

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 8 FEBRUARY, 2018

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:

2017/1439/BR	AC	21, Earl Road, Penarth	Ground floor extension and loft conversion
2017/1442/BN	A	50, Wordsworth Avenue, Penarth	Two storey extension to include kitchen, utility, store, bedroom and en suite
2017/1502/BN	A	44, Plas St. Andresse, Penarth	Convert garage to habitable room
2017/1509/BN	A	8, Salisbury Avenue, Penarth	We propose to add 2 to 4 skylights to the roof at the rear and side of the property. One of these replaces an existing skylight but is slightly larger than the existing. We will replace one rotten, rear bay window, like-for-like although with a double glazed unit. We may also extend one room into the building's eaves. This is subject to discussion with Building Control, Planning and a surveyor. We may convert a bedroom into a bathroom, Replace patio door and lintel. Repair to GF and installed insulation between existing floor joists.

2017/1512/BN	A	1B, Bridge Street, Cogan	Remove chimney breast and install three universal beams and associated piers
2017/1513/BN	A	21, Brean Close, Sully	Single storey extension to front and first floor side extension
2018/0002/BN	A	30, Coronation Terrace, Penarth	Installation of steel beam, new kitchen and bathroom area, new staircase, re-wire, render and insulate internal walls
2018/0004/BN	A	14, Cwm Parc, Barry	FD30 to kitchen
2018/0005/BN	A	Navron, Boverton Road, Boverton	Change roof to front elevation and rear elevation incorporating a two storey extension
2018/0007/BN	A	118, Westbourne Road, Penarth CF64 3HH	Demolition of Victorian lean-to at rear of property. Construction of new single storey extension. Refurbishment throughout including overhaul of existing mechanical and electrical services
2018/0008/BN	A	111, Cedar Way, Penarth	Single storey kitchen extension
2018/0010/BR	AC	Hillside, 7, Pencoedtre Road, Barry CF63 1SD	Single storey rear extension
2018/0014/BN	A	Pioneer Hall, Beryl Road, Barry	Removal of existing asbestos roof sheets and replacing with new metal profiled roof cladding
2018/0015/BN	A	31, Pill Street, Penarth	Two storey rear extension and dormer loft conversion
2018/0020/BN	A	21, Elm Grove Road, Dinas Powys	Single storey extension (kitchen/diner)
2018/0021/BN	A	149, Colcot Road Barry	Single storey rear extension

2018/0023/BN	A	54, Clos yr Wylan, Barry	Extension forming porch and incorporating cloakroom
2018/0027/BN	A	59, Glen Mavis Way, Barry	Two rooms into one
2018/0028/BN	A	15, Tresilian Close, Llantwit Major	Two rooms into one
2018/0031/BN	A	2, Minehead Close, Ogmore by Sea	Single storey new conservatory with solid roof
2018/0033/BN	A	6, Coates Road, Penarth	Two storey extension including lounge, kitchen/diner and first floor bedroom
2018/0035/BN	A	60, Winston Road, Barry	Roofing, fascias and re-pointing
2018/0036/BN	A	66, Whitewell Road, Barry	Roofing
2018/0037/BN	A	67, Hinchsliff Avenue, Barry	Roofing, EWI works and window replacements
2018/0039/BN	A	30, Cornerswell Road, Penarth	Loft conversion with Velux windows and dormer
2018/0043/BN	A	7, East View, Llandow	Upgrade of property with EWI 90mm insulation

(b) Building Regulation Applications - Reject

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

2018/0011/BN	R	3, Elfed Avenue, Penarth	Single storey orangery to side of property
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(c) The Building (Approved Inspectors etc.) Regulations 2000

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

2017/0195/AI	A	5, Augusta Road, Penarth	Proposed single storey extension, new kitchen flat roof and associated works
2018/0001/AI	A	26, Sir Ivor Place, Dinas Powys	Single storey front extension

2018/0002/AI	A	1, St. Fagans Avenue, Barry	Proposed single storey side and rear extension, works to include material alterations to structure, controlled services, fittings and thermal elements
2018/0003/AI	A	Unit 1, Masons Moving Group Ltd, Storage House, Priority Business Park, Barry	Proposed new Portacabin and interceptor diesel tank installation. Works to include material alterations to structure, controlled services, fittings and thermal elements
2018/0004/AI	A	9. Heol y Leubren, Barry	New link extension between existing house and garage (works to include material alterations to structure, controlled services, fittings and thermal elements)
2018/0005/AI	A	7, Glenbrook Close, Barry	Single storey rear extension (works to include material alterations to structure, controlled services, fittings and thermal elements)
2018/0006/AI	A	Specsavers Opticians, 27, High Street, Cowbridge	Internal alterations and refit
2018/0007/AI	A	6, Llwyn David, Barry	Proposed loft conversion, internal alterations and associated works
2018/0008/AI	A	27, Salop Place, Penarth	Dormer loft conversion, and associated works
2018/0009/AI	A	Unit 12, Atlantic Point, Atlantic Trading Estate, Barry	Proposed construction of mezzanine floor in industrial unit and works to include material alterations to structure
2018/0010/AI	A	5, Channel View, Ogmore BY Sea	New structural opening, works to include material alterations to structure, controlled services, fittings and thermal elements

2018/0011/AI	A	111 Tynewydd Road, Barry	Single storey extension to the rear of the property
2018/0012/AI	A	4, Orchard Walk, St Athan	Proposed single storey rear extension (works to include material alterations to structure, controlled services, fittings and thermal elements)

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REPORT OF THE HEAD OF REGENERATION AND PLANNING

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

2013/00862/5/N MA	A	Channel View, off Somerset Way, Ogmere By Sea	Non Material Amendment to planning permission ref. 2013/00862/RES - to relocate and rotate a bench seat and plant a short privet hedge (beech) to the newly installed play area at Ogmere Ocean View.
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2015/00647/4/N MA	A	2, Stanwell Road, Penarth	Non Material Amendment to planning permission 2015/00647/FUL - Variation of Condition 10 (Drainage).
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2015/00707/1/N MA	A	Rosedew Farm. Llantwit Major	Demolition of two agricultural buildings, part demolition and reinstatement of end elevation of one agricultural building to accommodate storage area and biomass heating system together with construction of twelve log cabins and associated works
2015/00744/3/C D	A	Bassett Road, Sully	Discharge of Condition 7-Samples. Two detached houses
2016/00142/1/C D	A	The Old Dairy, Durell Street, Llantwit Major	Discharge of Conditions 5 and 15 - Proposed 2 new build houses at land adjacent to the Old Dairy Site, Durrell Street, Llantwit Major
2016/00142/1/N MA	A	The Old Dairy, Durell Street, Llantwit Major	Non Material Amendment - Seeking to amend the wording of Conditions 5 and 15 of Planning permission ref. 2016/00142/FUL: Proposed 2 new build houses
2016/00219/2/C D	A	United Reformed Church, Windsor Road, Barry	Discharge of Condition 6 - Conversion and minor extension to the existing church and school buildings to create live-work units (C3), office space (B1a) and associated works.

2016/01105/1/N MA	A	Church House, Llanmaes	Non Material Amendment - Revised South West wall details, with the wall height reduced by 220mm. Planning permission ref. 2016/01105/FUL: Enlargement of the existing porch to front elevation and single storey extension to the rear of property
2017/00517/1/N MA	A	39, Heol Peartree, Rhoose	To show corrected reference to the existing ground level near to the proposed wall forming the boundary to the south side
2017/00547/FUL	A	King Fox, 6, High Street, Cowbridge	Ground and first floor alterations, first floor mezzanine extension and loft conversion to provide additional domestic accommodation
2017/00640/FUL	R	Streetworks on the footpath of Bron Y Mor at the junction with Lakeside, Barry	Installation of a 12.5m mock telegraph pole, supporting shrouded antennas, 2 no. transmission dishes, 2 no. equipment cabinets and ancillary development thereto.
2017/00666/RES	A	South Quay Waterside, Barry Waterfront, Barry	Construction of spine road to provide access to South Quay Waterside



2017/00689/LBC	A	The Lodge, Cottrell Park, St. Nicholas	The removal and replacement of the existing apsidal porch to the eastern elevation. The removal of existing ceiling joists to entrance lobby. The removal of existing ceiling joists and replacement with half the floor area replaced to form a gallery and double height space
2017/00788/FUL	R	Stangate House, Stanwell Road, Penarth	Proposed change of use and conversion of 1st and 2nd floors from office suites to 4 no. self contained apartments
2017/00833/FUL	A	12, Pembroke Terrace, Penarth	Replacement of doors and windows, new balcony to rear
2017/00835/FUL	A	111, Tynewydd Road, Barry	Rear, single storey extension with flat roof to make up balcony, obscure glazing handrail to be used on neighbouring side. Insertion of second window to side elevation, ground floor
2017/00938/FUL	R	3, The Cottages, Pen Y Turnpike Road, Dinas Powys	New detached dwelling at the side of 3, The Cottages
2017/00951/FUL	A	2, Heol Corswigen, Barry	Erection of a balcony to the rear of property from first floor kitchen. (French doors already in situ)

2017/00960/FUL	A	Glebe House, Victoria Park Road, Barry	Demolish existing rear extension and rebuild. Raise the level of the existing shed and extend with combined greenhouse, pitched roofs, solar panels and access steps.
2017/00969/FUL	A	Bakehouse, Plassey Street, Penarth	Conversion of the existing 2 storey structure into a single two bed residential unit, and the extension of the remainder of the existing ground floor into another separate two bed residential unit.
2017/00998/FUL	R	Little West Apartments, Main Road, Southerndown	The construction of a building to house 4 two-bedroom apartments.
2017/01000/RG3	A	2, Heol Cae Gwyn, St. Brides Major	Two storey side and rear extension plus internal alterations and all associated works to improve access, safety and comfort for disabled occupant
2017/01004/FUL	A	77, Crompton Way, Ogmore By Sea	Supply and install galvanised metal railings to the perimeter of the property.
2017/01020/FUL	A	24, Evenlode Avenue, Penarth	Variation of Condition 2 (to amend approved plans) and removal of Conditions 3, 4 and 5 (relating to code for sustainable homes) of planning permission 2013/01275/FUL (replacement dwelling)
2017/01064/FUL	A	Plot 9, Channel View, Ogmore By Sea	Proposed alteration of approved dwelling to include rear conservatory extension

