrooms and garden.

This is contrary to The Planning Policy Wales Edition 8 – January 2016, section 9.3.3, & the Supplementary Planning Guidance – Amenity Standards, Policy 3 sections 5.8 & 5.9. It would appear from the plans that Policy 4 of this SPG would not be adhered to.

We also have concerns about the noise that will be generated from the plant room.

We are, in principle, not opposed to the development but seek the modification of what is currently proposed in order to maintain our privacy and ensure that our current peaceful noise free environment is maintained.

Case Officer:  
Mrs. Y. J. Prichard



D.E.E.R
RECEIVED
ACTION BY: YP/SDB
NO: 5
ACK:

**2016/00833/CAC** Received on 16 August 2016

Churchill Retirement Limited Millstream House, Parkside, Ringwood, BH24 3SG  
Mr. Simon Cater Planning Issues Limited, Millstream House, Parkside, Ringwood,  
BH24 3SG

### **Land to the rear of Westgate (East of Eagle Lane), Cowbridge**

Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application is of a scale and / or nature that is not covered by the scheme of delegation.

#### **THE PURPOSE OF THIS REPORT**

The applicants have made an appeal with the Planning Inspectorate for the non determination of the application by the Council. The appeal was started on 5<sup>th</sup> December, 2016, and is linked to the appeal that has also been made in respect of the non determination of the 2016/00809/FUL application which sought planning permission for the comprehensive redevelopment of the site. The purpose of this report is to seek the resolution of the Planning Committee as to the stance the Council are to take at the appeal on the proposed demolition.

The report sets out the background and issues relating to the proposal. The report will also provide direction for the Local Planning Authority's case in the current appeal.

#### **SITE AND CONTEXT**

The application site is to the rear (north) of a number of commercial and residential properties on West Gate, Cowbridge and also bounds the adopted highway, Eagle Lane, to the east. The site is occupied by a collection of buildings along the western, eastern and northern boundary with a central hard surfaced yard area serving a number of the buildings. The buildings along the northern boundary of the site are residential in use and the remaining buildings are either occupied for commercial purposes or vacant. Current vehicular access is provided from West Gate, between Eagle House and 5, West Gate.

The properties to the south of the site (along West Gate) are predominantly commercial at ground floor with residential uses above. There are also residential properties to the west of the site and to the east, on the opposite side of Eagle Lane. To the north is the public open space that includes a public footpath adjacent to the northern boundary of the site, playing fields, a play area and Cowbridge Leisure centre.

There is a listed building (known as 1 to 3 Westgate) adjacent and to the south of the site, on the corner of West gate and Eagle Lane. There is also a listed wall to the east of the site, on the opposite side of Eagle Lane. This is a boundary wall for the property known as Eagle Cottage and 83 High Street. 83 High Street (also known as Woodstock House) is also a listed building. The site is within the Cowbridge with Llanblethian Conservation Area.

## DESCRIPTION OF DEVELOPMENT

This application is for Conservation Area Consent to demolish all buildings on the site. These comprise of two three story residential blocks to the rear (North) of the site, two single storey older industrial type buildings along the western boundary of the site and a two part taller industrial type building along the eastern boundary of the site shared with Eagle Lane.

## PLANNING HISTORY

Whilst there is a detailed planning history to the site, the following applications are considered relevant to this report:

**2016/00809/FUL** : Land to the rear of Westgate (East of Eagle Lane), Cowbridge - Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping. This is the linked application that is also being considered by this committee.

**2006/00642/FUL**: 4, Eagle Lane, Cowbridge (the building along the eastern boundary of the site) - Change of use to fitness suite. Approved 05/09/2006

## CONSULTATIONS

**Cowbridge with Llanblethian Town Council** – Comments have been made with regard to the scheme of development rather than the proposed demolition. The Community Council's comments are summarised in the report relating to application 2016/00809/FUL.

**Conservation (Planning)** – An objection is made to the proposed demolition on the basis that there is no consent for the redevelopment of the site. A copy of the Conservation Officer's comments is attached as **Appendix A** to this report.

**Cowbridge Ward Members** – No comments

**Ecology Officer** – The comments of the Conservation officer in respect of the 2016/00809/FUL application are relevant to the application subject of this report. These comments have, however, been considered in detail in the report relating to the planning application. Accordingly, the matter of Ecology is not considered in this report.

## REPRESENTATIONS

A site notice was displayed on 13<sup>th</sup> September, 2016. The application was also advertised in the press on 8 September, 2016.

A number of representations have been received in respect of this application, many of which comment on the application for the redevelopment of the site and have, therefore, been summarised in the linked report relating to that application (2016/00809/FUL). Of the comments that have been made in respect of the application subject of this report, these are summarised as follows:

- The proposal will result in the unnecessary destruction of a building in close proximity to a number of listed buildings.
- The buildings may contain asbestos.

One letter of support was received in which the author suggests that the proposal would result in the removal of 'some really ugly buildings'.

## REPORT

### Planning Policies and Guidance

#### **The Principal Policy Guidance:**

There is no statutory requirement to have regard to the provisions of the development plan when considering application for Conservation Area Consent. Accordingly, the principal guidance document is provided by Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended by Circular 1/98-Planning and the Historic Environment: Directions).

#### **Unitary Development Plan and Other Local Policy and Guidance:**

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

#### ENV21 – Demolition in Conservation Areas

Also of relevance to the appeal is the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan (2010).

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 9, 2016) (PPW) is of relevance to the determination of this application.

### Issues

It is noted that national guidance in PPW identifies that there is no statutory requirement to have regard to the provisions of the development plan when considering applications for Conservation Area Consent. The principal issue in the consideration of the application is the impact on the character and appearance of this part of the Cowbridge Conservation Area.

Despite there being no statutory requirement to have regard to the provisions of the development plan, nevertheless, there is policy in the UDP of relevance, in particular Policy ENV21 - Demolition in Conservation Areas. Criterion (ii) of the policy is particularly relevant, in that it states demolition of an unlisted building or structure will only be permitted where full planning permission has been granted for a new use or development. The explorative text at paragraph 3.4.85 indicates that without redevelopment following immediately demolition may result in detrimental effects on the character of the conservation area by reason of unsightly and derelict gaps. That position is considered to mirror the advice contained within Welsh Office Circular 61/96, which states at paragraph 33 that:

*“The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area. Proposals to demolish such buildings should be assessed against the same broad criteria as proposals to demolish listed buildings... Consent for demolition **should not** be given unless there are acceptable and detailed plans for redevelopment”, (emphasis added).*

PPW reinforces the principle of section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 insofar as it states that:



*'Should any proposed development conflict with the objectives 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... 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**, (emphasis added).*

It is acknowledged that the buildings subject to the demolition have a neutral effect on the character and appearance of the Conservation Area. Notwithstanding this, as a matter of fact the site does not benefit from any extant planning permission and, therefore, its redevelopment post demolition is not secured. In fact the scheme of development linked to this application (2016/00809/FUL) is considered itself to be harmful for a number of reasons, including the detrimental impact it will have on the character and appearance of the conservation area. Government advice clearly indicates that in such circumstances consent ought not to be granted for demolition. National guidance contained in WO Circular 61/96 advises:

*"Consent for demolition should not be given unless there are acceptable and detailed plans for redevelopment."*

Accordingly, and in view of the comments of the Council's Conservation Officer, it is recommended that conservation area consent is refused.

### RECOMMENDATION

That Members of the Planning Committee note the above conclusions and agree that these form the basis of the Council's case in the current non-determination appeal and that the application conservation area consent would have been refused for the following reason:

1. Having regard to the failure to provide satisfactory proposals to redevelop the site, the proposed demolition is not considered to accord with Circular 61/96: Planning and the Historic Environment: Historic Buildings and Conservation Areas, the Council's adopted Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan, Planning Policy Wales and Policy ENV21 – Demolition in Conservation Area, of the Vale of Glamorgan Adopted Unitary Development Plan (1996 - 2011).

### REASONS FOR RECOMMENDATION

The decision to recommend that the application for Conservation Area Consent should have been refused has been taken in accordance with Planning Policy Wales and Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended by Circular 1/98-Planning and the Historic Environment : Directions).

In the absence of an approved scheme for the redevelopment of the site, the proposed demolition is considered to be unacceptable and contrary to the above mentioned policy and guidance.

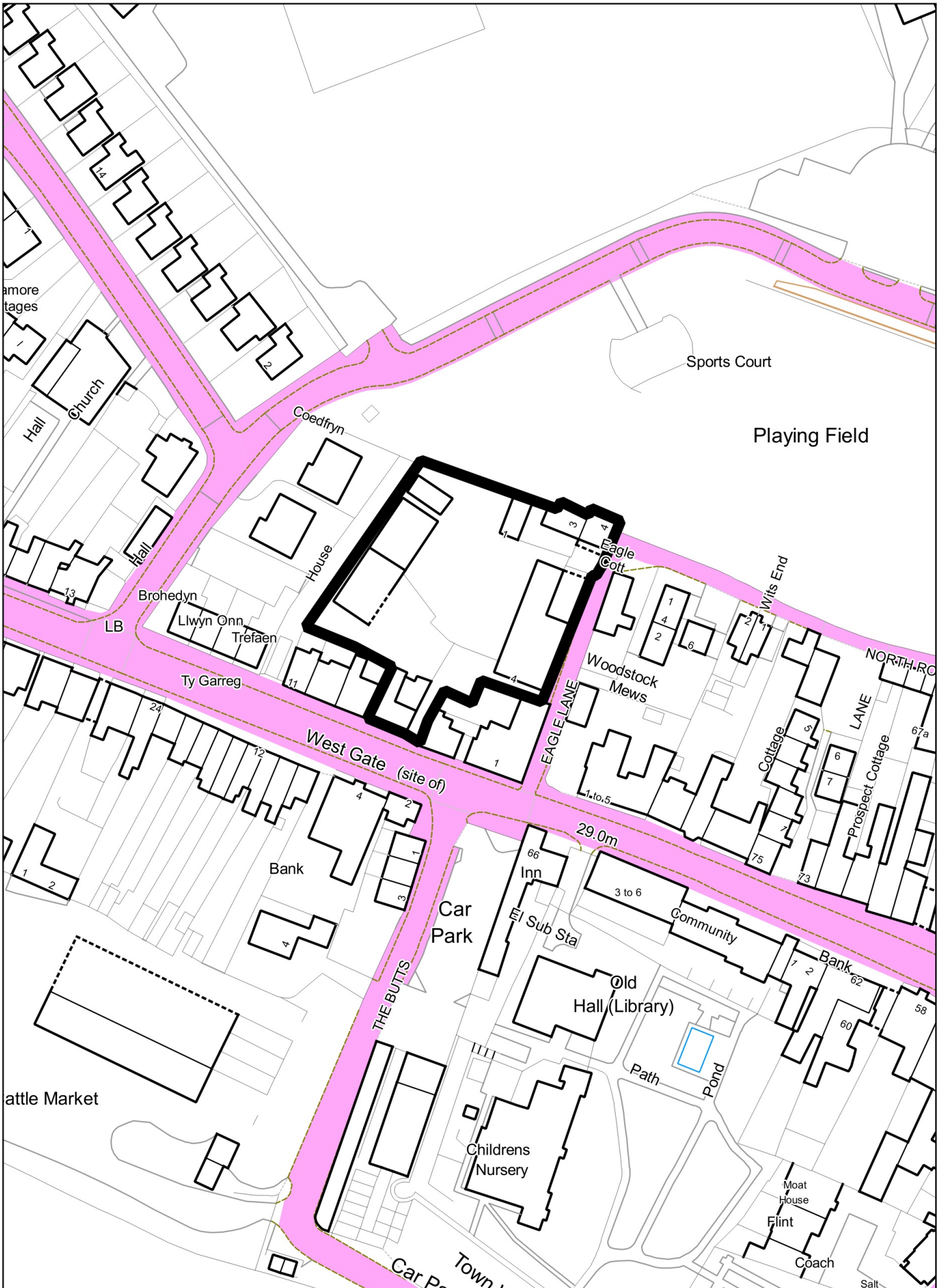
**NOTE:**

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

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

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

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



Application Site 2016/00833/CAC  
 P.218

23 January 2017  
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# "APPENDIX A"

MEMORANDUM / COFNOD

The Vale of Glamorgan Council  
Development Services  
Dock Office, Barry Docks, Barry, CF63 4RT



To / I:	Justina Moss
Dept / Adran:	Development Management
Date / Dyddiad:	20 January 2017
Your Ref / Eich Cyf:	2016/00833/CAC

From / Oddi Wrth:	Conservation and Design
My Ref / Fy Cyf:	
Tel / Ffôn:	(01446) 704628
Fax / Ffacs:	(01446) 421392

Subject / Testyn: **Planning Application No. 2016/00833/CAC**  
**Location : Land to the rear of Westgate (East of Eagle Lane), Cowbridge**  
**Proposal : Redevelopment to form 38 retirement apartments for elderly including communal facilities, access, car parking and landscaping**

## OBJECTION

These comments should be considered in conjunction with my earlier comments dated 7 September 2016. The legislative position remains the same as previously, however, Chapter 6 of Planning Policy Wales has been updated. Notwithstanding this, the thrust of the policy remains the same.

I note the submission of an amended heritage statement which no longer identifies any of the buildings as making a positive contribution to the character or appearance of the conservation area. I further note the Cowbridge with Llanblethian Conservation Area Appraisal and Management Plan does not identify any of the buildings as positive.

There remains no objection, in principle, to the demolition of buildings 4,5 and 6 which do not contribute to the special interest of the conservation area. I am also satisfied that given the nature and amount of change undertaken to building 2 and 3 their special interest is compromised.

Building 1 is more problematic. It has undergone significant alteration and its special interest has been compromised, however, it certainly should not be considered as a negative element in the conservation area.

It forms part of the terraced frontage which is a strong characteristic feature of the conservation area and in this way contributes to the overall character and appearance. The nature of the proposal would result in the significant increase of the gap in the terrace which would neither preserve or enhance the character of the conservation area.

In any event, applications for CAC should only be approved where there is an acceptable replacement scheme in place and on the basis that I maintain my objection to the application for planning permission allied with this application I am not satisfied that an acceptable scheme is available.

I, therefore, maintain my objection to this application.

Peter Thomas  
Senior Planner (Conservation and Design)

Mr. Rhys Williams c/o agent  
Mrs. Arran Dallimore C2J Architects & Town Planners, Unit 1a, Compass  
Business Park, Pacific Road, Ocean Park, Cardiff, CF24 5HL

**33, Holton Road, Barry**

Proposed conversion and extension of existing property to form ground floor commercial units with 7 self-contained apartments at ground, first and second floors. On site cycle parking, and refuse storage facilities

**REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because:

- the application has been called in to Committee by Councillor Ian Johnson (Buttrills Ward) due to concerns that the proposals are overdevelopment of the site taking into account limited on street parking and waste collection facilities.

**EXECUTIVE SUMMARY**

The proposal seeks to convert and extend the existing building to form 7 residential flats. This is a former retail building, although a smaller single retail unit (A1 use class) would remain at the ground floor towards the front of the building. There is no off-street parking provision included, but there is an area of amenity space included for occupants. The proposals include an extension to the end elevation and the raising of the roof of the rear section, to provide for a third storey.

There have been letters of objection from five neighbours citing the following issues. Lack of existing on-street parking; Problems with refuse storage and collection; Overdevelopment of the site; and disruption to businesses as a result of construction.

There has also been an objection raised by the Council's Highways Department regarding lack of parking and the proposed rear fence obscuring vision from the rear lane onto Lombard Street.

Cllr Johnson called the application to Planning Committee due to concerns he has that the proposals overdevelop the site with limited on-street parking available for the "large number of flats". The Councillor is also concerned about the waste facilities for the number of flats proposed.

The main issues are considered to be the scale and design of the proposed development, the impact to the amenities of neighbours, and the impact to highway safety and a consideration of parking implications of the proposed development on surrounding streets, particularly Lombard Street.

It is considered that the proposals are acceptable, by reason of their design, materials and scale, with no adverse impact to the character of the area, or the amenities of neighbouring occupiers and no unacceptable parking impacts. The proposals are therefore considered to comply with the relevant planning policies and supplementary planning guidance and the application is recommended for approval subject to conditions and a S106 agreement for affordable housing and public open space.

### SITE AND CONTEXT

The site contains an end-of-terrace building on the corner of Holton Road and Lombard Street, which has been used commercially in recent decades, much of the time being a bank and more recently a hairdressers. The building is three storeys to the front (facing Holton Road), but two storey to the rear (alongside Lombard Street). The building has a traditional frontage, with ornate and rusticated stonework to the ground floor, with brick work above. The windows have a stone arch surround, with Dutch gables above. There is a slate pitched roof over the building. The two storey rear section is of a more simple appearance, with brick walls and a shallow slate pitched roof. The end elevation is rendered, with a fire escape metal staircase. To the rear of the building is a hardsurfaced yard area, which is currently used for parking, accessed off Lombard Street.



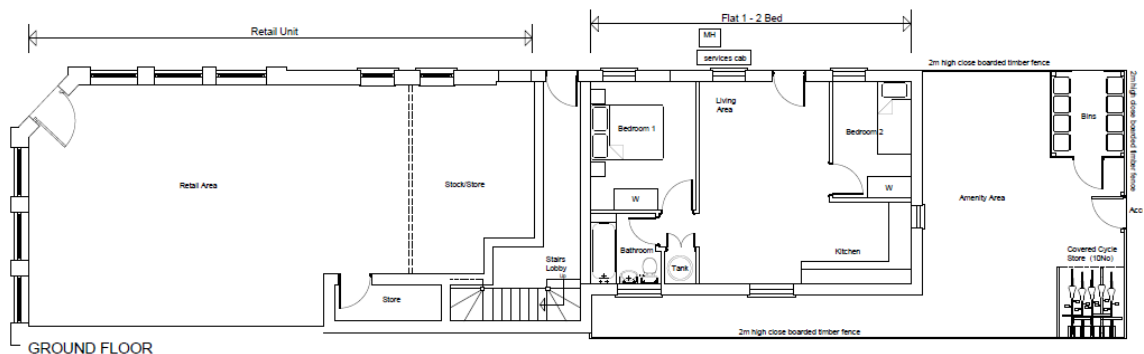
The building is in the centre of Barry, with Holton Road being largely a retail area but the site is outside of the 'Primary Shopping Area', which is further to the east. There are residential streets of primarily terraced houses to the north, including along Lombard Street. There are also some upper floor flats along Holton Road in the vicinity, including at No 35 Holton Road, which is next to the site.

## DESCRIPTION OF DEVELOPMENT

The proposal is to keep a smaller area of the building (the front section of the ground floor, fronting Holton Road) as A1 retail, and converting and extending the remainder of the building to include 7 flats, of either 1 or 2 bedrooms. The application has been amended from the original proposals for 10 apartments. The extensions would be to the end of the two storey rear section (an addition of approximately 3m) and would also raise the roof to provide a third storey to the rear. This would result in an increase in roof height of approximately 2.2m. This includes eaves-dormers to the Lombard Street elevation due to the low eaves height, with a new cement slate roof. A new staircase section is proposed in the area to the side of the two storey section (facing the rear section of 35 Holton Road).



There is a new 2m fence proposed around the yard to the rear, which is to be used as amenity space and for bin and cycle storage.



## PLANNING HISTORY

There is no recent planning history of relevance at the site.



## CONSULTATIONS

**Barry Town Council** - Considered the amended proposals but stated that the removal of parking from the site is unacceptable (the Town Council's original comments did highlight the loss of parking at the site which would result in more pressure to kerbside parking). Please see **Appendix A** for copies of the original and subsequent Town Council comments.

### **The Council's Highway Development Section –**

*“Further to reviewing amended details in relation to the above, it is noted that the proposed number of apartments at the site will be reduced to 7, with the existing ground floor retail use retained, albeit at a slightly reduced in size.*

*However, notwithstanding the reduction in the number of apartments, when taking account of the parking requirements associated with the existing use at the site, the development will increase the existing parking demand along the adjacent highway and fails to provide adequate car parking facilities in accordance with the councils adopted parking standards. In addition the, existing car parking provision (2 No. spaces) located at the rear of the site will be removed and will not be replaced.*

*Furthermore, it is noted that visibility along Lombard Street from the rear lane will be obstructed, due to the provision of fencing at the rear of the site.*

*Therefore, the original objection in relation to the highway and transportation aspect of the development is still maintained.”*

**Buttrills Ward Members** – Councillor Ian Johnson called the application to Planning Committee before the scheme was amended from 10 to 7 apartments, due to concerns he has that the proposals overdevelop the site with limited on-street parking available for the “large number of flats”. Also concerned about the waste facilities for the number of flats proposed.

**Dwr Cymru/Welsh Water** – Requested a condition that requires that no surface water from within the development as a result of the proposals drains directly or indirectly to the public sewer system.

**The Council's Ecology Officer** – No comments to make

**The Council's Housing Strategy Officer** – Based on a net increase of 7 dwellings proposed there would be a requirement for 2.1 affordable housing units, to contribute towards affordable housing demand in the area. Required that unit Nos 2 and 5 be affordable units. Stated increase need for smaller units as a result of the 'Spare Room Subsidy' (Bedroom Tax).

**The Council's Private Sector Housing Section** – Provided comments relating to the minimum floor area expected for rooms and other criteria, such as fire detection systems and the need for storage space. This information has been forwarded to the agent.

## REPRESENTATIONS

The neighbouring properties were consulted on 18 August 2016. A site notice was also displayed on 9 September 2016 and the application was also advertised in the press on 6 September 2016. There have been 6 emails/letters received citing objections and concerns with the proposals, summarised as follows:

- Lack of existing on-street parking available within Lombard Street which would be exacerbated by the proposed flats
- Additional flats would result in problems with refuse storage and collection
- The proposals would lead to the overdevelopment of the site
- Concern over access disruption to businesses as a result of construction

Please see **Appendix B** for copies of 2 of the objections received.

## REPORT

### Planning Policies and Guidance

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

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

#### *Strategic Policies:*

POLICY 2 – THE ENVIRONMENT

POLICY 3 – HOUSING

POLICY 8 - TRANSPORTATION

#### *Policy:*

POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS

POLICY ENV28 – ACCESS FOR DISABLED PEOPLE

POLICY HOUS2 - ADDITIONAL RESIDENTIAL DEVELOPMENT

POLICY HOUS8 - RESIDENTIAL DEVELOPMENT CRITERIA – POLICY  
HOUS 2 SETTLEMENTS

POLICY HOUS12 - AFFORDABLE HOUSING

POLICY TRAN9 – CYCLING DEVELOPMENT

POLICY TRAN10 – PARKING

POLICY SHOP2 – NEW AND IMPROVED SHOPPING FACILITIES

POLICY SHOP 11 – UPPER FLOORS IN TOWN AND DISTRICT CENTRES

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, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*'2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).'*

*'4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.'*

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 9, 2016) (PPW) is of relevance to the determination of this application.

8.1.4 The Welsh Government supports a transport hierarchy in relation to new development that establishes priorities in such a way that, wherever possible, they are accessible in the first instance by walking and cycling, then by public transport and then finally by private motor vehicles.

8.4.2 Car parking provision is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. Local authorities should develop an integrated strategy on parking to support the overall transport and locational policies of the development plan.

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.

9.3.5 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 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 4 – Retailing and Town Centres (1996)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 16 – Sports, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 23 – Economic Development (2014)

#### **Supplementary Planning Guidance:**

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

- Amenity Standards
- Affordable Housing
- Draft Supplementary Planning Guidance - Affordable Housing
- Barry Development Guidelines
- Parking Standards (Interactive Parking Standards Zones Map)

- Planning Obligations

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

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions will be held in January 2017.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.14.1 of Planning Policy Wales (edition 9, 2016) is noted. It states as follows:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses)
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response)
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015
- Local and Neighbourhood Retail Centre Review updated background paper (2015)
- Retail Planning Study (2013 Update) (Also see LDP Hearing Session 15, Action Point 1 response)

- Town and District Retail Centre Appraisal (2013 Update) (Also see LDP Hearing Session 15, Action Point 4 response)

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

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Government Circular 13/97 - Planning Obligations

#### **Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

#### Issues

##### Principle of the Development

The proposals consist of 7 new flats within the building, which is also to be extended and a retail unit at ground floor. The site is within the designated Settlement Boundary of Barry and so the principle of residential development is acceptable under UDP policy HOUS2, subject to the criteria contained within policy HOUS8. While much of this building is proposed to be converted to residential, there would remain a sizable ground floor retail unit remaining. It is considered unlikely that there would be a demand for the retail use of the whole building (it appears that the hairdressers only used the ground floor) and so the conversion of the rear and upper floors to residential will not have any significant or adverse impact on the retail provision of the building or the wider area. Furthermore, it is noted that there is a mix of retail to the ground floor with residential to the upper floors in the area, such as at No 35 Holton Road, which is a shop with flats above and to the rear. As such, the proposals, in terms of use, would be in keeping with the character and composition of the area, especially the properties fronting Holton Road.

## Design and Visual Impact

The part of the development that would facilitate the additional flats is to the rear two storey section. The main three storey section of the corner of Holton Road and Lombard Street is of a high quality design with a traditional appearance and features. This section on the corner is the most prominent aspect of the building with the highest architectural value, and is to remain largely unaltered. The only change to this section is the dropping of the sill levels to the ground floor windows to provide more of a shopfront style window (the smaller windows would have more suited the previous bank use). This is considered an acceptable and modest alteration that would create a more 'active' retail frontage to Holton Road. The principle elevation would otherwise remain as existing.

The two storey rear section would front Lombard Street and architecturally (and in terms of proportions) it is clearly a secondary element of the building, with less detailing and no stone features. The rear section is also two storeys and of less height than the three storey section fronting Holton Road. This design is a typical and traditional arrangement for many of the corner plot buildings that front the central Holton Road, with the rear section dropping down to two storeys, similar in height to the dwellings on the more residential streets that connect with Holton Road (such as Lombard Street). It is this rear section which was initially proposed as a full three storeys, however, the scale and bulk was considered out of keeping with the traditional pattern of development (such as that opposite across Lombard street), where the rear section drops down to a subservient two storeys. A full three storey rear section would have appeared overscaled and visually incongruous along Lombard Street.

The amended proposals do include increasing the height, but with a low eaves level and dormers/small gable features in the side elevation facing Lombard Street. This would allow the ridge height to remain lower than the existing three storey section fronting Holton Road, which would remain the visually principal part of this building. The rear section would appear visually subservient to the Holton Road frontage, with the proposed increase in height of just over 2m considered acceptable in this regard.

The rear section would also be extended in length with an addition of approximately 3m to the end elevation. This still allows for a space to the rear which can be used for amenity space for future residents, and also provides a visual gap in between the end of the building and the rear lane. The rear wing would be longer than at present and it would be longer than the corresponding rear wing on the opposite side of the street, however, it is on balance considered to be of an acceptable size and form that would preserve the character of the building and the visual amenity of the wider street scene.

In terms of the detailed design, the extensions proposed would be of a character that is in keeping with the existing building, with matching materials (a mix of render and brick). The rear extensions do not include the level of detailing of the existing Holton Road frontage, however, this reflects the existing building and its traditional design approach.

It is considered that the scale and form of the proposed extensions, following the amendments received, are acceptable and would be in keeping with the form of the existing building. The extensions would not overdevelop the plot or be overly prominent in the street scenes of either Holton Road or Lombard Street.

#### Parking Provision and Highway Safety

As stated above, the Highways Authority have raised concerns about a lack of parking being provided as part of the development. It is acknowledged that the amended proposals do not include any parking provision, with amenity space being provided to the rear of the building instead (this includes the loss of the current yard which is sometimes used to park up to 2 vehicles). However, the site is within a particularly sustainable location, being in the centre of the town, and in such locations it is considered justifiable to apply a relaxation to the parking standards, in order to accord with local and national policy which seeks to discourage over reliance on the car.