2017/01096/LAW	A	Land to the South of Sealands Farmacyard, Sealands Farm, St. Brides Major	Agricultural fertiliser lagoon
2017/01099/FUL	R	The Coach House, Beach Lane, Penarth	To clad all sides of the house from first floor up, (excluding areas of stone wall). To change windows to front of house from existing pvc-u to sash windows. To have flue for log burning stove rising from flat roof. Replacement of existing balustrade
2017/01109/FUL	R	1, Craven Walk, Penarth	Construction of single storey garden room of 9m <sup>2</sup> with linking corridor to existing main house
2017/01111/FUL	R	Bonvilston Hall, Bonvilston	First floor apartment (subservient annex) with ground floor link to the existing house
2017/01113/LAW	R	R S Porsche, Railway Terrace, Penarth	The property was previously a workshop and garage/ with an informal conversion to a residential flat on the first floor. The proposal would require a certificate of permitted development to be issued and further refurbishment of the first floor is planned to ensure compliance with building regulations. The refurbished property will be for general housing market use and will compose 2 bedrooms, kitchen and bathroom accommodation plus living space.
2017/01115/FUL	A	Springhill, 9, The Meadows, Penllyn	Proposed kitchen extension and alterations

2017/01117/FUL	A	The Royal India, 213, Cardiff Road, Dinas Powys	Conversion of first floor to create additional flat and ground floor alterations, and first floor extension to create new access to first floor
2017/01126/FUL	A	Brynglas, Little Hill, Barry	External alterations to include; new flat roof terrace with frameless glass balustrade / new balcony with frameless glass balustrade and external staircase (to include new bi-fold door from house) / removal of existing window to rear elevation with the addition of a new slot window
2017/01131/FUL	A	24, Clos Y Fulfran, Barry	Conversion of garage with raised roof to provide new family room above and utility room to rear. Rev B - 25Oct17. Change to front elevation. Corner window added to living area. Change to rear elevation. Bi-fold doors added to kitchen. Utility external door removed
2017/01133/FUL	A	4, Parc Clwyd, Barry	Proposed single storey rear extension, conversion of garage and first floor side extension
2017/01135/FUL	A	Inglenook, Sully Road, Penarth	Proposed demolition of garage, porch and partial demolition of rear extension and erection of two storey extension to side with Juliet balcony and single storey extension to rear

2017/01140/FUL	A	Cross Trees, 1, Cefn Mount, Dinas Powys	Roof conversion into a master bedroom and rear dormer extension
2017/01142/FUL	A	6, Nash View, Pentre Meyrick	Part single and part two storey rear extension
2017/01143/FUL	A	Robgill, Gwern Y Steeple, Peterston Super Ely	Rear single storey extension
2017/01147/FUL	A	54, Clos Yr Wylan, Barry	Extension forming porch and incorporating cloakroom
2017/01151/FUL	A	Middle Lodge, Clemenstone	Proposed extension at ground floor level to form a new garden/family room, off the existing kitchen and dining area
2017/01153/FUL	A	20, Paget Road, Penarth	Rear 2 storey extension
2017/01158/FUL	A	27, High Street, Cowbridge	Proposed 4 no. new external AC condenser units to rear elevation
2017/01159/LBC	A	27, High Street, Cowbridge	Proposed new signage, internal alterations and AC units
2017/01165/FUL	A	Beechmont, 11, Cefn Mount, Dinas Powys	Erection of front single storey garden shed
2017/01166/FUL	A	34, College Road, Barry	Side and rear two storey extension to form kitchen and bedroom. Single storey living room extension and porch
2017/01171/FUL	A	13, Maillards Haven, Penarth	Proposed ground floor extension to form sun room
2017/01178/FUL	A	26, Tair Onen, St. Hilary	Extension of residential curtilage
2017/01179/FUL	A	Mariners Reach, 13, Lynmouth Drive, Sully	Outbuilding to rear garden

2017/01181/FUL	A	Doprey Cottage, Tre Aubrey Lane, Llantrithyd	Extension to existing dwelling
2017/01184/FUL	A	The Bungalow, Fox Hollows, Slon Lane, Ogmore By Sea	The demolition of the external conservatory, removal of the low pitch roof and the installation of a new pitched roof to create a new first floor to the bungalow. Proposal is to reduce the bedroom number down from 2 to 3 and to include a new stairs and two rear sea view timber flat roof dormers and a new modern entrance porch directly off the high-level driveway
2017/01189/ADV	A	27, High Street, Cowbridge	Proposed new shop front externally illuminated fascia pod, descriptor and externally illuminated projecting sign
2017/01190/FUL	A	28, Seaview Drive, Ogmore By Sea	Flat roof dormer extension
2017/01192/FUL	A	15, Tewdrig Close, Llantwit Major	Demolish existing conservatory. Proposed construction of single storey rear extension and internal alterations
2017/01195/FUL	A	Barn Cottage, St. Mary Church	Change of use of land for use as domestic garden associated with Barn Cottage
2017/01197/RG3	A	Land to the East of Holm View Leisure Centre, Skomer Road, Barry	Variation of Condition 2 of planning permission 2017/00260/RG3 - Revision to design of dwelling at Plot 8
2017/01200/FUL	A	MOD St. Athan, Cowbridge Road, Barry	Proposed part demolition of existing water tower and associated works

2017/01204/FUL	A	5, Castle Precinct, Llandough	Timber frame outbuilding with sedum green roof
2017/01206/FUL	A	47, Porthkerry Road, Rhoose	A double storey extension over the existing garage to create a master bedroom and en-suite bathroom. A utility room to be made using some space in the garage and the remaining garage space will remain as garage/storage room
2017/01210/ADV	A	Waitrose, Birds Lane, Cowbridge	Adding, replacing and removing a number of signs around the Waitrose site
2017/01212/FUL	A	27, Cae Canol, Penarth	The installation of an external flue on the gable wall of the house to serve a log burner
2017/01213/FUL	A	12, Murch Crescent, Dinas Powys	Single storey side and rear extension and extension to front of the property
2017/01218/FUL	A	16, Hickman Road, Penarth	Repair and replacement of the existing roof to include a new rear facing dormer window and raising the ridge level over the side gable to facilitate a family bathroom in an existing roof space
2017/01219/FUL	A	13, Fennel Close, Cogan, Penarth	Proposed internal alterations, demolition of existing garage, proposed garden room / storage and proposed loft conversion with dormer extension
2017/01220/FUL	A	24, Whitcliffe Drive, Penarth	Replacement rear single storey garden room and replacement garage with bedroom above

2017/01222/FUL	A	The Stables, City	Replacement of existing windows with new grey Aluminium windows. Enlargement of existing windows with floor to ceiling openings and glazed aluminium frames
2017/01225/FUL	A	35, Murch Crescent, Dinas Powys	First floor rear extension
2017/01226/FUL	A	4, Per Close, Dinas Powys	Single storey side extension
2017/01230/FUL	A	St. Josephs Convent, 14, Cherwell Road, Penarth	Replacement roof to existing porch. Replacement windows and external wall finish. New single storey extension to rear
2017/01245/FUL	A	79, Broadway, Llanblethian, Cowbridge	Demolition of the existing single garage, to be relocated and replaced with a double garage; external works to the front garden, driveway and main access route; changes to the main entrance porch roofline; and improvement works to the finishes of the front facade, including replacing windows, the introduction of cladding panels, and replacing the roof finish.
2017/01251/PNA	A	Land to the east of The Old Vicarage, St. Hilary	Agricultural building
2017/01254/LAW	A	9, Ewenny Cross, Ewenny	Single storey extension to house
2017/01267/FUL	A	12, Newbarn Holdings, St. Athan Road, Flemingston	Construct riding manege (25m x 40m) with surrounding post and rail fencing



2017/01271/PNA	A	Land at Wallas Fach Cottage, Wick Road, Ewenny	Erection of agricultural building for machinery storage
2017/01281/FUL	A	53, Fitzhamon Avenue, Llantwit Major	Erection of garden studio
2017/01289/FUL	A	2, The Meadows, Penllyn	Garage conversion
2017/01290/FUL	A	7, Purcell Road, Penarth	Demolition of garage and construction of single storey ground and side extension with two storey rear extension
2017/01295/FUL	A	16, Plas St. Andresse, Penarth	Install French doors with a glass panel Juliet balcony to the first floor front bedroom window

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4. APPEALS

(a) Planning Appeals Received

L.P.A. Reference No: 2017/00427/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 17/3191675  
Appellant: Luke Bater  
**Location: Penmaen Livery Yard, St. Mary Church**  
Proposal: Change of use from a livery yard & ancillary horse rug wash business to a mixed use of livery yard with ancillary horse rug washing business, agriculture & the commercial storage and distribution of firewood logs as well as the extension of an existing indoor riding school building to house a biomass boiler for use in connection with the drying & sale of firewood logs - resubmission of 2015/00177/FUL  
Start Date: 9 January 2018

L.P.A. Reference No: 2017/00737/FUL  
Appeal Method: Written Representations  
Appeal Reference No: 17/3191677  
Appellant: Mr. Colin Manning  
**Location: 7, Barry Road, Barry**  
Proposal: Conversion of existing 2 no. A1 shop units into new C3 dwelling. Alterations to existing C3 Dwelling  
Start Date: 9 January 2018

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(b) Enforcement Appeals Received

L.P.A. Reference No: ENF/2014/0275/PC  
Appeal Method: Written Representations  
Appeal Reference No: C/17/3178799  
Appellant: Mr Luke Bater  
**Location: Land and buildings at Penmaen Livery Yard, Treguff, St. Mary Church**

Proposal: Without planning permission, the material change of use of the land from a mixed use as a livery yard and horse rug wash business to a mixed use as a livery yard, horse rug wash business and a fire wood log processing, storage and distribution business

Start Date: 9 January 2018

(c) Planning Appeal Decisions

None

(d) Enforcement Appeal Decisions

None

(e) April 2017 - March 2018 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
<b>Planning Appeals</b> <small>(inc. tree appeals and appeals for conservation area consent)</small>	<b>W</b>	9	4	13	-
	<b>H</b>	1	-	1	-
	<b>PI</b>	-	2	2	-
<b>Planning Total</b>		10 (63%)	6 (37%)	16	-
<b>Enforcement Appeals</b>	<b>W</b>	1	1	2	1
	<b>H</b>	-	-	-	1
	<b>PI</b>	-	1	1	-
<b>Enforcement Total</b>		1 (66%)	2 (33%)	3	2
<b>All Appeals</b>	<b>W</b>	10	5	15	-
	<b>H</b>	1	-	1	-
	<b>PI</b>	-	3	3	-
<b>Combined Total</b>		11 (45%)	8 (55%)	19	-