With regards the retail unit, the majority of other retail units along Holton Road do not have designated parking spaces, with public car parks or use of public transport being available. On this basis it is considered unreasonable to require parking provision for the retail unit.

The occupiers of the seven flats would have a number of sustainable transport options open to them, given the proximity to train stations and bus routes. There is also a wide range of shops and services within walking distance. It is therefore considered that occupants could realistically reside in these flats without the need to own a car. Furthermore, it is noted that the flats are relatively small, being one or two bedrooms in each case, and this would indicate sole occupiers or couples rather than families. This also suggests less of an essential need for private vehicle ownership, especially in such a sustainable location (it is considered that families would generally be more likely to require their own private transport). It should also be noted the provision of cycle parking within the site, which further provides options for sustainable means of travel.

It is noted that there is some on-street parking provision, with a residents parking scheme in operation. There is also a large disabled parking bay and double yellow lines in the vicinity of the site, albeit the majority of Lombard Street provides for residents parking. Whilst it is acknowledged that parking within Lombard Street may often be busy, it is considered that there would be some potential for on-street parking available for residents of the development, without significant disruption to existing residents, although it is considered that in this sustainable location the essential need for occupants to own their own private vehicle is negated. The site is within walking distance of a range of day to day shops and services, primary bus routes and Barry Train Station. It is, therefore, considered that occupiers of the development would not need to be overly reliant on the car and that alternative modes of transport would be available and genuinely realistic options.



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'*.

Furthermore UDP policy SHOP11 is also relevant, in that the policy refers to conversion of upper floors in shopping centres and districts. This policy specifically mentions the residential use of upper floors in district shopping centres and states that "the Council will adopt a flexible approach in assessing the need for amenity space and parking spaces". Whilst the proposal includes conversion of ground floor space as well as upper floors to residential, the principle of the policy for such conversions in central locations is relevant and clear that a flexible approach should be taken to parking provision.

This sentiment is reflected throughout 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'.

In light of the direction of local and national planning policy, outlined above, which emphasises the importance of sustainability and discourages the prioritisation of the private motor vehicle, it is considered that a flexible approach to parking provision can and should be taken. Specifically, in Section 8 of Planning Policy Wales it states that minimum parking standards are no longer appropriate and that Local Planning Authorities should ensure that new developments should provide lower levels of parking than have been achieved in the past while prioritising other modes of transport other than the car. In particular:

*8.1.4 The Welsh Government supports a transport hierarchy in relation to new development that establishes priorities in such a way that, wherever possible, they are accessible in the first instance by walking and cycling, then by public transport and then finally by private motor vehicles.*

*8.4.2 Car parking provision is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. Local authorities should develop an integrated strategy on parking to support the overall transport and locational policies of the development plan.*

To assist the relief of parking pressures within Lombard Street it is considered that there would not be any need for the current parking restrictions (double yellow lines) to continue across the full extent of their current location (across the parking spaces to the rear of 33 Holton Road). It is noted that it is likely that some extent of yellow lines would have to remain either side of the lane access to the rear of the site, but this could be reduced along the side of 33 Holton Road to provide an additional on-street parking space adjacent to the existing disabled bays. A condition requiring this shall be included with the recommendations.

Whilst the concerns of the Highway Authority, the Town Council and local residents have been considered, together with the content of the SPG 'Parking Standards', for the reasons outlined above the proposed development without designated parking spaces is considered acceptable in this particular location and circumstance and it is considered that would be in accordance with national and local policy principles and objectives.

It is also noted that the Highway Authority has raised concern about the visibility from the lane, due to the proposed 2m fence. This would to an extent impede vision for vehicles leaving the lane onto Lombard Street. However, it is considered that traffic out of this lane onto Lombard Street would generally be at a very low level and at low speeds. It is also noted that there is already a block wall and large hedge on the boundary between the site and the lane, with No 56 Lombard Street to the other side of the lane. As a result vision is which already impeded when driving out onto Lombard Street and it is considered that the proposed fence would make very little difference to the existing situation, on what is a lane with very few traffic movements in any case.

There has also been concern raised with regards to access to business properties through the course of construction. However, the roads and also the rear lanes behind Holton Road are all adopted and these highways should not be obstructed at any time without permission from the Council's Highways Authority. As such, there should be no obstruction caused as a result of building the proposed development to the highway network, unless agreed to formally by the Highways Authority. Construction issues are temporary and these are rarely cause to justifiably refuse permission.

Overall, the proposed development is considered to be acceptable without any off-street parking provision and it is considered that it would not result in any demonstrable harm to highway safety, thereby being in accordance with policies ENV 27, HOUS 8 and TRAN 10 of the adopted UDP and in accordance with Planning Policy Wales (Edition 9).

## Amenity Space

The revised plans include an area of amenity space of approximately 7.3m by 5.6m to the rear of the proposed flats. This would include a bin store and covered cycle store within this area, with the remaining space left for occupants to use. Although not a particularly large area for 7 flats (the SPG Amenity Standards suggests approximately 20sqm per person), this is a town centre location with parks nearby and other outdoors spaces. It is considered that in this instance the amount of amenity space provided is acceptable, being relatively private behind the 2m fence proposed. It would provide space for outdoor domestic activities such as drying of clothes, BBQs and would meet the basic functional needs of the occupiers.

As noted above, Policy SHOP11 allows flexibility in the assessment of amenity space in this general location and it is considered that the rationale should apply here. In such sustainable town centre locations, where the existing environment of buildings is dense, it will very rarely be possible to provide amenity space to meet the above standards, given the need to ensure the efficient use of land. In some cases, flats have been approved on Holton Road without amenity space, given that this has enabled the beneficial use of upper floors which would otherwise remain vacant. In this case, some space is available and it is considered that this is a marked positive to the scheme.

It is noted that there is no direct access from the flats proposed to the amenity space. Whilst access directly to the amenity space could be provided from Flat 1 (but not indicated on the plans), it would not be achievable from the remaining flats without a re-design both internally and externally and would not be easily achievable given the constraints of the site. It is acknowledged that this is a situation which the Council would in many cases not look to encourage, and it is normally a requirement for all flats to have access to the communal amenity space from within the site. In this circumstance occupants would have to leave the building and walk on the public footway to the rear lane to access the amenity space. The SPG 'Amenity Standards' requires that amenity space is "accessible to all occupants". In this regard occupants can all access the amenity space, but only via a short walk outside of the site boundaries.

Whilst the proposed arrangement is not optimum for flatted developments generally, this should be considered against other flatted situations along Holton Road where no amenity space can be provided. It is considered that the provision of the space is fundamentally a positive aspect of this scheme, and that access in the way proposed would be preferable to no space. On this basis, the lack of direct access for residents through the site to the amenity space does not render the development unacceptable, given the constraints of the site and the central location.

It is, therefore, considered that the development would comply with the aims of Policy ENV27 and the Council's SPG in terms of amenity space.

## Neighbour Impact

The A1 retail unit at ground floor level is not considered to have significant potential impact to neighbour amenities, given the existing retail uses in the area and within the building. However, the conversion and extension of the remainder of the building to provide 7 new flats in this area, where there are neighbouring residences, does have potential for impact to neighbour amenities, which has been assessed as follows.

In terms of overlooking impact, it is noted that the proposals would introduce a residential use to the building, which is also to be extended with further windows proposed in the extended areas. The Council's SPG Amenity Standards advises that there should be a distance of at least 21m between primary windows to avoid significant loss of privacy.

The majority of the existing and proposed windows front either Holton Road or Lombard Street. Whilst there are properties, including some residential flats/dwellings, within 21m of these windows, these are across the road from the site. It is therefore considered that windows that front the highway (especially when they are immediately adjacent to the boundary with the highway) are inherently less private than those on other more private elevations, and this is the established pattern of development along the road. That is the typical arrangement of buildings along this section of Holton Road and Lombard Street, where they front directly onto the highway and are within less than 21m of each other. On that basis, and given the nature of the existing windows directly adjacent to the street, it is considered that there would not be any unacceptable or significant overlooking impacts.

There are no windows in the main side elevation of 56 Lombard Street facing the rear of 33 Holton Road and so the proposed development would not result in any significant overlooking to occupants of this property, with only distanced and angled views towards their rear garden which is already overlooked to an extent by other closer properties.

The windows proposed to the side elevation facing the flats to the rear of No 35 Holton Road are shown to be high level and obscure glazed. This would be required by condition if approved, to ensure any potential overlooking is mitigated by the obscure glazing.

In terms of overshadowing, the proposed development would have no appreciable impact to any of the surrounding properties due to orientation and separation distance, other than potentially the flats to the rear of 35 Holton Road. These flats in No 35 are to the upper floors and the rear section of this neighbouring building. The proposals do involve increasing the height of the rear section of No 33 and extending towards the boundary with No 35. There are windows in the rear and side elevations at both ground and first floors on the flats at No. 35.

It is acknowledged that the proposed extensions would be in close proximity to these flat windows, but it is noted that these windows would already be largely overshadowed (at the relevant times of the day) by No 33 and the front section of No 35, given that the rear of these buildings are northwest facing. The rear sections of both of these buildings are close to each other, effectively forming an alley/corridor between the buildings that already limits significant levels of direct sunlight from reaching the flat windows. It is considered that the difference in the overshadowing impact from the proposed development over existing levels would not be to be significant, and would not be to a degree that would warrant the refusal of the application. Furthermore, a light painted render to this elevation would be likely to provide some level of reflected light.

Amendments have been received to change the projection which houses the proposed stairs between the flats, along the side boundary with No 35. This has been amended to avoid any high wall being built adjacent to the first floor rear window in the flats at No 35. The resultant impact for the occupant of this flat has been therefore reduced to an acceptable level.

There are other windows in the side elevation of No 35 that face towards this proposed projection at a gap of approximately 2m. However, as this element has been amended to approximately 4.1m in width, it would be seen as a relatively minor element within this 16m long elevation. It should also be noted that the two most affected windows in the rear flats both appear to be mainly obscurely glazed, which would therefore significantly diminish the impact of this aspect of the proposals. Overall, it is considered that the scale and position of this amended side projection would not have a significant overbearing impact on the occupiers of the neighbouring flats. It should be noted that there have been no objections received from the occupants of any of the flats at No 35 Holton Road.

Overall, the proposed development, with suitable mitigation controlled by condition, would not have any significant impact to the amenities of neighbours, thereby being in accordance with policies ENV27 and HOUS8 of the adopted UDP.

### Planning Obligations

The Council's approved Planning Obligations Supplementary Planning Guidance (SPG) provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. In addition the updated Draft Planning Obligations SPG (approved by Cabinet on 14 December, 2015) is now used as a material consideration in the Development Management process. It sets thresholds for when obligations will be sought, and indicates how they may be calculated. However, each case must be considered on its own planning merits having regard to all relevant material circumstances.

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;

- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case the proposals as revised, relate to a development of 7 flats. On this basis, the following planning obligations are required:

### **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*'.

The Vale of Glamorgan Local Housing Market Assessment (2015) provides the latest evidence on affordable housing need. The LHMA identifies a net annual need for 559 Affordable Housing Units.

In light of the evidence contained within the Council's Affordable Housing Viability Update Report (2014) and the focussed change to Policy MG 4, a Draft SPG for Affordable Housing was approved by Cabinet on 14 December 2015 (Cabinet Minute C3022) and at the Council's Economy and Environment Scrutiny Committee on 5 January 2016. The SPGs are now being used as a material consideration in the Development Management process.

On a 7 unit development in Barry, 30% affordable housing should be provided on site in line with the Council's latest viability information and the draft Supplementary Planning Guidance on Affordable Housing. This equates to 2 dwellings on site and an off-site contribution which equates to an off-site contribution of 0.1 dwellings.

The Council's usual requirement is that the affordable housing tenure to be provided at a ratio of 70% social rented, 30% low cost home ownership/intermediate rent consistent with the local housing needs identified in the Council's LHMA. However, considering there would only be 2 affordable units proposed they should both be social rented and the Housing Officers have stated their preference for two of the 1 bedroom units (units 2 and 5).

Overall, the site should deliver 2 on site affordable housing units, and an off-site contribution of £7,743.00. This has been agreed by the Agent on behalf of the applicant. It is considered that this represents a material consideration in favour of the development and that this would contribute towards meeting affordable housing need in the town.

### Public Open Space

Residential developments are expected to make provision for Public Open Space and/or recreational facilities to meet the needs of the future population they will bring to the area. Open space offers vital opportunities for sport and recreation, and also act as a visual amenity.

TAN16: 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*'. UDP Policies HOUS8, REC3 and REC6 require new residential developments to make provision for public open space and the Draft Planning Obligations SPG provides further advice about how these standards should operate in practice.

There is some outdoor space on site, although this is modest to meet basic amenity requirements. Where it is impractical to provide public open space on site, the Council requires a financial contribution to provide and enhance off-site public open space and recreational facilities in the vicinity of the development site, to meet the need not catered for on-site. This financial contribution is calculated on the basis of £2,552 per dwelling (or £1,100 per person). This would result in a requirement for a public open space off-site contribution of £17,863. This off-site contribution could potentially go towards enhancements at nearby Gladstone Gardens, which is approximately 170 metres from the site.

This has been agreed by the Agent on behalf of the applicant.

### **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. In this instance the administrative fee would be £532.00.

### 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 two of the flats of the development pursuant to the planning permission are developed and thereafter maintained as affordable housing units in perpetuity.
- Provide an additional off-site contribution towards affordable housing of £7,743.00

- Provide an off-site contribution towards Public Open Space of £17,863

APPROVE subject to the following condition(s):

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

Reason:

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

2. The development shall be carried out in accordance with the following approved plans and documents: AL(00)04D and AL(00)03 C

Reason:

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

3. The external finishes of the development hereby approved shall match those of the existing building.

Reason:

To safeguard local visual amenities, as required by Policy ENV27 of the Unitary Development Plan.

4. 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.

5. The window in the side (east) elevation (facing 35 Holton Road) at first and second floor level shall be glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration at the time of the construction of the development hereby approved and prior to the first occupation of the flats Nos 2 to 7 hereby approved and shall thereafter be so maintained at all times.