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

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **8 FEBRUARY, 2018**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

5. TREES

(a) Delegated Powers

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

**Decision Codes**

A - Approved

R - Refused

E Split Decision

2017/00877/TPO	A	Land adjacent to 11, Main Avenue, Peterston Super Ely	None at present - trees within TPO no.2 1959
2017/00964/TCA	A	4, Park Road, Penarth	Reduction in Yew, Holly and Bay trees within Penarth Conservation Area
2017/01040/TCA	A	3, Park Road, Penarth	Coppice Yew in Penarth Conservation Area
2017/01061/TPO	A	Greenfield, East Street, Llantwit Major	Work to trees covered by TPO 1977 No 3 A56 and within the Llantwit Major Conservation Area
2017/01084/TPO	A	19A, Britway Road, Dinas Powys	Works to trees
2017/01116/TPO	A	Style Garden Centre / The Grange, Port Road, Wenvoe	Work to trees covered by TPO 2012 No 8 G12
2017/01119/TPO	A	43, Millbrook Road, Dinas Powys	Work to trees covered by TPO 1973 No 14 G11

2017/01137/TPO	A	4, Sycamore Lodge, Mill Lay Lane, Llantwit Major	1 x Sycamore. Crown thin by 20% and reduce three horizontal lower limbs by 2.5m to a suitable growing point
2017/01141/TPO	R	7, Chestnut Close, Dinas Powys	Fell Ash tree at front gate of 7, Chestnut Close, Dinas Powys. There is a young Ash tree which has taken root and is flourishing in the garden about 10 metres away, which would replace this and be safer
2017/01154/TCA	A	45, Middlegate Court, Cowbridge	To pollard the scrub / seedlings trees that border 45 Middlegate Court and the Cowbridge Town Hall Car Park to a height of about 6 feet.
2017/01177/TPO	A	8, Cliffside, Penarth	Work to tree covered by TPO 1988 No 1 G05 - Fell Horse Chestnut and plant something else
2017/01187/TCA	A	48, Clive Place, Penarth	Work to a tree in the Penarth Conservation Area - Remove a Sycamore
2017/01191/TPO	A	Marks and Spencer Plc, Access Roads Tesco and Marks & Spencer, Culverhouse Cross, Cardiff	Work to tree covered by TPO 1994 No 12 A01
2017/01194/TPO	A	Conifers, A48, St. Nicholas	Works to trees affected by Tree Preservation Order No. 5, 1972
2017/01209/TCA	A	Ash Cottage, 5, Cardiff Road, Cowbridge	T1 Ash reduce stem over road. Remove T2 Ash
2017/01227/TPO	A	12, Ger Y Llan, St. Nicholas	Works to trees
2017/01239/TCA	A	Pendoylan School, Main Road, Pendoylan	Works to trees

2017/01243/TPO	A	Land South of Old Grammar School, Cowbridge	Works to trees TPO no. 4 2008.
2017/01258/TCA	A	5, Cold Knap Way, Barry	Works to trees
2017/01265/TPO	A	12-13, Old Grammar School, Church Street, Cowbridge	Works to 2 Magnolia trees within the Cowbridge Conservation Area and protected by TPO 2008 No 11 T001 and T002
2017/01273/TCA	A	Fferm Wen, Flemingston	Removal of 2 trees and cutting back of one tree in Flemingston Conservation Area
2017/01287/TCA	A	12-13, Old Grammar School, Church Street, Cowbridge	Works to Sycamore tree within Cowbridge Conservation Area

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5. TREES

(b) General

**TO CONFIRM TREE PRESERVATION ORDER NO. 2, 2017  
FOR TREES AT Y BWTHYN, ST.HILARY.**

SITE, CONTEXT AND TREE DESCRIPTION

The trees are located in the front garden of Y Bwthyn, St Hilary, a detached dwelling located in the countryside. The dwelling is set back from the adopted highway with the garden laid to lawn. The three trees relevant to this order are located within this garden close to the front boundary with the highway and the side boundary with the adjoining neighbouring property. As all the trees lie within the conservation area they are statutorily protected albeit giving the authority a limited control in respect of work to or removal of the trees.

The trees relate to 3 semi mature Fir trees.

TREE HISTORY

2017/01012/TCA – Removal of 3 Fir trees in the St Hilary Conservation Area.  
Refused.

REPRESENTATIONS

OBJECTIONS

An email dated 08<sup>th</sup> November, 2017, from Ms C Evans, the owner of the site which objects to the tree preservation order (TPO).

A summary of the reasons for objecting to the order is as follows:

1) The trees are very overgrown and tower over surrounding properties. The branches are already falling off the trees onto the adjacent highways which can cause damage to both pedestrians and vehicles. They have become 'top heavy' and as such are even beyond cutting back to a reasonable height.



2) The three trees and their branches are not located within the walled boundary of Y Bwthyn as shown on the map sent to us. They are within six inches and 12 inches of historic walls which are considered to be of special value to St Hilary, and have been maintained according by ourselves for the past 19 years. One tree overlaps substantially into the gardens of Tythe Barn. These walls could potentially be damaged by the three trees.

3) The photos I attached with my original request show the sheer scale of the trees in relation to the BT pole they have now grown around and above, and during times of inclement weather, may damage the BT poles, cutting off telephone lines within the Village.

4) Had there been an option to cut back the trees then we would have suggested that but in our opinion, they are far too overgrown even for that. The cost of their removal is substantial, and our request to remove them, was not taken lightly.

5) There is also Ivy growing on the trees which will also have a negative impact on them.

6) No liability for any damage these trees may cause in the future will be accepted, the Vale of Glamorgan Council shall provide adequate insurance should there be a claim against them. As we consider them beyond saving, they will remain untouched and there will be no request to cut them back.

## REPORT

This report should begin by clarifying the level of protection afforded to trees within conservation areas. While the penalties for unlawful tree work to trees in conservation areas is the same as for the a tree protected by TPO, the specifics of the work to trees in conservation areas, such as the reason for, the amount and standard of tree surgery is not subject to the same level of control.

Someone wishing to prune or remove a TPO'd tree has to make a formal application to the Planning authority and careful liaison at the start of the process can ensure a professional tree surgeon is employed at the outset to make the application on behalf of the tree owner. Negotiations can achieve more modest levels of tree work that are tailored to the specimen and ensure that good arboricultural practices are employed such as timing the work as appropriate to a species (for example, Walnut trees are best pruned in late summer or early autumn because the sap bleeds profusely at other times and weakens the tree).

As with planning applications, conditions can be attached limiting the extent of tree work, when it should be carried out and the methods to be used as well as legally tying the tree owner to a professional practitioner. Furthermore, the authority can insist upon replacement trees being planted in predetermined locations and also upon the provision of specific reports when assertions are made regarding the need for the work. For example, an owner may want a tree removed because he/she thinks it may be diseased or perceives it is unstable. An arboricultural report can provide the tree owner (and the authority) with confirmation of its actual condition.

Trees in conservation areas may be subject to enforcement action with equal legal penalties when unlawful work is carried out, however, seeking the authority's agreement to do works to such a protected tree requires only that a person formally notify the council of their intentions allowing six weeks for an assessment of the tree. If the assessment finds the tree does not meet enough criteria to merit the service of a tree preservation order, the authority is limited to confirming by letter that it has no objection to the proposal and that work can proceed. None of the controls of the level and standard of the tree work can be imposed by condition and neither can reports be sought. Neither can replacment trees be enforced.



(a) View of trees from west towards the north east with the protected trees on the left of the picture towards the rear



(b) Views of trees from outside the site



- (c) *O.S. extract of the area with the site outlined in red. The trees are located close to the boundary with the adopted highway and the boundary with Tythe Barn.*

The objector (the applicant) objects to the tree preservation order for a number of reasons, this report addresses each of the objections below:

1) The trees are very overgrown and tower over surrounding properties. The branches are already falling off the trees onto the adjacent highways which can cause damage to both pedestrians and vehicles. They have become 'top heavy' and as such are even beyond cutting back to a reasonable height.

Trees by their very nature can be tall and too high to cut back, the application trees are semi mature and will continue to grow. There are many examples of trees that are taller than residential properties that thrive with regular maintenance and care.

Professional tree surgeons are cable of maintaining trees of such height, the 'top heavy' nature of the trees in this instance has been as a result of poor management by the current owners. Regular inspections of the trees would ensure branches do not fall and cause damage.

2) The three trees and their branches are not located within the walled boundary of Y Bwthyn as shown on the map sent to us. They are within six inches and 12 inches of historic walls which are considered to be of special value to St Hilary, and have been maintained according by ourselves for the past 19 years. One tree overlaps substantially into the gardens of Tythe Barn. These walls could potentially be damaged by the three trees.

The boundary wall is noted in the St Hilary Conservation Area appraisal as being an important feature, however it is not listed and there are no obvious signs of damage resulting from the trees at present. Notwithstanding this, any damage could be repaired. The trees are located within the boundary of Y Bwthyn, but it is noted that the canopy spread extends over the neighbouring boundary.

3) The photos I attached with my original request show the sheer scale of the trees in relation to the BT pole they have now grown around and above, and during times of inclement weather, may damage the BT poles, cutting off telephone lines within the Village.

The trees are not currently damaging the BT pole and should there be future interference with the telephone lines, BT could apply to carry out pruning works to safeguard their apparatus.

4) Had there been an option to cut back the trees then we would have suggested that but in our opinion, they are far too overgrown even for that. The cost of their removal is substantial, and our request to remove them, was not taken lightly.

Objectors comments have been noted, however there is a fundamental disagreement as to the need for these trees to be removed.

5) There is also Ivy growing on the trees which will also have a negative impact on them.

The Council are not in receipt of any professional advice to suggest that any Ivy present is causing harm to the trees' health.