Reason:

To ensure that the privacy and amenities of adjoining occupiers are safeguarded, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

6. The cycle provision shown on the approved plans shall be completed prior to the first beneficial occupation of the any of the flats hereby approved and thereafter kept free of obstruction and available for the parking of cycles associated with the development, unless otherwise agreed in writing by the Local Planning Authority.

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.

7. The amenity area as shown on plan AL(00)03 C shall be available for use at all times for the occupants of all of the flats hereby approved.

Reason:

To provide suitable shared amenity space, in accordance with ENV 27 and TRAN 10 of the adopted Unitary Development Plan.

8. A traffic regulation order to partially remove the extend of the parking restrictions along the side of the site on Lombard Street (as per the attached plan and highlighted in red) to provide an additional potential on-street parking space shall be fully implimented prior to the first beneficial use of any of the flats hereby approved.

Reason:

To provide additional on-street parking provision, in accordance with policies TRAN 10, ENV 27 and HOUS 8 of the adopted Unitary Development Plan.

#### REASON FOR RECOMMENDATION

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.

It is considered that the development complies with the sustainable development principle and satisfies the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

Having regard to Policies ENV27 (Design of new developments), HOUS2 (Additional residential development), HOUS8 (Residential Development Criteria) and TRAN10 (Parking) of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, it is considered that the proposals are acceptable, by reason of their appropriate design, materials and scale, with no significant detrimental impact to the character of the area, or the amenities of neighbouring occupiers. The proposals therefore comply with the relevant planning policies and supplementary planning guidance.

**NOTE:**

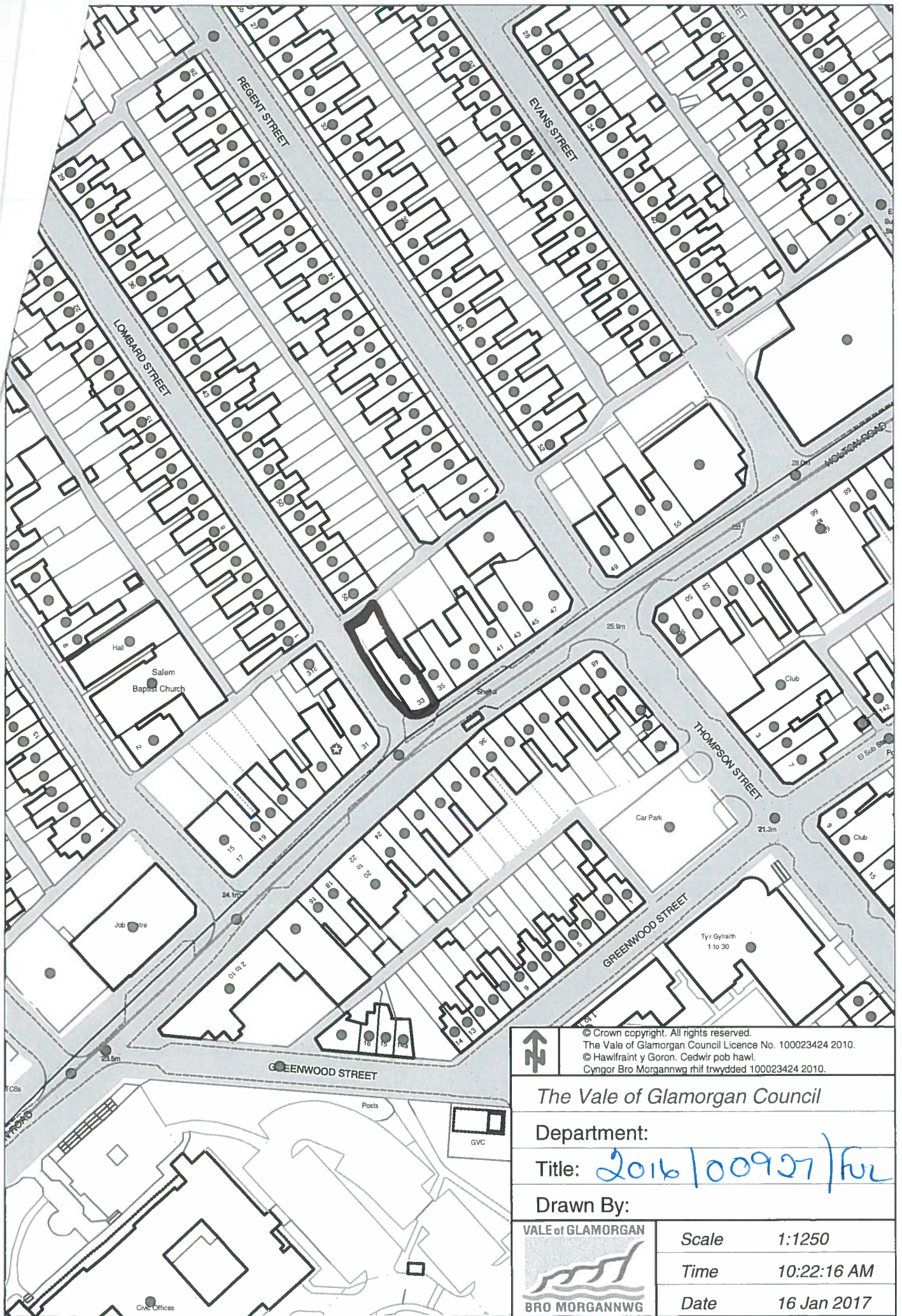
- 1. This consent does not convey any authorisation that may be required to gain access onto land not within your ownership or control.**
- 2. Please be aware that any construction works should not result in any obstruction or blockage of the public highway, including the adopted lanes in the area of the site.**
- 3. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 4. This consent does not convey any authorisation that may be required to gain access onto land not within your ownership or control.**



**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>2016/00927/FL</i>		
Drawn By:		
	Scale	1:1250
	Time	10:22:16 AM
	Date	16 Jan 2017

# Comment for planning application 2016/00927/FUL

<b>Application Number</b>	2016/00927/FUL
<b>Location</b>	33, Holton Road, Barry
<b>Proposal</b>	Proposed conversion and extension of existing property to form ground floor commercial units with 7 self contained apartments at ground, first and second floors. On site cycle parking, and refuse storage facilities
<b>Case Officer</b>	Mr. Steven Rennie
<b>Name</b>	Mrs Emily Forbes
<b>Address</b>	Barry Town Council ,7, Gladstone Road,Barry ,CF62 8NA
<b>Type of Comment</b>	Objection
<b>Type</b>	Other
<b>Comments</b>	Other type details: Statutory Consultee. Comment: OBJECTION: Town Council Members note the amendments to the proposed development but consider the removal of parking from the site is considered unacceptable.
<b>Received Date</b>	21/12/2016 09:07:11
<b>Attachments</b>	

# Comment for planning application 2016/00927/FUL

<b>Application Number</b>	2016/00927/FUL
<b>Location</b>	33, Holton Road, Barry
<b>Proposal</b>	Proposed conversion and extension of existing property to form ground floor commercial units with 10 self contained apartments at ground, first and second floors. On site cycle parking, and refuse storage facilities
<b>Case Officer</b>	Mr. Steven Rennie
<b>Name</b>	Mrs Emily Forbes
<b>Address</b>	Barry Town Council ,7, Gladstone Road,Barry ,CF62 8NA
<b>Type of Comment</b>	Objection
<b>Type</b>	Other
<b>Comments</b>	Other type details: Statutory Consultee. Comment: OBJECTION The Town Council recognises the improvements made to the original proposal. However, members still consider that the proposal in its amended form remains an over-development of the site, that vehicular parking is still not at a sufficient level and the lack of on-site amenity space provision remains a concern in view of the number of units proposed.
<b>Received Date</b>	04/11/2016 09:24:16
<b>Attachments</b>	

# Comment for planning application 2016/00927/FUL

<b>Application Number</b>	2016/00927/FUL
<b>Location</b>	33, Holton Road, Barry
<b>Proposal</b>	Proposed conversion and extension of existing property to form ground floor commercial units with 10 self contained apartments at ground, first and second floors. On site cycle parking, and refuse storage facilities
<b>Case Officer</b>	Mr. Steven Rennie
<b>Name</b>	Mrs Angie Norman
<b>Address</b>	Barry Town Council,7, Gladstone Road,Barry ,CF62 8NA
<b>Type of Comment</b>	Objection
<b>Type</b>	Other
<b>Comments</b>	Other type details: Statutory Consultee. Comment: OBJECTION: Whilst the principles of retaining the existing ground floor retail frontage and the use of the remainder of the building for residential accommodation are welcomed, the scale, density and over development of the site combined with the lack of architectural detailing of the side elevation onto Lombard Street are of serious concern. The Town Council considers that the development in its current form would create an over-dominant and featureless impact on the residential properties in Lombard Street. This combined with the loss of vehicular parking from the site that is likely to result in more pressure for kerbside parking in the surrounding area and the lack of amenity space for the future residents make the proposal in its current form unacceptable to the Town Council.
<b>Received Date</b>	07/09/2016 08:38:10
<b>Attachments</b>	

**From:** Robert Johnson [REDACTED]  
**Sent:** 12 January 2017 11:44  
**To:** Planning  
**Subject:** FAO Mr Steven Rennie

Re - Planning Application number 2016/00927/FUL

Morning Mr Rennie

Regarding our recent telephone conversation regarding the above planning application.

I have no objection to the application, only a few concerns regarding the access to the rear of my property 29 Holton Road , Barry.

As you are aware the nature of my business we requires that I have 24/7 access to the rear entry of the office for when we bring the deceased into our care and to go out on the day of the funeral.

In the event of the building work taking place my concerns are that building materials and vehicles will be left causing an obstruction to the entry and exit of the lane for my vehicles, causing me time delays going out on funerals etc.

I have no access to the rear from the Lombard street end as three pillars have been put in position (to prevent the drivers from the Pizza hut cutting through as they have had numerous accidents apparently)so I under stand them being in place. Perhaps something else could be looked at for this end removable lockable pillars I can control ?

Hopefully you / others will understand my concerns Regarding this matter.

Regards  
Robert.

Robert D Johnson  
Independent Funeral Directors

29 Holton Road  
Barry  
Vale of Glamorgan  
CF63 4HA  
[REDACTED]

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06 SEP 2016  
Regeneration  
and Planning

Appendix B - Page 2

2

Barry Newman  
SIC, Holton Road,  
Barry  
CF63 4HA  
07876 706574

Mr. Steven Rennie  
Vale of Glamorgan Council  
Dock Office,  
Barry Docks  
Barry  
CF63. 4HA.

D.E.E.R. 5/9/16  
RECEIVED  
ACTION BY: R/SR  
NO: 1  
ACK:

Re. Planning Application for 33, Holton Road

Dear Sirs,

With reference to your letter of 18th Aug 2016.  
My property is directly opposite the side elevation of  
the proposed development. (In Lombard Street)

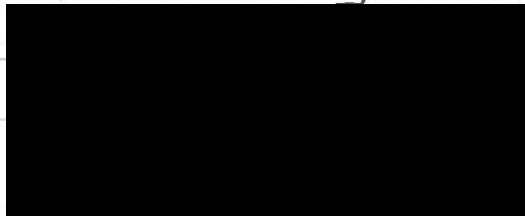
Although I have no objection to the development  
itself, I have serious concerns about the lack of  
parking facilities within the plans.

Once all residents have returned to Lombard  
Street at the end of each day, at best, there  
are one or two vacant spaces right at the bottom  
of the street & often none at all.

By adding, what could theoretically be, a further  
20 vehicles attempting to park in Lombard St. I can  
foresee absolute chaos & possibly some violent incidents.

I would be obliged if my concerns could be  
voiced; when the application is considered.

Yours Faithfully





**2016/01158/FUL** Received on 23 November 2016

Mr. Gerwyn Pugh 4, Glan-Y-Mor, Barry, Vale of Glamorgan, CF62 6FF  
Mr. Gerwyn Pugh 4, Glan-Y-Mor, Barry, Vale of Glamorgan, CF62 6FF

#### **4, Glan Y Mor, Barry**

Two storey extension to rear of property

#### **REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because:

- the application has been called in for determination by Councillor N Hodges for the reason that the development would have a serious intrusion upon neighbouring properties on a very small site.

#### **EXECUTIVE SUMMARY**

The application site is 4 Glan y Mor, Barry. It is part of a short terrace of two storey dwellings located in The Knap. It sits in an elevated position adjacent to the coast and coastal path.

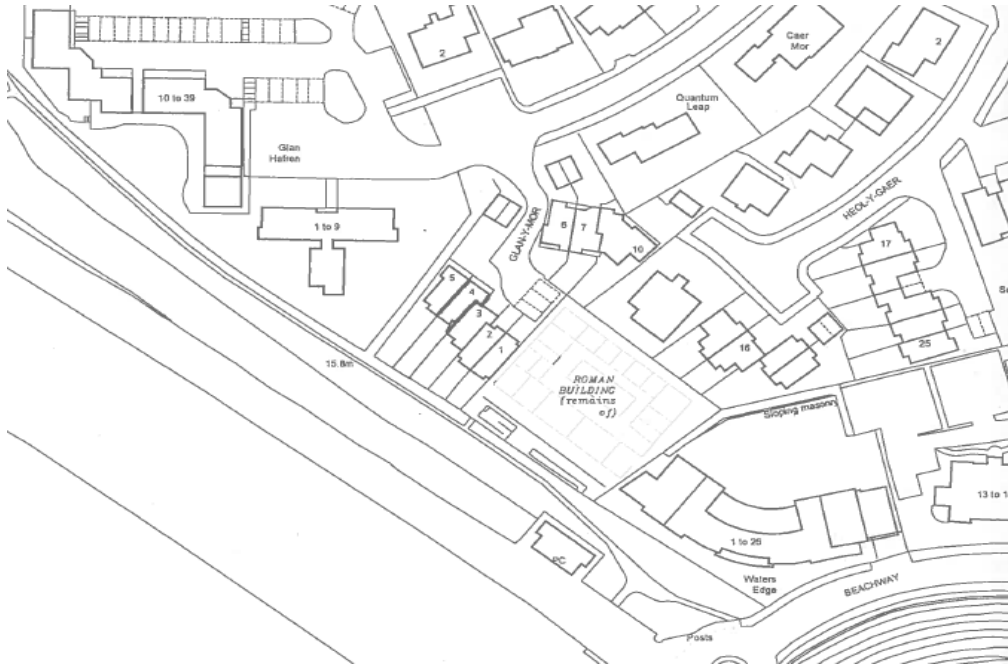
The application seeks planning permission for a two storey, flat roof rear extension. It would measure approximately 2.9m x 3.36m and have a 'bolt-on' balcony on the rear elevation.

A number of objections have been received from the residents of 1, 2, 3 and 5 Glan y Mor. In addition, the application has been called to planning committee due to concerns raised by Councillor N. Hodges. An objection has also been raised by Barry Town Council. The principal issues relate to the design and visual appearance of the extension, the impact on the character of the Roman ruins and Barry Marine Conservation Area, and other impacts relating to neighbouring amenity.

The recommendation to refuse the application is for two reasons. The first being that the extension does not complement the design and form of the terrace, and being in prominent public view, would result in a significant adverse impact on the original character and appearance of the building and visual amenity of the area. The second reason is that the extension would result in an un-neighbourly form of development which would be overbearing, result in a loss of light and have an unreasonable shading effect towards the habitable rooms at No.5 Glan y Mor.

#### **SITE AND CONTEXT**

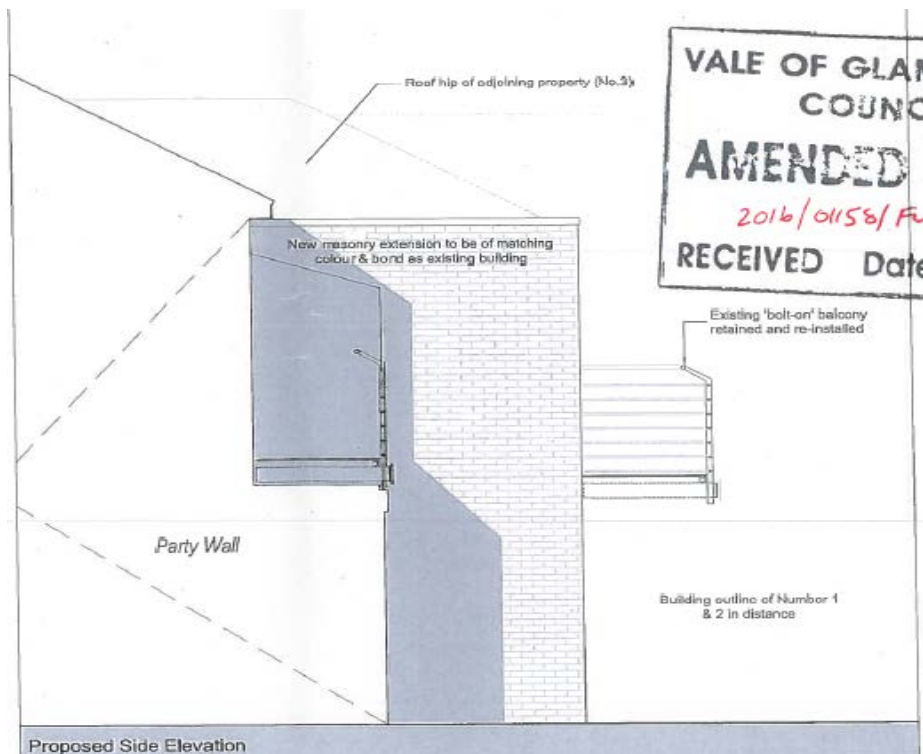
The application relates to a fairly modern terraced property located in The Knap, Barry. It is part of a short terrace, surrounded by residential development to the north and is open to the coastal path and sea front to the southwest. To the east lie the Roman ruins, which also form the border of the Barry Marine Conservation Area. The conservation area encompasses the built development to the east, but excludes the terrace of Glan y Mor and the flatted developments to the west.

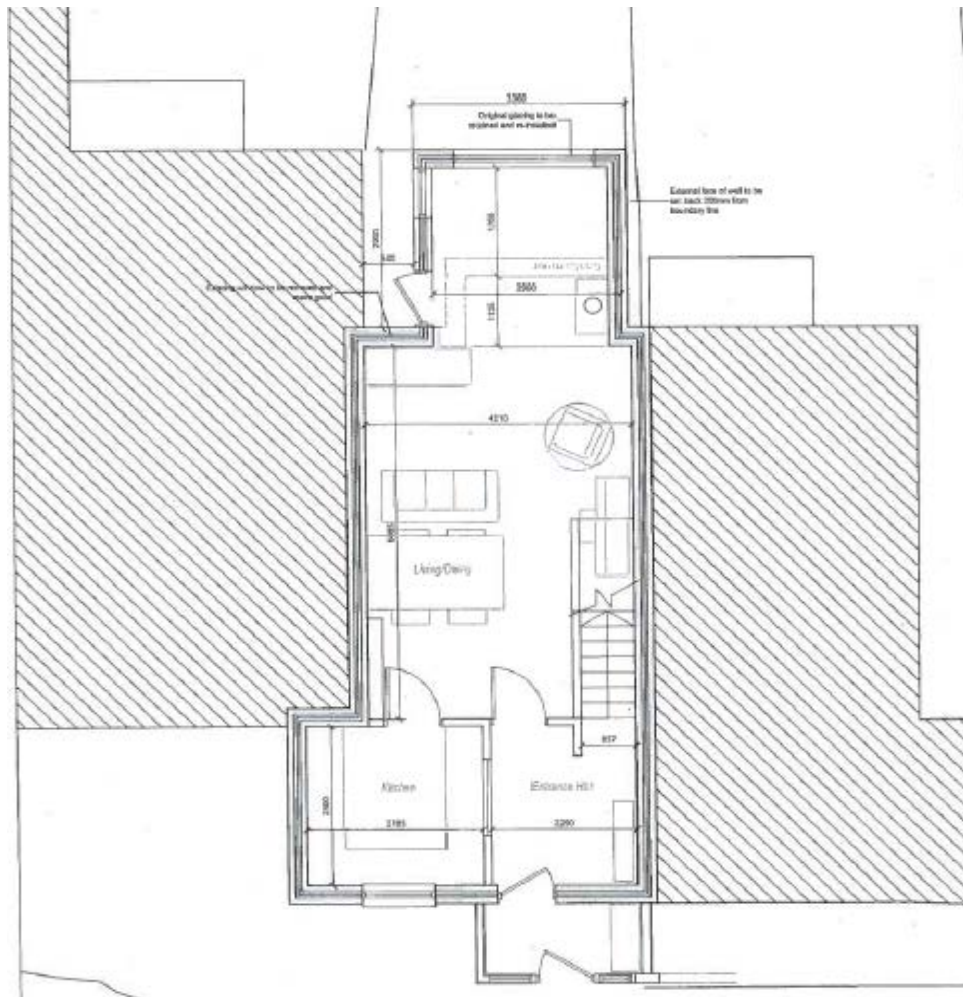
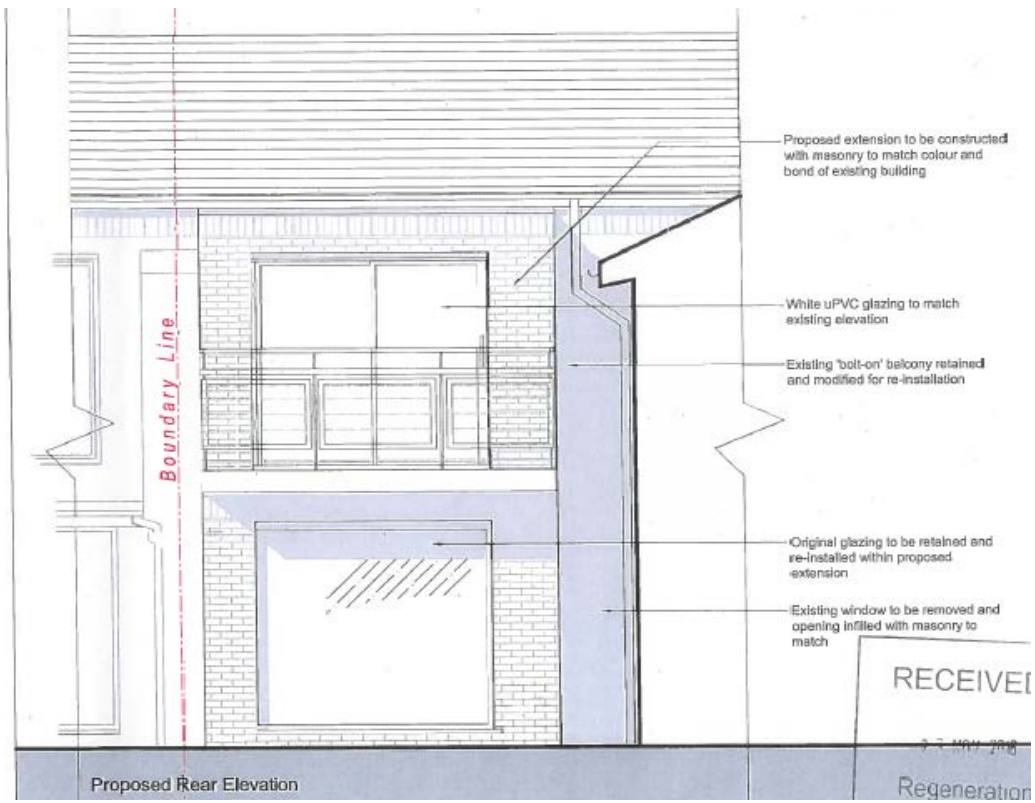


**DESCRIPTION OF DEVELOPMENT**

The application seeks planning permission for the erection of a two storey rear extension. It would measure approximately 2.9m in depth, 3.36m in width and have a flat roof that would tie in with the eaves height of the dwelling. It would be finished with a brick face to match the existing property and have a 'soldier' brick course at the eaves to act as a parapet to the flat roof. The balcony would be repositioned to the rear elevation of the extension.

The proposals are illustrated in the following plan extracts:





## PLANNING HISTORY

None

## CONSULTATIONS

1. Barry Town Council was consulted and an objection was raised, in summary, relating to the visual impact of the extension, particularly the flat roof design. An objection was also raised to the impact of the balcony upon the privacy of neighbouring properties.
2. Gwent Glamorgan Archaeological Trust (GGAT) was consulted and recommended that mitigation measures were included due to the proximity of the Roman building, and suggested a condition requiring the submission of a written scheme of mitigation prior to the commencement of development.
3. Cadw Ancient Monuments was consulted and commented that as the extension would sit within the rear line of the existing terrace there would be only a very slight impact to the setting of the Roman courtyard building.
4. Baruc Ward Councillors were consulted. A response was received from Councillor N. Hodges raising concerns regarding intrusion to neighbouring properties, the repositioning of the chimney and requesting the application be called to planning committee.

## REPRESENTATIONS

The neighbouring properties were consulted on 14 October 2016.

A site notice was also displayed on 6<sup>th</sup> December 2016.

Several letters of representation have been received, all with objections to the proposals. The letters raise objections on or on behalf of the occupiers of 1, 2, 3 and 5 Glan y Mor, and 19 Romilly Road, Barry.

The grounds of objection have been summarised below and the full representations are available to view within the application file.

- The proposals represent overdevelopment of a small site.
- The building is the best and perhaps only example of this style and design in Barry and is unaltered. The proposals are incompatible with the staggered nature of the rear layout.
- The two storey extension and flat roof is out of keeping with the building, as would be the 910mm gap between the extension at No.4 and the rear elevation of No.3.
- It fails to preserve or enhance the architectural quality of the area - relating to the Barry Marine Conservation Area and Management Plan

- The rear elevation is the primary elevation in terms of public views and the development would be detrimental to the coastal setting, coastal path and is close to the Roman ruins.
- The development is out of character with the area and national planning guidance within Planning Policy Wales and the Amenity Standards SPG.
- The extension and balcony would result in a loss of light and overshadowing, and reduce levels of daylight and sunlight to both adjacent neighbours. It would not be in accordance with the Amenity Standards SPG for these reasons.
- There will be overlooking from the balcony to the neighbouring windows and garden/ patio areas.
- A low level glass partition would not be sufficient for sound and privacy.
- The proposed balcony would require stilts/ supports and not be in keeping with the remainder of the terrace.
- Additional space may be available by converting loft space, if the solar panels were removed.
- The maintenance/ repair of the roof would become impossible for the occupiers of No.3, due to the position of the extension.
- A precedent would be set for future adverse planning applications.
- The extension would obscure neighbouring coastal views.

In addition, the comments below were received in respect of the initial plans, now superseded.

- The flue pipe is an eyesore and should not be located adjacent to neighbouring bedrooms, due to smoke/ health concerns.
- The extension is situated over the ownership boundary of the property.

## REPORT

### Planning Policies and Guidance

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

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

POLICY ENV17 - PROTECTION OF BUILT AND HISTORIC ENVIRONMENT  
POLICY ENV19 – PRESERVATION OF ARCHAEOLOGICAL REMAINS  
POLICY ENV27 – DESIGN OF NEW DEVELOPMENTS  
POLICY 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, both chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*‘2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).’*

*‘4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.’*

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 9, 2016) (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.

Paragraph 4.11.9 states:

*“The visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. Local planning authorities should reject poor building and contextual designs. However, they should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.”*

Chapter 5 of PPW sets out the Welsh Government guidance for Conserving and Improving Natural Heritage and the Coast.

#### **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 (2016)

Paragraph 2.6 states:

*“Design which is inappropriate in its context, or which fails to grasp opportunities to enhance the character, quality and function of an area, should not be accepted, as these have detrimental effects on existing communities.”*

Paragraph 4.5 states:

*“In many cases an appraisal of the local context will highlight distinctive patterns of development or landscape where the intention will be to sustain character. Appraisal is equally important in areas where patterns of development have failed to respond to context in the past. In these areas appraisal should point towards solution which reverse the trend.”*

Paragraph 6.6 states:

*“The appearance and function of proposed development, its scale and its relationship to its surroundings are material considerations in determining planning applications and appeals. Developments that do not address the objectives of good design should not be accepted.”*

#### **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

Policy 1: Privacy and visual amenity must be secured in any proposed development by careful design of buildings and the relationship between buildings and features such as trees, hedges, public spaces, footpaths and screen walls and fences.