6) No liability for any damage these trees may cause in the future will be accepted, the Vale of Glamorgan Council shall provide adequate insurance should there be a claim against them. As we consider them beyond saving, they will remain untouched and there will be no request to cut them back.

The issue of liability has been discussed with the applicant who has been advised that the Council do not have any liability in respect of these trees as they are not on Council land.

## CONCLUSION

The trees concerned contribute to the immediate area and to the St Hillary Conservation Area. The specimens are semi mature and even though some lower limbs have been removed, the trees are still able to survive with new lower limb growth. With good arboricultural care in the future and with a tree preservation order in effect, the trees can be safely retained and continue to serve as a valuable feature in the landscape of the St Hilary Conservation area. The objections raised are disputed and do not overcome the reason for the recommendation to confirm the TPO.

RECOMMENDATION

(1) THAT the Order be confirmed.

REASON:

(1) To ensure the long term protection of the trees which are considered to be of significant amenity value.

Contact Officer –Shafqut Zahoor, Tel: 01446 704608

Officers consulted

Not applicable.

VICTORIA ROBINSON  
OPERATIONAL MANAGER DEVELOPMENT MANAGEMENT

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **8 FEBRUARY, 2018**

REPORT OF THE HEAD OF REGENERATION AND PLANNING

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT MAES-Y-FRO, COLWINSTON LANE, LLYSWORNEY

Background

1. A complaint was received by the Local Planning Authority on 6 December 2017, regarding the erection of a building on land known as Maes-y-Fro, Colwinston Lane, Llysworney, which is located within the Upper and Lower Thaw Valley Special Landscape Area. The site is also identified as being of a general classification of Grade 5 agricultural land.
2. The building is being erected on a parcel of land off the through road connecting Llysworney and Colwinston. The site appears to have once been part of a larger agricultural holding that has been at some point been subdivided, with access to the parcel of land gained from a new gate that has been recently installed adjacent to an existing vehicular access. In addition to the new gate, there is an area of hardcore to the southern part of the field parcel together with a barn.
3. The site previously came to the attention of the planning enforcement team following unauthorised works undertaken in 2016; however a retrospective planning application was approved for the retention of the access, part of the hardstanding and the erection of a barn in connection with the existing agricultural use of the land.

Details of the Breach

4. Following a site inspection in December 2017 it was noted that a new timber building was under construction in the south-eastern corner of the field. The building measures approximately 5m x 5m, is single storey and so far measures 2.2m high to the eaves. It is constructed entirely of timber, with timber doors and roof. It has been erected upon a concrete base. It has not been completed and the interior is currently empty.
5. There exists some permitted development rights for agricultural buildings, however, the timber shed has no ostensible agricultural purpose and has not been designed as an agricultural building. In any case, a new agricultural building here would require the submission of prior notification to the Council and no such notification was given. The building therefore is development that requires the benefit of planning permission.

6. In addition, it was noted during the site visit that there were additional breaches of planning control. The barn subject of a planning application in 2016 had not been constructed in accordance with the approved plans and details. The barn has been clad in metal sheeting and has two metal doors to the front elevation, whereas the approved building was to be finished in timber. It has also been constructed with a lip canopy to the roof (not part of the approved scheme) and it also measures approximately 6.4m x 12.36m, as opposed to the approved dimensions of 6.08m x 12.19m. It also has a steel cage attached to the building on a concrete base.
7. Moreover, the building is not being used in connection with agriculture and is being used for the storage of vehicles. A flat-bed truck, (road) motorbike, and two cars and a tractor were being stored in the building at the time of the site visit. A further tractor and heavy roller were stored externally. It is therefore considered that a breach of planning control has occurred with regard to the construction of the barn and its use for the storage of motor vehicles unconnected to agriculture. It was also noted that no livestock was present during two site visits, albeit three ponies were on the site during the latter visit. The open grassland on the site could still feasibly be used for the purposes of agriculture and there are some hay bales and agricultural equipment on-site. However it is clear the use building is not connected to agriculture.
8. As the building does not accord with the approved scheme of development and the building is not being used for the purposes authorised in that permission, the building as a whole is considered to be unauthorised and in breach of planning control.
9. In addition to the above, the information submitted with the recent planning application stated that an area of road plainings deposited on the site (east of the barn) was to be removed. The retention of this area was not authorised by the 2016 planning permission and, as such, this section of road plainings remains unauthorised development. There have also been further patio slabs deposited in this area creating a further extended hard surface area.
10. Accordingly, the three breaches of planning control at the site consist of the timber building currently under construction, the barn (its construction and use) and the hard surfacing.

#### Action Pursued to Date

11. The site owner was not present at the initial site meeting, however an acquaintance was present and was advised of the planning position and it was requested that a message to contact the department be passed to the owner on his return.
12. A letter outlining the requirement for planning permission has been issued to the owner. No application for the retention of the unauthorised developments has been submitted to date.



## Planning History

13. The site benefits from the following planning history:

2016/00018/FUL: Land at Maes y Fro, Llysworney, Cowbridge - Agricultural barn, concrete yard and revised gate details - Refused, for the following reason:

*The proposed development is not reasonably necessary for the purposes of agriculture within the site and as an unjustified development it consequently would have a harmful impact upon the visual amenities and of the surrounding countryside. The proposal is therefore considered to be contrary to the countryside protection principles of Policy ENV1 – Development in the Countryside, EMP8 – Agricultural Enterprise and Associated Development and ENV27 – Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and national advice and guidance contained within Planning Policy Wales (Edition 8, 2016) and Technical Advice Note 12.*

2016/000361/FUL: Agricultural barn, crushed stone area and revised gate details. Approved: 27/05/16

## Policy

### **Local Development Plan:**

14. 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

*Strategic Policies:*

POLICY SP1 – DELIVERING THE STRATEGY

POLICY SP10 – BUILT AND NATURAL ENVIRONMENT

*Managing Growth Policies:*

POLICY MG17 – SPECIAL LANDSCAPE AREAS

POLICY MG22 – DEVELOPMENT IN MINERALS SAFEGUARDING AREAS

*Managing Development Policies:*

POLICY MD1 - LOCATION OF NEW DEVELOPMENT

POLICY MD2 - DESIGN OF NEW DEVELOPMENT

POLICY MD7 - ENVIRONMENTAL PROTECTION

POLICY MD14 – NEW EMPLOYMENT PROPOSALS

POLICY MD17 – RURAL ENTERPRISE

## Planning Policy Wales:

15. National planning guidance in the form of Planning Policy Wales (Edition 9, 2016) (PPW) and Minerals Planning Policy Wales (MPPW) – December 2000 are of relevance to the determination of this application.

*4.6.4 “the countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors.”*

## Technical Advice Notes:

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

- Technical Advice Note 6 – Planning for Sustainable Communities (2016)

*3.3.1 Planning authorities should examine particularly carefully applications for re-use of buildings erected under agricultural permitted development rights. This should alert them to the possibility that the building was in breach of planning control when it was substantially completed, because there was no genuine agricultural justification.*

- Technical Advice Note 12 – Design (2016)

*5.8.5: The scale, form and siting of new agricultural buildings or buildings for on- farm diversification, is usually influenced by the operational needs of the enterprise. Where possible, new buildings should be integrated within the farmstead. Elsewhere, particular care should be taken with siting, massing and detailed design to enable them to fit well into the landscape. The use of materials appropriate to the setting, attention to colours of materials and detailing can all facilitate integration into the landscape. The standard pattern book approach needs to evolve to accommodate vernacular elements and relate to the local context.*

- Minerals Technical Advice Note 1: Aggregates (MTAN1) – March 2004.

### **Supplementary Planning Guidance:**

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

- Design in the Landscape

*Policy DG14 – Design Principles: “Where practicable new farm buildings should be sited and grouped in such a way as not to dominate original farmsteads or the surrounding countryside...”*

18. In addition to the adopted Local Development Plan, the following background papers are of relevance:

- Agricultural Land Classification background paper (2015) (Also see LDP Hearing Session 1 Action Point 12 response).
- Designation of Special Landscape Areas (2013 Update)

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

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 24/97 - Enforcing Planning Control
- Welsh Government Development Management Manual – Section 14 Annex “Enforcement Tools”

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

19. 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.

### **Reasons for Serving an Enforcement Notice**

20. In the assessment as to the expediency of issuing an Enforcement Notice the principal issues are considered to be the visual impact of the unauthorised development listed in paragraph 10 above on the countryside and Special Landscape Area and the appropriateness of the vehicle storage use in this rural location.

21. The site is located within the open countryside and the Upper and Lower Thaw Valley Special Landscape Area. The designation of the land as part of the expanded SLA was formally introduced following the recent adoption of the Local Development Plan. The surrounding area is characterised by its openness, forming gently rolling hills and predominantly meadow, pasture or arable land. The border of the Special Landscape Area now co-terminates with the southern boundary of the site, however the open character of this predominantly agricultural landscape continues to south. The site in question is open agricultural land but is no longer tied to any nearby farmstead.
22. In relation to the visual impact and impact to the countryside the most relevant planning policies are considered to be MD1 (Location of New Development), MD2 (Design of New Development), MG17 (Special Landscape Areas), SP10 (Built and Natural Environment). Policy MD2 promoted good design in all new development, whilst Policy MD1 states that new development shall have no unacceptable impact to the countryside. Policy MG17 states that development proposals will be permitted where it is demonstrated that no unacceptable harm would occur to the important landscape character of the area.
23. The site is bounded by a fairly substantial hedgerow to the southern boundary and there is also some tree cover to the eastern boundary. It is possible to gain some glimpsed views of the site from the adjacent road, particularly in winter. The barn, access and road plainings are also visible from the site access leading to Maes y Fro. There is a public footpath to the east of the site; however the tree cover is such that the built development along the southern boundary is unlikely to be visible or prominent from any public viewpoints within the wider landscape due to the screening effect of mature vegetation and the local topography. Nevertheless, a lack of or limited public view of a development is not, in itself, a good argument in favour of permission, particularly in a sensitive location within the open countryside such as this.

***The barn and hard standing/hard surfacing:***

24. With regard to the design and visual impact of the building, as noted earlier, the construction of a barn was approved by planning application reference 2016/00361/FUL. The building has not, however, been constructed in accordance with the approved plans. The building is depicted in the photographs below:



25. The built barn is slightly larger than approved, measuring approximately 6.4m x 12.36m as opposed to the approved dimensions of 6.08m x 12.19m. The difference is possibly due to the inclusion of the external cladding within the on-site measurement, and the difference in size is not, therefore, considered to be unacceptable. There has also been a corrugated metal finished to the rear elevation, painted green. Whilst this renders the building utilitarian in its appearance, it is typical of modern agricultural buildings. It also has a canopy lip to the front, which is also considered acceptable, in principle. Notwithstanding this, whilst the large metal doors have an industrial appearance and are considered unsuitable, these face away from any public vantage points and do not render the building wholly unacceptable.

26. The conclusions with regard to the visual impact of the building are made in the context of a rural location for the building being justified in the first instance. After all, LDP policy MD1 ensures, *inter alia*, that new development is either located to reinforce the role and function of the Vale's settlements or, where appropriate, promotes new enterprise, etc. There was an agricultural justification put forward as part of the 2016 planning application which included a use for the storage of agricultural machinery and for lambing pens. However, this is not how the building or the land is currently being used. Instead, the building is being used for the storage of motor vehicles; there was no livestock present on the site.
27. The agricultural use of the site and proposed building was a particular consideration during the course of the most recent 2016 application, with the applicant having gone to considerable length to convince the Council that a building was justified to support the applicant during lambing and facilitate the expansion of the flock, on site, to number 30 sheep. It is appreciated that the livestock could be moved on and off site; however, the presence of motor vehicles within the barn not only prevents its use for agriculture, but indicates that there is not an agricultural need for a building of this size.
28. A vehicular storage use of the building, falling within class B8 of the Town and Country Planning (Use Classes) Order 1987, must be considered in the context of the LDP policies that relate to new employment uses in a rural location, outside of the settlement boundary. In this regard to the principle policies are MD1 – Locations of New Development, MD14 – New employment proposals and MD17 – Rural Enterprises.
29. As mentioned above, criterion 2 of Policy MD1 'Location of New Development' requires new development to reinforce the role and function of the settlements identified in the settlement hierarchy of the LDP as the key providers of, *inter alia*, commercial facilities. Being isolated from any settlements within the hierarchy, it is reasonable to conclude that the new use does not comply with criterion 2. In addition to this, the isolated location of the development does not support the aims of criterion 5 of policy MD1 in that it neither has access to nor promotes the use of sustainable modes of transport.
30. Turning to Policy MD14, it provides three circumstances within which new employment proposals that are not located on allocated employment sites will be permitted. All must be satisfied. These are as follows:
  1. **It is located within or adjacent to an existing settlement boundary, where the scale and type of employment use is complementary to its location and neighbouring uses; or**
  2. **Where the proposal is for an agriculture, forestry or rural enterprise where a need for a rural location is justified; or**
  3. **Where it is clearly demonstrated that the nature of the business necessitates a location away from existing settlements and/or employment areas in order to mitigate impact on amenity.**

31. Compliance with the first criteria is not achieved by virtue of the remote location of the site. As for the second criteria, the vehicle storage use is not one that requires a rural location. Accordingly, compliance with criterion 2 is not achieved. As for the final criterion, little noise would be generated by a vehicle storage use and, as such, there is no need for such a use to be located remotely.
32. LDP policy MD17 permits the development of small scale employment uses that promote rural enterprise providing, inter alia, that the proposal is part of a farm diversification scheme. Notwithstanding the absence of any obvious on-going agricultural use of the site, a use for vehicle storage is not one that could reasonably be considered to be a legitimate farm diversification activity.
33. Accordingly, a building used for the storage of vehicles in such a location is not considered to benefit from the provisions of LDP policies MD1 – Locations of New Development, MD14 – New employment proposals and MD17 – Rural Enterprises. The development is not, therefore, considered to accord with the Council's SPG on Sustainability, or the relevant national guidance provided in Planning Policy Wales (Edition 9) and Technical Advice Note 6 - Planning for Sustainable Rural Communities.
34. Whilst consent was given for the construction of a similar building, this was on the basis that it would support and facilitate the expansion of a small agricultural operation and not the erection of the building to facilitate the storage of motor vehicles. As set out above, this use is considered to be unjustified in relation to any particular local need and, as such, results in development that is also unjustified and unnecessary, thus being harmful to the character of the surrounding countryside and SLA. The vehicles types are those associated with recreational and industrial use, both out of keeping and detrimental to the character of the countryside. The barn and associated hardstanding have resulted in a detrimental impact and scarring on the landscape, for which there is no longer any rational justification. It was also indicated within the application that the area of road plainings was to be reduced more in line with the needs of the site. The removal of the plainings was considered necessary for the positive determination of the application, and served to reduce the amount of built development in line with the needs of the site. This work has not been carried out. There have also been other materials and paraphernalia (such as the patio slabs) stored on the site has no apparent agricultural use connected to this land.
35. In the assessment of planning application 2016/00361/FUL the following was also noted:

*“While the concerns of the community council in respect of the use of the land are appreciated, the application must be treated on its merits and on the basis of an assessment of what is proposed. Should the development be approved and carried out, and then should it materialise that the land/building is not being used for the purposes stated in the application (i.e. non-agricultural uses), then the Council has planning enforcement powers to take action against any unacceptable breach of planning control. It is, therefore, considered that this issue cannot fundamentally affect the merits of the application, where there is an agricultural need that does justify a small building.”*

36. It is considered expedient to pursue enforcement action in respect of a barn and associated hard surfaced areas that facilitate the storage of vehicles, due to the aforementioned negative impact associated with the proliferation of buildings with no mitigating benefits and the incompatible nature of the use for vehicle storage. The barn and associated hardstanding are also therefore considered to be unacceptable and contrary to Policies MD1 (Location of New Development), MD2 (Design of New Development), MD14 – (New Employment Proposals), MD17 – (Rural Enterprise) and MG17 (Special Landscape Areas).

***The timber building:***

37. The timber building (currently incomplete) has not been the subject of any application or notification to the Council. It is located to the far south-eastern corner of the site, away from the hardstanding and barn near the site access. The purpose and intended use have yet to be fully established. It is, anecdotally, likely to be used as a day room or shelter by the site owner. The location chosen, seemingly, to hide it from public view. The building is shown in the photographs below:







38. The building has no ostensible agricultural purpose and is of a domestic design, similar to a garden shed or residential outbuilding. It differs significantly from the character of both traditional stone agricultural buildings and more modern and utilitarian agricultural buildings and, as such, is out of keeping with the local landscape. It has also been located in the distant corner of the field. The 'Design in the Landscape' SPG promotes the grouping of agricultural buildings together. Adhering to this principle can reduce the cumulative visual impact of buildings in the countryside, preventing a scattering of built development across the open countryside.
39. Moreover, in considering new rural buildings and other development in the open countryside, the local economic, social and recreational needs of the local community are also material considerations and form a part of the balancing when assessing the visual impact. The proliferation of new buildings within the landscape, such as this, which have no particular economic justification or benefit to agriculture or other acceptable rural land uses, would have a very significant cumulative effect harmful to the character of the countryside.
40. With regard to the use of the building, whilst its final use is not clear at this stage, its design would suggest some form of domestic accommodation, rather than any form of functional use associated with a rural enterprise. In view of the current use of the larger building and the lack of any agricultural activity on this site, the use of the building in association with the current activities on the site is unjustified.
41. The building is also situated within Flood Zone B. The zone indicates that historic flooding has occurred in the corner of the field where the building is located, but does not necessitate that there is a current risk of flooding. It is nevertheless also within an area at risk of surface water flooding and this part of the field was very saturated at the time of the site visit. It does not appear, at present, to be a 'sensitive' development (such as residential) or that it would cause or contribute to local flooding in a significant way, but it nevertheless reinforces the conclusion that the building is irrationally located, being such a distance from the main barn and hardstanding near the site access.

42. It is considered that the timber building, given the domestic design, irrational location and likely use, is unjustified and significantly harmful to the local landscape character of the surrounding countryside and the landscape character of the Upper and Lower Thaw Special Landscape Area. It is, therefore, considered to be contrary to Policies MD1 (Location of New Development), MD2 (Design of New Development), MD14 – (New Employment Proposals), MD17 – (Rural Enterprise) and MG17 (Special Landscape Areas).

***Other matters:***

43. The site is located in a minerals safeguarding area for sand, gravel and limestone, as such the provisions of Policy MG22 (Development in Minerals Safeguarding Areas) is applicable to the development. It is noted that new development proposals in such areas are required to demonstrate that they will not prejudice the viable extraction of mineral resources in the future. The entirety of the operational development is considered to be unauthorised and as compliance with this policy has not been demonstrated, the development is considered to contravene this policy as it stands.

Conclusions

44. The unauthorised developments are not reasonably necessary for the purposes of agriculture within the site and as unjustified development they consequently have a harmful impact upon the visual amenity of the surrounding countryside and Special Landscape Area. The development also fails to demonstrate that the working of mineral deposits on the site have not been prejudiced and results in the loss of the best and most versatile agricultural land. The unauthorised development is, therefore, contrary to Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD14 – (New Employment Proposals), MD17 – (Rural Enterprise), MG17 (Special Landscape Areas) and MG22 (Development in Minerals Safeguarding Areas).
45. In view of the issues identified in the paragraphs above, it is considered expedient to pursue action.

Resource Implications (Financial and Employment)

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

Legal Implications (to include Human Rights Implications)

47. If an Enforcement Notice is served, the recipient has a right of appeal under Section 174 of the Town and Country Planning Act 1990 (as amended).

48. The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.

Equal Opportunities Implications (to include Welsh Language Issues)

49. None.

RECOMMENDATION

- (1) That the Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:
- (i) The cessation of the mixed use of the Land for agriculture and vehicle storage.
  - (ii) The demolition of the timber building and the removal of all materials arising from the demolition.
  - (iii) The demolition of the barn and the removal of all materials arising from the demolition.
  - (iv) The removal of all deposited road plainings and patio slabs.
  - (v) The reinstatement the Land to its former condition prior to the commencement of the development.
- (2) In the event of non-compliance with the Notice, authorisation is also sought to take such legal proceedings as may be required.