Policy 3: the construction of new residential development must respect the character of existing residential development, whilst ensuring that the privacy and amenity of surrounding properties are safeguarded.

- Parking Standards (Interactive Parking Standards Zones Map)
- Barry Marine Conservation Area Appraisal and Management Plan
- Barry Development Guidelines

**Other relevant evidence or policy guidance:**

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 60/96 - Planning and the Historic Environment: Archaeology
- Welsh Office Circular 61/96 - Planning and the Historic Environment: Historic Buildings and Conservation Areas (as amended)
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

**Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

In assessing the proposal against the above policies and guidance it is considered that the main issues include the scale, design and visual impact of the extension, the impact on neighbouring and residential amenity and parking provision. The impact to the nearby scheduled monument and Barry Marine Conservation Area will also be considered.

Design and visual impact

The rear of the site is in prominent view, with the rear elevations of the terrace staggered, gradually northwards, from No.1 to No.5. The ground level also rises gradually in the same direction. The rear of the property is open to the coast, and sits above the coastal path and the sea front. The roof profile of the terrace is pitched and hipped.



The proposal is for to a two storey rear extension. It would extend to a depth of approximately 2.9m from the rear elevation at first floor, a width of approximately 3.36m and would have a flat roof, set below the eaves. The extension would bring the rear elevation in line with that of No.3. It is set marginally away from both side boundaries. The roof would have a 'soldier' brick course, to act as a parapet for the flat roof. The extension, in the wider context, is not particularly large in size and sits within the established building 'lines' at the rear of the terrace. It would therefore not be particularly prominent from more distant viewpoints.

In terms of design however, the flat roof does not reflect or complement the pitched roof profile of the existing building. The eaves height of the building drops gradually from No.5 to No.1, and the eaves height of No.3 is lower than that of No.4. The extension would have the eaves height set above that of the corresponding eaves of No.3, the part of the original building it would sit astride. The existing terrace has a cohesive appearance at the rear which would be disrupted by the form of the extension. It also does not tie in with the general design of the terrace, leaving an obvious gap between it and No.3, where together with the eaves height it would have an appearance that sits awkwardly with the rear elevation of No.3. It would therefore appear as a discordant addition that would be detrimental to the character of the building.

There are other buildings within the vicinity with flat roofs, notably the flatted developments, and the parapet would also hide the top of the roof from view. The form of the extension does not contrast with nearby built development, but nevertheless would appear at odds with the terrace at Glan y Mor. While in some cases an appropriately designed flat roof and contemporary extension may appear as compatible and attractive addition to a property, it is considered that this is not such an example. The design is not contemporary, but more of a traditional composition that incorporates a flat roof. It is considered that an extension of this form would relate poorly to the design and character of the dwelling and wider terrace, and would fail to complement it.

The detrimental impact is exacerbated by the prominence of the rear of the building (being in an elevated position that is adjacent to the coastal path) and the two storey height of the extension. The development is therefore considered to have a detrimental impact to the character of the building and visual amenities of the wider area, that would be contrary to Policy ENV27 of the Unitary Development Plan, paragraph 4.11.9 of PPW (Edition 9), paragraphs 2.6, 4.5 and 6.6 of TAN 12 and Policies 1 and 3 of the Amenity Standards SPG.

The Roman ruins, a scheduled monument, lies some 15m to the east of the site as does the boundary of the Barry Marine Conservation Area. The site is outside of the conservation area itself. The views of the extension from the monument and from inside the Conservation Area would be fairly limited, as the rear of the extension would be parallel with the rear elevation of No.3 and set behind those of No.1 and No.2 when viewed from the east. It is considered that the extension would not have a detrimental impact on the character of the monument site or the Barry Marine Conservation Area.

## Residential amenity

Objections have been received from both adjoining neighbours in relation to the impact of the proposed extension. The principal relevant issues relate to a loss of light, shading and overbearing impact arising from the extension and a loss of privacy resulting from the new location of the balcony. The rear elevation of No.3 is set forwards of that of No.5 and as such the greatest impacts are those that would occur to No.5.

The properties all have balconies at first floor level, although these are, in effect, set behind of the rear elevations at ground floor level. Therefore, whilst the extension measures approximately 2.9m in depth at first floor level, the effective depth is reduced at ground floor. No.5 has full fenestration across the rear elevation at ground floor level, with secondary windows to the side elevation. At first floor level, the rear window is the sole source of light to the bedroom.

The relationship between the properties is an intimate one given the relatively narrow nature of the plots and the manner in which the terrace is staggered does result in some shading impact and light reduction from No.2 to No.3, and likewise from No.3 to No.4 (more than would otherwise be the case with a uniform building line). It is noted that the development would result in a similar impact to those already experienced by Nos. 3 and 4, occurring instead to No.5. It is nevertheless considered that this does not provide justification to create or 'transfer' an unacceptable detrimental impact to another property.

The extension is considered to be overbearing to the neighbouring No.5, an effect that would be particularly pronounced to the first floor windows that are set back from those at ground floor. It would also, from the centre point of the neighbouring first floor window, be at an angle of approximately 50 to 55 degrees. The extension would therefore create a significant shading impact and reduce the overall amount of light reaching these windows, which would also be further increased if a balcony side screen were to be included in order to mitigate privacy impacts. It is noted that the shading impact would occur for only part of the morning, more pronounced during winter, but given the close relationship, the overall daylight reduction would be more pronounced and constant. It is considered that the extension would be an un-neighbourly form of development that would have an unacceptable impact to the residential amenities of No.5.

The impacts of the extension and balcony in terms of being overbearing, shading or loss of light are considered acceptable to the windows of No.3, and both adjacent garden areas.

The extension would also move the 'bolt-on' balcony to the rear elevation, as extended. The new position would bring it into line with the balcony of No.3, where a view could be gained from one balcony to another. The view back to the windows of No.3 would be very oblique, but both impacts could be overcome by the inclusion of a screen. Similarly, a view could be gained from the side of the balcony back towards No.5. Given the very close relationship, screening would be necessary to mitigate overlooking, however as noted above would exacerbate the un-neighbourliness of the development.

The rear gardens are open with low boundary enclosures and therefore do not experience high levels of privacy. The existing balconies are also not screened towards neighbouring gardens. The potential loss of privacy to neighbouring gardens is not considered to be significant.

The extension would result in a loss of some amenity space available to No.4; however the remaining garden would be approximately 12m in length and is considered to be of a sufficient size to serve the functional needs of the occupiers.

The development, for the reasons outlined above, is considered to result in an unacceptable overbearing and shading impact to the rear windows of No.5, principally to the first floor rear bedroom. The development is therefore contrary to Policy ENV27 of the UDP and the Amenity Standards SPG (Policy 3).

### Parking

The proposed extension would provide a larger living room and larger master bedroom. It would neither affect the existing parking provision at the front of the property nor create any appreciable increase in parking demand. The development is therefore considered acceptable in relation to parking provision.

### Archaeology

The development is located in close proximity to a known archaeological resource. Glamorgan Gwent Archaeological Trust have been consulted and have recommended that any approval be conditional upon a written scheme of historic environment mitigation being carried out, to identify any features of archaeological interest uncovered during the works.

### Other matters

It should be noted that amended plans have been provided that have moved the extension away from the partition wall with No.5. The amended plans also illustrate that the existing flue would be retained in its current position. The flue was constructed under 'permitted development' rights and does not require further consideration as part of this application.

The loss of view and matters relating to ownership and maintenance are not material planning considerations relevant to the determination of this application.

This and any future applications will be considered and determined on their own merits and not on precedence.

## RECOMMENDATION

### REFUSE (W.R.)

1. By reason of its design and form, the extension fails to complement the character and appearance of the terrace, and given the prominence from public views, it would result in a significant adverse impact on the character and appearance of the building and visual amenity of the wider area that would also be contrary to Policy ENV27-Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011; and national guidance contained in Planning Policy Wales (Edition 9) and Technical Advice Note 12 - Design, and the Council's Amenity Standards and Barry Development Guidelines Supplementary Planning Guidance.
2. By virtue of the size and form, the extension would result in an un-neighbourly form of development which would be overbearing, result in an unreasonable loss of light and have an adverse shading effect towards the habitable rooms at No.5, thereby unacceptably impacting upon the residential amenities of the occupiers. Therefore the proposal is considered to be contrary to Policy ENV27 of the Vale of Glamorgan adopted Unitary Development Plan 1996-2011 and the Council's Supplementary Planning Guidance on Amenity Standards.

### REASON FOR RECOMMENDATION

The decision to recommend the 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.

It is considered that this recommendation complies with the sustainable development principle and satisfies the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

### NOTE:

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

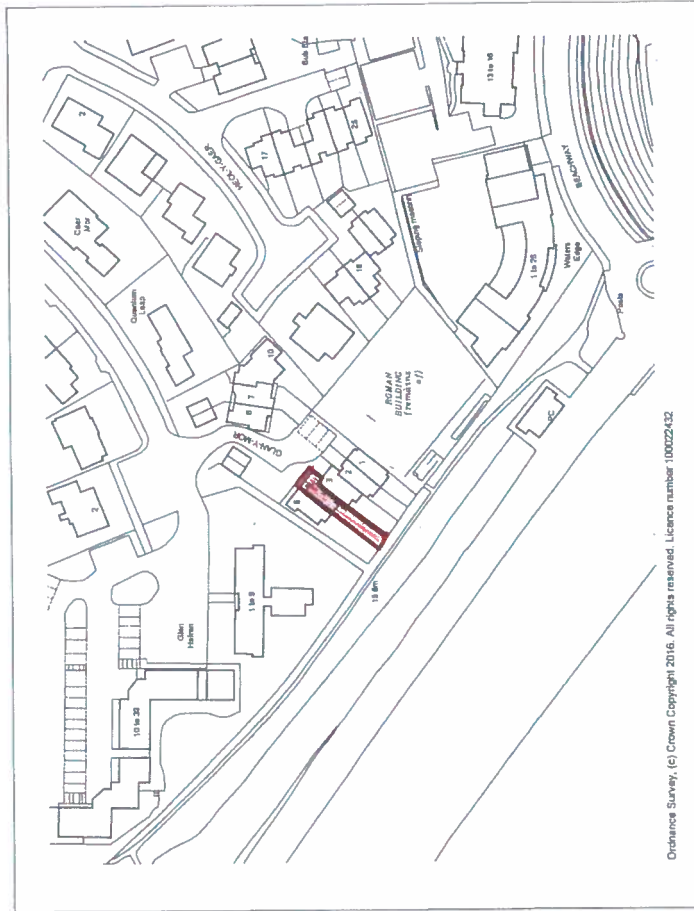
**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

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

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

1601158 FUL

RECEIVED  
23 07/16  
Regeneration  
and Planning



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Rev. Date	Check	Description
<b>Project</b>		
Proposed Rear House Extension		
No. 4 Glen-Y-Mor, Barry		
Mr G. Pugh		
<b>Title</b>		
Site Location Plan		
<b>Status</b>		
PLANNING		
<b>Scale at A3</b>		
1:1250		
<b>DWG No</b>		
A-90-01		

Please consider the environment before printing this document  
ORIGINATOR

**2016/01236/OUT** Received on 24 October 2016

Mr & Mrs Reade 6, Salmon Wood, Graig Penllyn, Vale of Glamorgan. CF71 7SB  
Mr. Robert Hathaway, Plan R Ltd, 39, Merthyr Mawr Road, Bridgend, CF31 3NN

**Land rear of 6, Salmons Wood, Graig Penllyn**

Erection of two dwellings including access and parking

**REASON FOR COMMITTEE DETERMINATION**

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because:

- the application has been called in for determination by Cllr Ray Thomas for the following reason:-

The main reason is the applicant has taken on board reasons why the original application was refused and has addressed them as far as she and her agent are concerned. There is now no, or very little, visual impact on the community. The site has now moved to being adjacent to current village boundary and in our UDP which is still applicable sits adjacent to village boundaries. Rural villages in the Vale are having developments thrust on them when small new builds such as this would allow Graig Penllyn to grow organically and should be encouraged as to add to the supply of affordable housing in the rural Vale. The applicant would like to be able to support this by speaking at Committee.

**EXECUTIVE SUMMARY**

The application site comprises part of a field parcel located in the countryside, outside of the residential settlement boundary for Graig Penllyn as defined in the Unitary Development Plan.

The proposal is for 2 No. detached dwellings and detached garages and is submitted in outline with all matters reserved.

A previous application for 2 No. dwellings reference 2015/01500/OUT was refused in April 2016.

Objections have been received from Penllyn Community Council and a total of 8 No. residents of Grain Penllyn, Penllyn and Cowbridge.

The main issues include the justification for new residential development in this countryside location; the impact on the surrounding rural landscape; the effect on neighbouring and general residential amenities and highway safety.

It is recommended that the application be refused as it represents an unjustified and unacceptable form of residential development in a countryside location that would detract from the undeveloped and unspoilt character of the surrounding rural landscape contrary to local policy and national guidance.

## SITE AND CONTEXT

The application site is approximately 0.49 ha in area and comprises part of a larger field parcel, and an existing agricultural track. The access track lies adjacent to the entrance to the existing dwelling at 6 Salmons Wood and runs alongside the western boundary of that property.

The area of the proposed dwellings is on a higher level than the road on land that rises to the south. The land is enclosed by a hedgerow on its western and northern boundaries.

The site lies outside of the residential settlement boundary for Graig Penllyn as defined in the Unitary Development Plan. Part of the access track, and the northern tip of a triangular area of enclosed land beyond the authorised curtilage of the properties at Salmons Wood, are immediately adjacent to the settlement boundary. The greater part of the application site lies approximately 28m away to the south. A Public Right of Way, Public Footpath No. 10 Penllyn, crosses the northern section of the site.