Reason for Recommendation

- 1) The unauthorised development is not reasonably necessary for the purposes of agriculture within the site and as unjustified development it consequently has a harmful impact upon the visual amenity of the surrounding countryside and Special Landscape Area. It also fails to demonstrate that the working of mineral deposits on the site have not been prejudiced and results in the loss of the best and most versatile agricultural land. It is therefore contrary to Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD14 – (New Employment Proposals), MD17 – (Rural Enterprise), MG17 (Special Landscape Areas) and MG22 (Development in Minerals Safeguarding Areas) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, together with Supplementary Planning Guidance on Design in the Landscape and Sustainability, Planning Policy Wales (Edition 9), Technical Advice Note 6 – Planning for Sustainable Communities (2016) and Technical Advice Note 12 – Design (2016).

- 2) The site is located in a minerals safeguarding area for sand, gravel and limestone. On the face of it, the permanent nature of the unauthorised development would prejudice the viable extraction of these mineral resources in the future. Accordingly, the unauthorised development is contrary to Policy MG22(Development in Mineral Safeguarding Areas) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, together with Minerals Planning Policy Wales (MPPW) – December 2000 and Minerals Technical Advice Note 1: Aggregates (MTAN1) – March 2004.
  
- 3) It is considered that the reason for issuing the Enforcement Notice is in accordance with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well Being of Future Generations (Wales) Act 2015.

### Background Papers

Enforcement File Ref: ENF/2017/0358/CCC

Contact Officer - Mr Ceiri Rowlands, Tel: 01446 704654

### Officers Consulted:

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

MARCUS GOLDSWORTHY  
HEAD OF REGENERATION AND PLANNING

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 5th February 2018**

#### **Report of the Cabinet Member for Regeneration and Planning**

#### **Review of the Implementation of LDP Policy MG4 and Affordable Housing Supplementary Planning Guidance**

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

1. Review of the Implementation of LDP Policy MG4 and Affordable Housing Supplementary Planning Guidance

##### **Recommendations**

1. That Cabinet note the findings of the review and endorse the proposed amendments to the SPG (attached at Appendix B).
2. That this report and the amended Affordable Housing SPG be reported to Planning Committee for their comments, and any comments / amendments proposed shall be reported back to Cabinet for further consideration. If no comments or amendments are proposed by Planning Committee, the amended SPG shall be adopted for development management purposes and replace the previous version of the SPG.

##### **Reasons for the Recommendations**

1. For Cabinet to consider the findings of the review and to support amendments to the Council's Affordable Housing SPG.
2. To seek the views of Planning Committee prior to adoption of the amended SPG.

##### **Background**

2. The Council's latest Local Housing Market Strategy (2015-2020) identifies a net annual need for 559 Affordable Housing units per annum over the study period (2015-2020), comprising of 331 social rented, 115 low cost home ownership (LCHO) and 113 intermediate rented dwellings. with the highest areas of need identified in Penarth and Barry, followed by Llantwit Major, Dinas Powys, Cowbridge, Rhoose, Sully, St Athan, Wenvoe, Peterston Super Ely, Llandow/Ewenny and St Bride's Major.
3. Policy SP4 of the Adopted Vale of Glamorgan Local Development Plan (LDP) sets a target for the provision of 3,252 affordable dwellings over the plan period 2011-2026 to help address the identified affordable housing need. The plan envisages that the

majority of the target (2,627 dwellings) shall be met through the delivery of affordable housing on sites allocated for residential development within the LDP, and the remaining 625 dwellings secured via large and small site windfall contributions.

4. Policy MG4 of the LDP is the Council's primary means of securing of affordable housing through the planning system. The policy identifies three tiers of threshold and percentage requirements that were identified in the Council's development viability evidence prepared in support of the LDP. For Barry the requirement is a 30% provision on sites of 5 or more dwellings. For Llantwit Major, Rhoose and St. Athan the requirement is 35% provision, again on sites of 5 or more dwellings. For the areas outside of these settlements Policy MG4 requires the provision of 40% affordable housing on sites resulting in a net gain of 1 dwelling (or a net gain of 2 dwellings where the development would involve the conversion of an existing building).
5. On small sites of less than 10 units the policy indicates that affordable housing contribution may be provided either on site or in the form of a financial contribution, or a combination of both. In all cases the policy indicates that the provision of affordable housing will be considered on a site by site basis taking into account development viability.
6. 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017. These policies (including Policy MG4 Affordable Housing) can only be amended through a formal review of the LDP, which includes independent examination by an appointed Inspector. It is anticipated the next formal review of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 will be 4 years following adoption i.e. 2021.
7. LDP Policy MG4 is supported by the Council's Affordable Housing Supplementary Planning Guidance, which was formally adopted by Cabinet on the 31st July 2017 following public consultation. The SPG provides further detail in respect of how the Council will implement the policy requirements of Policy MG4, and covers matters relating to the Council's use of section 106 agreements; the approach to off-site provision of affordable housing and financial contributions; and development viability. The SPG also provides further explanation of the Council's approach to rural exceptions site affordable housing. Whilst the policy itself is not expected to change until formal plan review in 2021 (and only then if the evidence supports a change) the Council can vary the way in which the policy is implemented through its Affordable Housing SPG. Therefore, it is important to keep this under review and consider the evidence around its implementation.
8. The requirement to provide affordable housing on major development sites is well established in the Vale of Glamorgan. As a matter of practice, the Council has sought affordable housing on sites of 10 or more dwellings since 2007. In doing so the Council has successfully secured a significant increase in the amount of new affordable housing being delivered through the planning system. However, in setting the threshold at 10, a significant proportion of smaller developments were failing to contribute towards the delivery of affordable homes, which are much needed in the Vale of Glamorgan. Small sites of fewer than 10 dwellings contribute approximately

8% of the housing supply in the Vale of Glamorgan (on average 57 dwellings per year) (LDP Policy MG1 refers).

## Relevant Issues and Options

9. This review report focuses on the impact of the change in policy implementation which seeks affordable housing on small sites (fewer than 10 dwellings), as implemented through Policy MG 4 and the Affordable Housing SPG. Anecdotal evidence and feedback received from applicants and planning agents who regularly operate in the Vale of Glamorgan, indicate that they feel the policy is likely to deter self-builders and small / medium housing developers from building in the Vale of Glamorgan. This review has sought to consider whether there is any evidence that this is the case.
10. In practice, the policy has been applied since January 2016 when Cabinet resolved to approve the previous draft Affordable Housing SPG for Development Management purposes. However, it has only had substantial weight since the formal adoption of the LDP in June 2017. Therefore, a review at this early stage in implementation needs to consider the relatively short time in which the policy has had to 'bed-in'. Residential development economics are complex and the market can take time to respond to changes in planning policy. There needs to be an appropriate balance found between allowing a policy the necessary time to 'bed-in' to allow the market to respond appropriately, balanced against the need to ensure that development is not hampered by overly restrictive or burdensome policy approaches that render development wholly unviable. In addition, developments often take several years to be implemented once permission is granted and many of the applications referred to below have only been granted consent within recent months.
11. To undertake this review, officers have considered planning applications that have been assessed under the new policy framework, and considered the effect the policy is having on those developments. The overall number of planning applications for minor residential developments does not appear to have been affected by the policy as it has fluctuated between 100-150 per year over the last decade.

## Implementation of Affordable Housing policy on small sites since Jan 2016

12. Since implementing this policy in January 2016, 7 planning applications for small sites (see Appendix A) have agreed to meet the policy requirements in full securing a total of **£444,071.40** which can be used to deliver new affordable housing in the Vale of Glamorgan. It should be noted that 1 of these developments has since submitted a new application seeking to remove the affordable housing requirement on the grounds of development viability, this application is undetermined to date.
13. A further 11 planning applications for small sites (see Appendix A) have not made provision for affordable housing because development viability was demonstrated to be an issue if an affordable housing contribution was required.
14. A number of applications have been refused planning permission because the applicant was unwilling to contribute towards affordable housing, and failed to present an appropriate viability case, and where they have appealed the results are summarised at **Appendix A**. They show that prior to the adoption of the LDP, various appeal decisions gave no weight to the draft affordable housing SPG or emerging LDP policy which clearly weakened the Council's ability to successfully implement the policy and draft SPG at that time. However, since the adoption of the LDP in June

2017, the Council has received support from the Planning Inspectorate in terms of its application of LDP Policy MG4 and this is encouraging.

15. The evidence demonstrates the policy is working effectively at present and there is no indication that the policy is deterring small sites from coming forward for development. However, this review has highlighted a number of ways in which the SPG could be amended to redress some of the concerns raised by the developers of small sites. These are set out throughout the report and included in an amended SPG attached at **Appendix B**.

### **Calculating Off-site Affordable Housing Contributions**

16. Whilst the policy preference is for affordable housing to be provided on site, Policy MG4 enables residential developments below 10 dwellings to provide affordable housing either on site, through a financial contribution or a combination of both. Offsite financial contributions are generally permitted where the level of proposed development would result in a contribution equal to less than a whole affordable unit, or where it is evidenced that on site provision is unviable.
17. The SPG sets out how the financial contribution is calculated based upon the Welsh Government's Affordable Housing Acceptable Cost Guidance (ACG) which is the notional development cost of an affordable home, and includes land acquisition. At present the amount of contribution required by the Council is set at the ACG equivalent to the size of dwelling being proposed. This is often a 4 or 5+ bedroom house as these smaller developments often involve building larger homes.
18. To illustrate how the contribution works in practice, based on current ACG amounts (updated January 2018) a scheme with 1 net gain in any of the minor rural settlements would require payment of a financial contribution shown below based on the size of dwelling relevant:
  - 7 person 4 bed house = £62,268.80
  - 6 person 4 bed house = £57,327.20
  - 5 person 3 bed house = £49,207.20
  - 4 person 3 bed house = £46,075.20
  - 4 person 2 bed house = £44,428.00
  - 3 person 2 bed bungalow = £43,639.20
  - 3 person 2 bed flat = £34,428.80
  - 2 person 1 bed flat = £27,770.40
19. It has been suggested that the application of the policy in this regard disproportionately favours large-scale developments over smaller projects. By comparison, on larger sites, developers make on-site provision of affordable housing with the range and mix being agreed in discussion with the Council's Housing Team and often involving the provision of smaller 1, 2 and 3 bedroom units to reflect the highest 'need' for affordable housing types in the area. The pro-rata cost of affordable housing is therefore generally less for larger developments. However, it should be noted that the other section 106 obligations, such as sustainable transport, education facilities, community facilities etc. are generally only sought on developments of 10 or more dwellings and on average equate to around £10,000 per unit. In addition on-site provision also has a land 'cost' to the developer.
20. To address this slight disparity it is recommended that the method for calculating off-site contributions is amended in the SPG so that the ACG value used is equivalent to the housing need identified in the locality i.e. if a proposal is for a 4 bed house but the



highest demand in housing need is for 2 bed houses, and this is what the Council would be seeking to use the contribution to build, then the contribution paid should be calculated on that basis. This would provide more equity between large and small-scale development proposals.