## DESCRIPTION OF DEVELOPMENT

This is an outline application, with all matters reserved, for the construction of two dwellings and detached garages. The illustrative and parameter details propose two single storey, pitched roof dwellings, with an oblong footprint of between 20.4m to 20.9m (width) x 9m to 9.5m (depth), and an eaves height of 2.6m to 2.9m, and ridge height of 5.3m to 5.6m. The parameter details for the proposed garages are a square footprint of between 6.7m to 7.2m (width) x 6.7m to 7.2m (depth), and an eaves height of 2.3m to 2.6m, and ridge height of 3.9m to 4.2m.

The proposed dwellings will be sited on an east-west axis close to northern end of the main part of the application site, with plot 1 close to the western hedgerow boundary. The proposed gardens extend to the south. The illustrative details show the garage for plot 1 to the south of the dwelling, with the garage for plot 2 positioned to the north of that dwelling.

The position of the proposed dwellings lies on the existing line of the Public Footpath No. 10 Penllyn, which is shown as being diverted to the north.





The indicative external finishes include stone and render and tiled roofs.

Vehicular access is proposed via the existing agricultural access track. Additional supporting plans show that the existing visibility is 2m x 40m, and that this can be improved to 2m x 43m with the relocation of the existing front boundary wall and entrance gates being set back off the highway.

The application is accompanied by a Planning Statement (PS) and a Landscape and Visual Impact Assessment (LVIA).

## PLANNING HISTORY

2015/01500/OUT - Erection of two dwellings including access and parking – Refused 13 April 2016 for the following reason:-

*“In the opinion of the Local Planning Authority the proposal represents an unjustified and unacceptable form of residential development in a countryside location that would detract from the undeveloped and unspoilt character of the surrounding rural landscape contrary to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV10-Conservation of the Countryside, ENV27-Design of New Developments, HOUS2-Additional Residential Development, HOUS3-Dwellings in the Countryside, HOUS8-Residential Development Criteria, REC12-Public Rights of Way and Recreational Routes, and Strategic Policies 1 & 2-The Environment 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, TAN12-Design and TAN16-Sport, Recreation and Open Space.”*



## REPRESENTATIONS

The occupiers of neighbouring properties were notified on 27 October 2016. In addition the application was advertised in the press and on site on 3 and 11 November 2016 respectively.

To date objections have been received from the occupiers of 'Oak Lodge' 'Rivendell' and 'Meads' Salmons Wood, 'Bretton Woods', 'Little Acre', Graig Penllyn, 'Rosevine Cottage' and 'Trefynwy' Penllyn, 'Rock House' and 24 The Broadshoard, Cowbridge. These are all available on file for inspection in full, however, in summary the main points of objection include:-

- Development in the countryside outside of the settlement boundary.
- Village no longer a sustainable settlement.
- Development not justified in policy terms either under current UDP or emerging LDP, and no justification in the personal circumstances.
- Loss of agricultural land and lack of survey work to ascertain Agricultural Land Classification.
- Adverse visual impact at highpoint in landscape where, contrary to submitted statements, the ridges would break the skyline, and change the character of the village.
- Adverse impact on Public Right of Way.
- Existing access track has no legal planning status and already has adverse visual impact even before sealed surfacing is considered.
- Submitted LVIA underestimates the "sensitivity of the landscape to change" and "magnitude of change" by assuming a limited use of the footpath.
- Overreliance on mitigating impact of proposed new planting.
- Would exacerbate flooding in the area with surface water run-off.
- Overshadowing and loss of privacy.
- Would set a precedent for further such development.
- Concerns over the process, with application now being reported to Planning Committee.

## REPORT

### Planning Policies and Guidance

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

Section 38 of The Planning and Compulsory Purchase Act 2004 requires that in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 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 ENV2 - AGRICULTURAL LAND.

POLICY ENV 10 - CONSERVATION OF THE COUNTRYSIDE.

POLICY ENV 11 - PROTECTION OF LANDSCAPE FEATURES.

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.

POLICY REC 12 - PUBLIC RIGHTS OF WAY AND RECREATIONAL ROUTES.

Whilst the UDP is the statutory development plan for the purposes of section 38 of the 2004 Act, some elements of the adopted Vale of Glamorgan Unitary Development Plan 1996-2011 are time expired, however its general policies remain extant and it remains the statutory adopted development plan. As such, both Chapters 2 and 4 of Planning Policy Wales (Edition 9, 2016) (PPW) provide the following advice on the weight that should be given to policies contained with the adopted development plan:

*'2.14.4 It is for the decision-maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted [Development Plan] are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development (see section 4.2).'*

*'4.2.4 A plan-led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review (see Chapter 2). Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2). Where:*

- *there is no adopted development plan or*
- *relevant development plan policies are considered outdated or superseded or*
- *where there are no relevant policies*

*there is a presumption in favour of proposals in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to maximise the contribution to meeting the local well-being objectives.'*

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 9, 2016) (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, 4.10 – conserving agricultural land and 4.11-promoting sustainability through good design; Chapter 5-Conserving and Improving Natural heritage and the Coast, including paragraph 5.1.1; Chapter 9-Housing, including paragraphs 9.2.22, 9.3.1, 9.3.2, 9.3.4 and 9.3.6; and Chapter 11-Tourism, Sport and Recreation, including paragraph 11.1.13.

### **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, 4.3, 4.8, 5.8-rural areas and 5.11-housing design and layout.
- TAN 16 - Sport, Recreation and Open Space, including paragraphs 3.37 to 3.44.

### **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
- Parking Standard
- Affordable Housing
- Trees and Development
- Planning Obligations

## The Local Development Plan:

The Vale of Glamorgan Deposit Local Development Plan (LDP) was published November 2013. The Council is currently at Examination Stage having submitted the Local Development Plan to the Welsh Government for Examination. Examination in Public commenced in January 2016. Following the initial hearing sessions the Inspector gave the Council a number of Action Points to respond to. The Council has considered and responded to all Action Points and has produced a schedule of Matters Arising Changes, which are currently out to public consultation. Further hearing sessions will be held in January 2017.

With regard to the weight that should be given to the deposit plan and its policies, the guidance provided in Paragraph 2.14.1 of Planning Policy Wales (Edition 9, 2016) (PPW) is noted. It states as follows:

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

In line with the guidance provided above, the background evidence to the Deposit Local Development Plan is relevant to the consideration of this application insofar as it provides factual analysis and information that is material to the issues addressed in this report in particular, the following background papers are relevant:

- Agricultural Land Classification background paper (2015) (Also see LDP Hearing Session 1 Action Point 12 response).
- Affordable Housing Viability Update Report (2014) (Also see LDP Hearing Session 6 Action Point 3 to 9 responses).
- Affordable Housing Delivery Update Paper (2016) (LDP Hearing Session 6 Action Point 2 response).
- Vale of Glamorgan Local Housing Market Assessment (LHMA) 2015.
- LDP Housing Land Supply Trajectory 2011-26 (September 2016) (LDP Hearing Session 2 and 3, Action Point 4, 6, 7, 9 and 10 response)

- Housing Provision Background Paper (2015) (Also see LDP Hearing Session 2 and 3 Action Point 3 and 5 response).
- Housing Supply Background Paper (2013) (Also see LDP Hearing Session 2 and 3 Action Point 5 response).
- Joint Housing Land Availability Study (2014).
- Vale of Glamorgan Housing Strategy - (2015-2020).
- Population and Housing Projections Background Paper (2013).
- Designation of Landscape Character Areas (2013 Update). (Area now included in the extended Upper Thaw Valley Special Landscape Area).
- Designation of Special Landscape Areas (2013 Update).
- Designation of SLAs Review Against Historic Landscapes Evaluations (2013 Update).
- Sustainable Settlements Appraisal Review (2016).

### **Well Being of Future Generations (Wales) Act 2015**

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

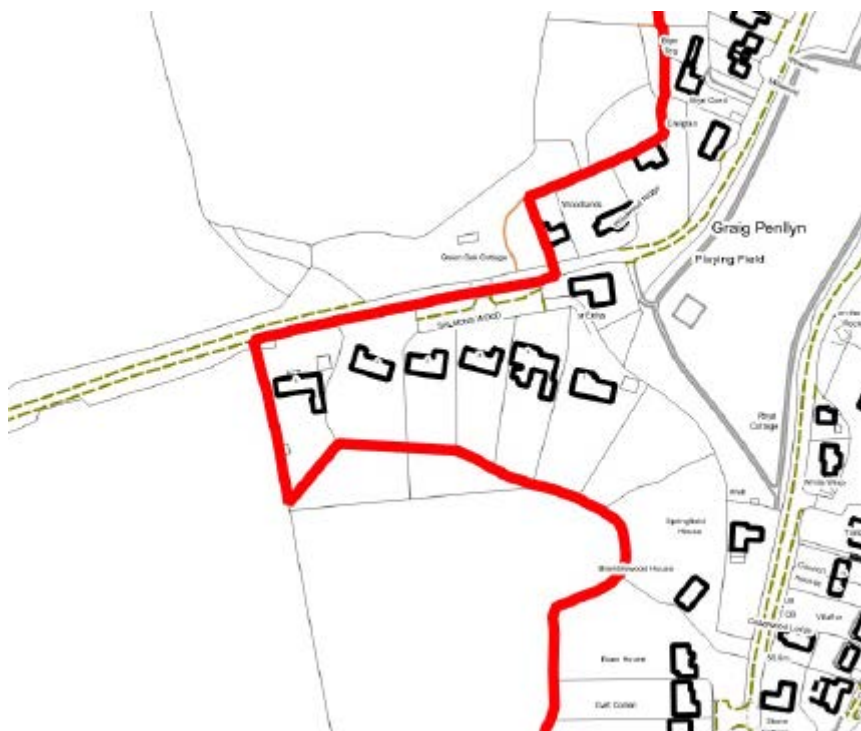
#### Issues

This is a resubmission following a recent refusal in April this year for a similar proposal for two dwellings. In assessing this revised proposal against the above policies and guidance it is considered that the main issues remain the same. These include, the justification for new residential development in this countryside location; the impact on the surrounding rural landscape; the effect on neighbouring and general residential amenities; and highway safety.

#### Principle of proposed development

The site comprises an area of agricultural land to the south of existing dwellings at Salmons Wood and on the western outskirts of Graig Penllyn which is a HOUS2 settlement in the UDP and a minor rural settlement in the Deposit LDP (as amended). The site lies outside of the residential settlement boundary for Graig Penllyn as defined in the Unitary Development Plan. Part of the access track, and the northern tip of a triangular area of enclosed land beyond the authorised curtilage of the properties at Salmons Wood, are immediately adjacent to the settlement boundary.

The current proposal differs from the previous refusal with the inclusion of an additional triangular area of land immediately to the south of the existing properties at Salmons Wood. This enclosed 'orchard' land does not form part of any authorised residential curtilage to the existing houses. Similarly, the adjacent triangular area of land that extends to the south of 6 Salmons Wood is not part of any authorised residential curtilage, although a Lawful Development Certificate has recently been granted for its use as a garden extension. Thus, as with the previous application, whilst part of the proposed access track runs adjacent to the western boundary of the settlement, the greater part of the site does not adjoin the boundary. The settlement boundary as defined in the Unitary Development Plan (UDP) runs along the southern, rear boundaries of the authorised garden curtilages to the Salmons Wood properties, and does not include the enclosed 'orchard' land to the south. The submitted Planning Statement (PS) makes the case at paragraph 3.1 that the triangular area of land that now benefits from a lawful garden use is to be included within a revised settlement boundary for Graig Penllyn identified in the "Matters Arising Changes Schedule" to the LDP (see extract below). As such the application site can now be considered to be adjoining the settlement boundary. Notwithstanding the fact that the LDP Inspector has yet to consider the revised boundaries, the logic of this argument is not accepted. Only the additional triangle of existing 'orchard', plus access track, would lie adjacent to the proposed settlement boundary, with, once again, the vast majority of the site, and the area proposed for development, still remote from the residential settlement boundary, and in the area designated as countryside. Thus it is considered that the policy background to the proposal remains the same as before.



Extract: LDP MAC Schedule – Graig Penllyn Settlement Boundary (Map MAC48)



In local policy terms the site lies in the countryside outside of any defined residential settlement boundary and, 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. 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.

Notwithstanding this, both local policy and national guidance recognise that certain countryside locations can be appropriate for new dwellings. As paragraph 9.2.22 of PPW states:-

*“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.”*

This approach is followed in policy HOUS2 of the current UDP which allows for additional residential development at certain rural settlements. It is also noted that policy MD5 of the emerging LDP carries forward a similar approach allowing for small scale rounding off to minor rural settlements which includes Graig Penllyn.

The supporting PS again makes the case for the site being a sustainable one, “...chosen to grow organically.” This is disputed by an objector who points out that since the Council’s Sustainable Settlements Appraisal Review 2013, a background paper to the LDP, the regular bus service has ceased, and the local public house has closed. Nevertheless, the up-dated Sustainable Settlements Appraisal Review 2016 still identifies Graig Penllyn as a sustainable rural settlement. In addition, it is again acknowledged that Graig Penllyn is one of the rural settlements identified within HOUS2.

Notwithstanding this, even with the amended application site boundary, it is still not considered to meet the requirements of HOUS2 in relation to “rounding-off”, or the emerging LDP policy MD5. Paragraph 4.4.63 of the supporting text to the currently adopted policy HOUS2 states:-

*“Small scale rounding off, which for the purpose of this Plan is defined as development which constitutes no more than five dwellings, may also be permitted where the site lies within or immediately adjacent to the settlement boundary and conforms to a logical site boundary. All site boundaries should be existing man made or natural physical features. Arbitrary lines drawn for the convenience of plot size do not qualify as such.”*

On this issue the revised illustrative layout makes reference to a “restored historic field parcel”, the suggestion being that, in addition, to the existing western boundary hedgerow, the new southern hedgerow boundary would be a “natural” physical feature. The reinstatement of an ‘historic’ boundary line is not accepted as an existing physical feature that meets the policy. As such, the proposed plots will still be defined to the south and east by an arbitrary boundary which would sub-divide the site from the remainder of the field parcel. As such it is considered that the proposal still does not meet the requirements of policy HOUS2 of the UDP. The further requirements of the associated policy HOUS8-Residential Development Criteria are examined in the assessment of the details of the scheme 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. PPW contains guidance on the nature of ‘material considerations’, which can include personal circumstances. The submitted PS outlines the need for the development, which is the same need that was rejected as unjustified in the previous application. The proposed dwellings are intended for occupation by the current occupiers of 6 Salmons Wood and their daughter and her family. The occupation of the new dwellings would allow the daughter to move back to the village close to her parents. This would enable her to offer care, putting “less strain on other public resources”. In addition the proposal would allow for the release of two existing properties, 6 Salmons Wood, and a house at Colwinston, which was previously identified as a registered social landlord property.

Whilst sympathetic to the personal circumstances outlined, such a situation is by no means unusual, and a similar case for new dwellings in the countryside could be made many times over by other families, undermining the overarching policies for its protection. Indeed, PPW recognises that such considerations rarely outweigh the more general planning considerations, and whilst permissions may be granted subject to a condition that it is personal to the applicant, this is not appropriate in this case. As paragraph 3.1.6 of PPW states:-

*“Authorities should bear in mind that personal permissions will hardly ever be justified for works or uses that will remain long after the personal circumstances of the applicant have changed.”*

In view of the above it is considered that the proposal still represents an unacceptable sporadic form of residential development within the countryside that would undermine policies for its protection. There is no agricultural or other acceptable justification made for the development. In addition, in relation to any improvement in the range and choice of housing, and the release of an existing social housing unit (as referenced in the previous application), it is not considered that this would override the harm caused by the development, which is examined in detail below. In any case, there are other local and national policies that seek to enable the provision of affordable housing, and these are carefully considered against the need to protect the environment. Thus, it is considered that there is a clear policy objection to the principle of new residential development in this location, which would be contrary to both national and local policies that seek to restrict new development in the countryside, including policies ENV1, HOUS2 and HOUS3 of the Unitary Development Plan.

### Agricultural Land Quality

Policy ENV2 of the UDP seeks to protect the most versatile agricultural land (Grades 1, 2 and 3A) from irreversible development. 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. One of the objectors notes that at paragraph 5.4 of the PS it is considered that "the small area of land involved would not significantly harm national or local policy objectives in relation to protection of the best and most versatile land." It is also noted that the PS suggests that the Council itself has laid aside the importance of protecting agricultural land by allowing development at other villages such as Colwinston and Wick. This is not the case as the loss of agricultural land would have been weighed against the particular circumstances of those sites, including strategic matters such as allocation within the emerging LDP and housing supply. Furthermore, it is considered that there is no overriding need in this instance to justify the loss of the agricultural land. Notwithstanding the actual grade of the land, it is clear that the development will result in the loss of a greenfield site currently in agricultural use, i.e. the grazing of sheep as evidenced by the site visit. Thus the authorised use of the land 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..."*

## 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. 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 5.8.1 of TAN12-Design states:-

*“The special qualities of the rural landscape and coastline of Wales should be recognised. The qualities should be enhanced through conservation of the character of the countryside and by achieving quality in new development.”*

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 current application is now supported by a Landscape and Visual Impact Assessment (LVIA) which concludes that:-

*“Overall the visual effects from the proposal **from a limited number of viewing points** will be **adverse Minor**, with effects decreasing as hedgerow management and planting mitigation take effect.”*

The findings of the LVIA are accepted in that it acknowledges that there will be an adverse impact. However, the scale of this impact and its acceptability is not accepted, particularly when weighed against the lack of justification for the development.

It is recognised that the illustrative layout submitted with the current application shows the proposed dwellings being aligned east-west rather than north-south across the plot. In addition, there is new planting proposed and no impact on the existing Ash tree. Such measures will serve to reduce the visual impact of the development, but overall this is considered to be a very small reduction. New planting cannot hide a development, particularly in the current situation where the land rises above the existing properties and is crossed by a public footpath.

The viewpoint expressed by the objector in relation to the LVIA is concurred with, i.e. the LVIA underestimates the “sensitivity of the landscape to change” and “magnitude of change” by assuming a limited use of the footpath; and the overreliance on the mitigating impact of proposed new planting. It is considered that the proposed development would be a highly visible intrusion into the rural landscape from a number of vantage points, both immediately to the existing houses and the users of the footpath, and in the wider landscape.

As regards the illustrative details of design, materials and landscaping of the site, it is not considered that simply matching the predominant density and finishes already existing in the area would make the development any less intrusive within the landscape. Furthermore, the associated gardens running south uphill will be subject to the introduction of the generally accepted domestic paraphernalia that will also be visible within the landscape on this prominent hillside. Such development, along with the necessary surfacing for driveways, parking and manoeuvring, will all serve to urbanise the site and detract from the unspoilt, undeveloped countryside beyond the village boundary. As is referenced in the neighbour objections, in the emerging LDP the Special Landscape Area of the Upper Thaw Valley is proposed to be extended to include the application site. It is considered therefore that the site has a greater landscape importance than is suggested in the LVIA.

Thus it is considered that the proposal would give rise to an intrusive form of sporadic development to the detriment of the character and appearance of Graig Penllyn and the surrounding rural area and contrary to national and local plan objectives to restrict new residential development outside designated settlement areas.

#### Highway and pedestrian access including effect on PROW

On the highway issues it is noted that the Local Highway Authority have again confirmed that there is no objection subject to conditions requiring 3 No. on-site parking spaces plus manoeuvring area for each dwelling on site, and the introduction and maintenance of the visibility splays of 2m x 43m with the adopted highway.

Once again the reference is made in the neighbour objections to the fact that the existing access track does not have planning permission. It is recognised that there are certain permitted development rights relating to agriculture, however, these are normally subject to the prior notification procedures. The planning history for the site does not show the receipt of any such notification. Notwithstanding this, it is considered that the planning status of the existing track is not relevant to the consideration of the current application. However, it is recognised that the nature of the track will change, with new surfacing etc., to serve the proposed dwellings. Indeed, it is noted that new surfacing has been installed since the last application. In addition, whilst the entrance gate is agricultural in nature, the associated works, including railings and stone walls, have a more domestic appearance. Such works further serve to urbanise the site, which is particularly noticeable compared to the appearance of the site before the access was introduced.

As regards any impact on the Public Right of Way, it is noted that the Council's Public Rights of Way Officer has once again not raised an objection. Despite this there remain concerns that the proposal will detract from the use of the public footpath.

In contrast to the previous application the illustrative layout now shows the public footpath being diverted outside of the proposed residential curtilage, with a new hedgerow boundary planted to define the domestic plots. It is accepted that this will reduce the impact, but the adverse effects will remain. Those walkers who may continue to use the footpath will have their enjoyment adversely affected as the urbanisation of the site will detract from the quiet enjoyment of the countryside. Indeed this is a point raised again in the neighbour objections.

The recreational importance of the open countryside and the network of public footpaths is recognised in both local policy and national guidance. Policy REC12 of the UDP seeks to maintain and improve the existing pattern of public rights of way with a network of linkages for the enjoyment of the countryside. The supporting text to the policy recognises that as well as being important links between residential areas and recreational facilities, they are also important recreational facilities in themselves. Paragraph 8.4.46 of the supporting text also notes: *"It will also be important to ensure that any impact on existing rights of way due to proposed developments and planned highway construction is fully considered."*

This approach is supported by national guidance including PPW and TAN16-Sport, Recreation and Open Space. Paragraph 11.1.13 of PPW requires local authorities to protect and enhance the rights of way network as a recreational and environmental resource.

#### Neighbouring and residential amenity

On the issue of neighbouring impact, again concerns are raised in relation to privacy and overshadowing. It is appreciated that the changes in the current illustrative layout locate the proposed dwellings closer to the existing houses. However, this is still a sufficient distance away from the existing dwellings that the proposal would be able to comply with the Council's requirements, including the Amenity Standards SPG. Despite this, it is considered that the proposal will cause harm to the general amenities of the area as already outlined above, in relation to the visual impact and the effect on the quiet enjoyment of the public footpath.

As regards the provision of private amenity space to serve the proposed new dwellings themselves, it is noted that the proposal will be capable of meeting the Council's requirements as outlined in the Amenity Standards SPG.

#### Other Issues

A further concern raised in the neighbour objections relates to the exacerbation of existing problems of flooding in the area. It is noted that the site lies outside of any Flood Risk zone and no objections have been raised by Welsh Water, including in respect of surface water. However, Welsh Water have requested a condition relating to surface water and/or land drainage be attached to any consent.

Finally, it is noted that the applicant's agent has confirmed that the applicants agree, in principle, to the requirement to contribute towards local affordable housing needs. The Draft Affordable Housing Supplementary Planning Guidance has been approved by the Council and is now a material consideration in the assessment of planning applications. The application proposes two new dwellings, and, as such, the Council would seek a financial contribution towards off-site affordable provision within the Vale. This is likely to be around £90,000 based on the illustrative details submitted with the application and the current cost guidance.

Notwithstanding the agreement to this, the proposal remains unacceptable for the reasons outlined above. Furthermore, the argument put forward in the PS that the development would increase the range and stock of sustainable modern dwellings in a sustainable village not accepted. The 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 but this 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.

## RECOMMENDATION

### REFUSE (W.R.)

1. The proposal represents an unjustified and unacceptable form of residential development in a countryside location, involving the loss of potentially best and most versatile agricultural land, and adversely affecting an existing public right of way, that would detract from the undeveloped and unspoilt character of the surrounding rural landscape contrary to Policies ENV1-Development in the Countryside, ENV2-Agricultural Land, ENV10-Conservation of the Countryside, ENV27-Design of New Developments, HOUS2-Additional Residential Development, HOUS3-Dwellings in the Countryside, HOUS8-Residential Development Criteria, REC12-Public Rights of Way and Recreational Routes, and Strategic Policies 1 & 2-The Environment 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, TAN12-Design and TAN16-Sport, Recreation and Open Space.

## REASON FOR RECOMMENDATION

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.

It is considered that the development fails to comply with the sustainable development principle or the Council's well-being objectives in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

**NOTE:**

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

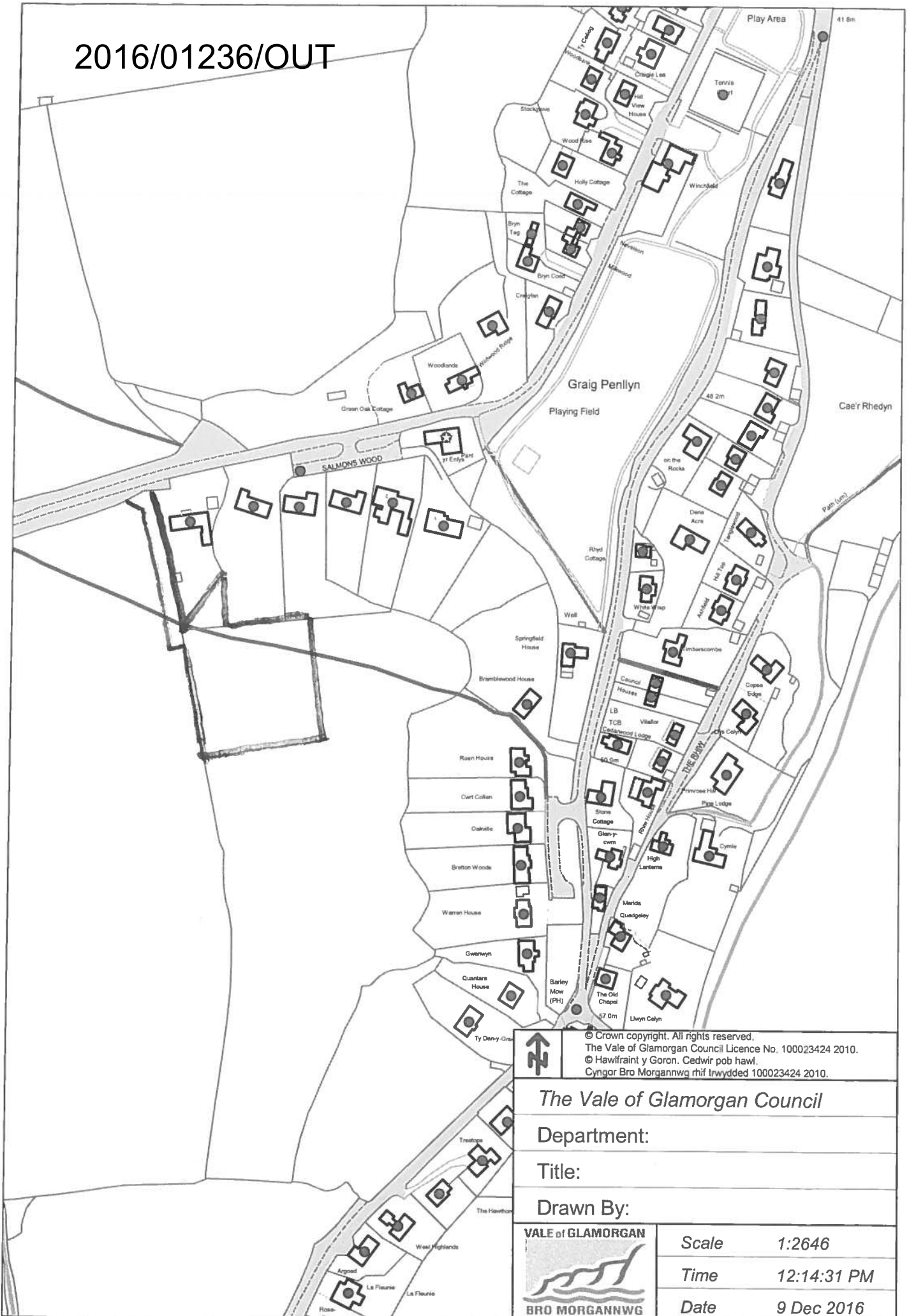
**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**


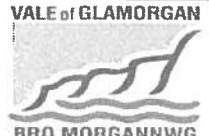
**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised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

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



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