21. Therefore, it is proposed to amend the Affordable Housing SPG as follows:

*5.5 Commuted sums will be directly linked to what the contribution would have been if the affordable dwellings would have been on site, and calculated using the Welsh Government's current Acceptable Cost Guidance (ACG), this being the notional development cost of an affordable home, and includes land acquisition. For the Vale of Glamorgan the ACG band is 4 within Barry, Rhoose and St Athan areas and band 5 elsewhere. The ACG value will reflect ~~the type of market dwellings being proposed on the site~~ **the type of house that the Council would seek to build off-site to meet housing need in the locality** e.g. 2-bed flats or 4-bed houses. **Therefore, it is recommended that developers seek advice from the Council's Housing Strategy Team at an early stage so that the relevant need for house types / size can be established as part of the application process.***

### **Development Viability Considerations**

22. LDP Policy MG4 was written having regard to the viability evidence that was prepared to support the LDP. In setting strategic policy, it is recognised that it may not always be appropriate for all cases and there will be exceptional circumstances which negate policy compliance. The policy states: *"The provision of affordable housing will be negotiated on a site-by site basis taking into account the evidenced viability of the development."* As indicated at paragraph 12 above, the Council has received (and approved) a number of applications where viability has been demonstrated to negate the need for an affordable housing contribution.
23. At present Section 6 of the SPG provides advice on the amount and type of evidence required to demonstrate viability issues. However, this process can still be quite difficult, particularly for small site developers and self-builders who may not have the expertise to present this information. Therefore it is recommended to provide more help and support to applicants to enable them to demonstrate their case if viability is a genuine restraint on development, specifically limiting the opportunity to make provision for affordable housing.
24. A new annex to the SPG is proposed as a template to submit viability information to the Council setting out what is required. In addition, the amended guidance highlights the availability of planning officers to give specific advice about development viability matters and to assist in submitting the required evidence.
25. It is proposed to amend the Affordable Housing SPG as follows:

*6.1 Planning Obligations and affordable housing will have an impact on land values and landowner expectations, therefore the Council will expect that applicants have considered in full the overall cost of development, including the required planning obligations and any abnormal costs, when negotiating the purchase of land. The Council has developed this document alongside the Planning Obligations SPG to enable Developers to undertake this assessment. **A template is provided at Appendix A for developers to complete to demonstrate the viability assessment of their proposals and the Council's Section 106 Officer or Planning Case Officer will be able to provide advice and support to***

**applicants on the information required.** In addition the Council offers pre-application advice to Developers to fully establish the policy position in respect of these matters in advance.

### **Exemptions from the Affordable Housing Policy**

26. Policy MG4 exempts certain types of development which typically have more viability constraints than others, for example conversions only resulting in a net gain of 1 dwelling. Rural enterprise dwellings are in themselves a form of affordable housing (restricted by planning condition) that do not trigger the need for additional affordable housing contributions.
27. We have received representations suggesting that self-build homes should be exempt from paying affordable housing contributions. This is already the case with Community Infrastructure Levy (albeit this is not operational in the Vale of Glamorgan) as the Government recognised this exemption as a means to encourage self-build projects and prevent development sites being 'moth-balled'.
28. Whilst we do not specifically collect self-build data in the Vale of Glamorgan, an analysis of recent small scale developments suggests around 0-5 dwellings per year in the Vale are self-build plots. It is likely that the majority of these would be able to demonstrate viability issues under Policy MG4 in any event. Therefore, it is recommended that a self-build exemption is introduced as a mechanism to encourage more self-building in the Vale of Glamorgan. Such an exemption is unlikely to have a significant effect on the overall level of income received through the implementation of Policy MG 4. Nonetheless, this can be kept under review.
29. Therefore, a new section is proposed in the SPG setting out how the self-build exemption would operate in practice (see section 10 in the amended SPG at Appendix B).

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

30. This review and report has been carried out within existing budgets.
31. The affordable housing contributions sought through the planning system are an important source of funding for new affordable housing schemes in the Vale of Glamorgan, and once received and allocated to a project are part of the Council's Capital Programme.

### **Sustainability and Climate Change Implications**

32. Securing more affordable housing helps to create sustainable communities meeting local housing needs. There are no climate change implications from this report.

### **Legal Implications (to Include Human Rights Implications)**

33. Affordable Housing contributions are secured under Section 106 of the Town and Country Planning Act 1990 (as amended) and The Community Infrastructure Levy Regulations 2010.

### **Crime and Disorder Implications**

34. None applicable to this report.

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

35. In reviewing the implementation of the Affordable Housing SPG, the Council adhered to equal opportunities policies. An equalities impact assessment was carried out for the LDP and as the SPG is based upon the policies within the LDP it is determined that equal opportunities implications have been assessed sufficiently with regard to the review of the Affordable Housing SPG.

## **Corporate/Service Objectives**

36. The wellbeing objective for “Providing decent homes and safe communities “is included within the Corporate Plan (2016-20), the Affordable Housing SPG will contribute to meeting this objective (as detailed in the Service Plan for Regeneration and Planning 2017-18).

## **Policy Framework and Budget**

37. The policy framework for the SPGs is the Vale of Glamorgan Local Development Plan.

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

38. The wellbeing objective for “Providing decent homes and safe communities “is included within the Corporate Plan (2016-20), the Affordable Housing SPG will contribute to meeting this objective (as detailed in the Service Plan for Regeneration and Planning 2017-18).

## **Relevant Scrutiny Committee**

39. Environment and Regeneration  
40. Homes and Safe Communities

## **Background Papers**

The Adopted Vale of Glamorgan Local Development Plan 2011-26  
Affordable Housing Supplementary Planning Guidance 2017  
Local Housing Market Assessment 2015  
Planning Obligations Supplementary Planning Guidance 2017

## **Contact Officer**

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## **Officers Consulted**

Operational Manager Public Housing Services  
Lawyer, Legal Division  
Principal Accountant

## **Responsible Officer:**

Rob Thomas – Managing Director

## **Appendix A: Relevant planning applications since policy adoption**

### **Approved with full Affordable Housing contribution:**

2016/00027/FUL - Green Valley Farm, Trerhyngyll - Demolition of agricultural shed. Proposed 3 bedroom detached dwelling - £42,200.80, s106 signed 5/12/17

2016/00879/FUL & 2016/00878/FUL Llwyn Nwydog Farm, Cowbridge Road, Talygarn – conversion of holiday lets to dwellings - £87,256 - paid

2017/00044/FUL - Church Cottage, Aberthin Lane, Aberthin - Proposed demolition of existing dwelling and outbuildings. Construction of two new detached dwellings with improved site access - £57,211 – signed 04/09/17

2017/00188/FUL – Land within the curtilage of Kingfisher Hall, St. Nicholas - £57,211 agreed – signed 16/10/2017

2017/00307/FUL Court Farm, A48, Bonvilston - The erection of 1 No. residential dwelling - £57,211 agreed – pending signing of s106 agreement

2017/00712/FUL – Pwll y Min, Peterston Super Ely - two new, detached, two storey dwellings - £102,265.60 agreed – pending signing of S106 Agreement.

2017/00969/FUL The Bakehouse, Penarth – change of use and new build – net gain of 1 property - agreed £40,716 – pending signing of s106 agreement.

### **Approved without Affordable Housing contribution on viability grounds:**

1. A further 11 planning applications for small sites (listed below) have not made provision for affordable housing because development viability was demonstrated to be an issue if an affordable housing contribution was required.

2016/00415/FUL Land adjacent to 21, Sycamore Close, Dinas Powys – 3 bed bungalow – the site was considered unviable– no AH contribution

2016/00709/FUL 2, Cardiff Road, Dinas Powys – 1 dwelling - the site was considered unviable– no AH contribution

2016/01077/FUL – Pen Y Lan Road, Aberthin - Development of a three bedroom detached dwelling - the site was considered unviable– no AH contribution

2016/01224/FUL – Carpenters Arms, Eglwys Brewis - Change of use from public house to 5 no. residential dwellings - the site was considered unviable – no AH contribution

2016/01437/FUL - 62, Heol y Frenhines, Dinas Powys – 1 dwelling - the site was considered unviable– no AH contribution

2016/01453/FUL – 2 Llandilo Close, Dinas Powys - 1 dwelling - the site was considered unviable– no AH contribution

2016/01267/FUL Plot at Station Terrace, East Aberthaw – 2 dwellings – the site was considered unviable – no AH contribution

2017/00369/FUL - Meyrick House, St Nicholas - 1 net gain – the site was considered unviable – no AH contribution

2017/00377/FUL - The Anchorage, 38, Cog Road, Sully - 1 net gain – the site was considered unviable – no AH contribution

2017/00548/FUL 9 Paget Place, Penarth – 1 dwelling - the site was considered unviable – no AH contribution

2017/00854/FUL - 1, Harriet Street, Cogan, Penarth - 1 dwelling - the site was considered unviable– no AH contribution

### **Relevant appeal decisions on Affordable Housing before LDP adoption:**

#### **Court Farm, Bonvilston**

Proposal: Proposed 3 No. detached dwellings

Appeal Dismissed, 23 January 2017

Summary: Amongst other matters, the Inspector considered the lack of provision for affordable housing, which the Council were seeking in accordance with the draft Affordable Housing SPG. The Inspector was not satisfied that the Council was in a position to apply the draft SPG in relation to Affordable Housing. The Inspector noted the Local Development Plan Inspector's queries in relation to viability testing of the Affordable Housing Policy. The Inspector, therefore, gave the supplementary planning guidance little weight and did not find the lack of affordable housing a reason for refusal in this case.

#### **Land adjacent to Pond Villa, Llanmaes**

Proposal: Development of one dwelling house

Appeal Dismissed 6 March 2017

Summary: Amongst other matters, the Inspector considered whether the proposed development should make provision for affordable housing. The Inspector primarily relied upon Policy HOUS 12 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (adopted 2005) (UDP) which required developers to provide a reasonable element of affordable housing in substantial development schemes (defined as development of 50 or more dwellings). The Inspector acknowledged Policy MG 4 of the then 'emerging' Local Development Plan (LDP) which sought an affordable contribution and the draft supplementary planning guidance (SPG) to support the emerging policy. However, he noted that although the LDP was at an advanced stage it was not adopted. He commented that SPG provides guidance on how development plan policies will be applied but they cannot make new policy. He noted the Council's affordable housing SPG may have to change to reflect the adopted LDP and, consequently, gave it limited weight. Despite the need for affordable housing, the

Inspector concluded that the failure to make provision in this case did not conflict with Policy HOUS 12 of the development plan.

**Dimlands Waterpark House, Green Lane, Llanwit Major**

Proposal: Redevelopment of established industrial area for residential purposes

Appeal Dismissed 12 May 2017

Summary: As above the Inspector considered whether the proposed development should make provision for affordable housing. The Inspector primarily relied upon Policy HOUS 12 of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 (adopted 2005) (UDP) which required developers to provide a reasonable element of affordable housing in substantial development schemes (defined as development of 50 or more dwellings). The Inspector gave no weight to the draft supplementary planning guidance (SPG). The Inspector concluded that the failure to make provision in this case did not conflict with Policy HOUS 12 of the development plan.

**Relevant appeal decisions since LDP adoption:**

**Side garden of Glen View, 99, Penlan Road, Llandough**

Proposal: Construction of new detached house in garden of residential property

Appeal Dismissed 30 October 2017

Summary: The Inspector agreed that the development should provide a financial contribution towards the provision of affordable housing. As the development made no provision towards meeting the need for affordable housing, nor demonstrated that the scheme would otherwise be unviable, it conflicted with the LDP Policy MG4. The Inspector afforded no weight to the fall-back position of an extant planning permission for the site which was not subject to an affordable housing contribution. The appeal was therefore dismissed.

**10 Bridgeman Road (aka Ashdene Manor), Penarth.**

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

Appeal Dismissed, 27 November 2017

Summary: Under the provisions of the Development Plan, the Inspector noted that the scheme should provide for affordable housing under Policy MG4, equating to 3 on-site units, and an off-site contribution of £15,486 for affordable housing. Viability evidence was provided demonstrating that at this present time the proposal would be unviable if these requirements were sought and the Inspector agreed that it would therefore be unreasonable to seek a planning obligation on this basis. The Inspector considered it would be appropriate to bind the Developer to implementing a set amount of development within an agreed timeframe, so as to ensure the development is not merely commenced and then put on hold until market conditions improve development viability. Without such safeguarding, the Inspector concluded the development would not make adequate provision for affordable housing contrary to the development plan. The appeal was dismissed accordingly.

## THE VALE OF GLAMORGAN ADOPTED LOCAL DEVELOPMENT PLAN 2011-2026

### AFFORDABLE HOUSING

### SUPPLEMENTARY PLANNING GUIDANCE

(Amended Draft for Consideration by Cabinet)

January 2018

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## 1. Introduction

1.1 The purpose of this Supplementary Planning Guidance (SPG) is to set out the Council's approach to delivering affordable housing through the planning system. It sets out the Council's planning requirements and mechanisms for securing and delivering affordable housing within the Vale of Glamorgan.

1.2 This SPG updates and replaces the Council's previous Affordable Housing SPG (~~2006~~2017) and has been produced to support the policies of the Vale of Glamorgan Local Development Plan (LDP) which address the affordable housing needs within the Vale of Glamorgan as evidenced in the Council's latest Local Housing Market Assessment (LHMA 2015), and Affordable Housing Viability Assessment (AVHA 2015).

1.3 The SPG provides guidance on:

- The Council's requirements for affordable housing, including level of provision, type, tenure, size and standards of affordable housing sought from housing developments;
- The use of Section 106 agreements to secure affordable housing provision;
- The Council's approach to off-site provision of affordable housing and financial contributions;
- How issues surrounding development viability may be taken into account in respect of affordable housing provision; and
- The Council's approach to rural exception sites for affordable housing.

1.4 The SPG also summarises the key sources of evidence used to inform the Council on current levels of affordable housing and viability assessments used to justify the affordable housing contributions set out in the LDP and SPG.

### Status of this Guidance

1.5 The SPG was prepared as background evidence to the Public Examination of the Vale of Glamorgan Local Development Plan. ~~The SPG has been used as a material consideration for Development Management decisions, since 6<sup>th</sup> January 2016. Following public consultation was undertaken alongside the 6 week Matters Arising Changes or 'MAC' Consultation in September to October 2016. The SPG was amended in the light of consultation responses received and following any changes set out in the LDP Inspector's Report. The SPG~~the amended SPG was approved by Cabinet on 31<sup>st</sup> July 2017, ~~minute no. C48 refers and will to~~ be used as a material consideration in the determination of planning applications and appeals in the Vale of Glamorgan. Following a review of the SPG, it was amended and approved by Cabinet on XXX 2018.

## 2. National Policy Context

2.1 The National Planning Policy context for the provision of affordable housing through the planning system is set out in Planning Policy Wales (PPW)(Edition 9, 2016) and Technical Advice Note 2 (TAN) Planning for Affordable Housing (June 2006). Further advice is provided in 'Delivering Affordable Housing Using Section 106 Agreements – Practice Guidance' (2008) and 'Delivering Affordable Housing Using Section 106 Agreements: A Guidance Update' (2009).

2.2 PPW highlights the important contribution that affordable housing makes to community regeneration, social inclusion and in the development of sustainable communities. It requires Local Planning Authorities (LPAs) to have full understanding of the level of affordable housing need within their area, alongside development viability and the availability of public subsidy.

2.3 Paragraphs 9.2.16 and 9.2.17 set out the requirements for development plans in respect of the provision of affordable housing:

- *Development plans must include **an authority-wide target for affordable housing** (expressed as numbers of homes) based on the LHMA and identify the expected contributions that the policy approaches identified in the development plan (for example, site thresholds, site specific targets, commuted sums and affordable housing exception sites) will make to meeting this target. The target should take account of the anticipated levels of finance available for affordable housing, including public subsidy, and the level of developer contribution that can be realistically sought. In principle all new market housing may contribute to meeting the need for affordable housing.*
- *In their development plan local planning authorities should include either **site thresholds** or a combination of thresholds and **site-specific targets**. Local planning authorities should set site capacity thresholds for residential developments above which a proportion of affordable housing will be sought from developers. This applies both to sites specifically allocated in the development plan and to unallocated sites and will normally take the form of on-site affordable housing contributions. Site specific targets are indicative affordable housing targets for each residential site and for each mixed-use site which includes a residential component. For sites which fall below the site threshold local planning authorities may secure commuted sums using a section 106 agreement. Commuted sums should be used by the local planning authority solely for facilitating or providing affordable housing.*

2.4 In preparing this SPG the Council has taken into account the latest affordable housing viability work that supports the site capacity thresholds and targets contained within the SPG, consistent with the affordable housing requirements of the LDP.

### 3. Affordable Housing Need in the Vale of Glamorgan

3.1 The Vale of Glamorgan Local Housing Market Assessment (2015) provides the latest evidence on affordable housing need, identifying a net annual need for 559 Affordable Housing Units, comprising 331 social rented units and 228 units of intermediate housing, with the latter split between 115 low cost home ownership (LCHO) dwellings and 113 intermediate rented dwellings. The greatest need is for one and two bedroom properties, across all areas of the Vale of Glamorgan, although in some areas the LHMA identifies a requirement for 3 and 4 bedroom properties. However, in April 2019, with the introduction of further welfare reforms which will affect the affordability of one bedroom social rented properties for single applicants, it is anticipated that the need for one bedroom units will decrease.

3.2 In terms of spatial distribution, there is a general need for affordable housing across the Vale of Glamorgan, with the highest areas of need identified as Barry, Penarth and Llandough, followed by Llantwit Major, Dinas Powys, Cowbridge, Rhoose, Sully, St Athan, Wenvoe, Peterston Super Ely, Llandow/Ewenny and St Bride's Major (Table 1).

AREA	SOCIAL HOUSING	INTERMEDIATE RENT	LCHO	Total
Barry	66	33	50	149
Cowbridge	25	9	5	39
Dinas Powys	24	8	6	38
Llandow/Ewenny	8	2	2	12
Llantwit Major	26	6	9	41
Penarth & Llandough	101	30	21	152
Peterston-Super-Ely	8	2	2	12
Rhoose	17	8	6	31
St. Athan	11	1	8	20
St. Bride's Major	7	5	1	13
Sully	24	4	5	34
Wenvoe	14	4	0	18
Vale of Glamorgan	331	113	115	559
	70%	14%	16%	100%

3.3 Policy SP4 of the Adopted LDP identifies a target of up to 3,252 affordable homes across the Vale of Glamorgan over the Plan period in accordance with the findings of the Local Housing Market Assessment.

## 4. Planning Requirements for Affordable Housing in the Vale of Glamorgan

4.1 The Council's policy on affordable housing is set down in Policy MG4 of the Vale of Glamorgan LDP which states:

### **POLICY MG 4 - AFFORDABLE HOUSING**

RESIDENTIAL DEVELOPMENTS (INCLUDING MIXED USE SCHEMES) WILL BE REQUIRED TO CONTRIBUTE TO MEETING AFFORDABLE HOUSING NEED AND SHOULD MEET THE LEVELS OF AFFORDABLE HOUSING SET OUT BELOW:

30% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- BARRY.

35% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 5 OR MORE UNITS IN:

- LLANTWIT MAJOR ;
- RHOOSE; AND
- ST ATHAN.

40% AFFORDABLE HOUSING ON RESIDENTIAL DEVELOPMENTS RESULTING IN A NET GAIN OF 1 DWELLING OR MORE; OR THE CONVERSION OF EXISTING BUILDINGS RESULTING IN A NET GAIN OF 2 OR MORE DWELLINGS IN:

- COWBRIDGE;
- DINAS POWYS;
- LLANDOUGH;
- PENARTH;
- SULLY;
- WENVOE;
- THE MINOR RURAL SETTLEMENTS; AND
- THE RURAL VALE OF GLAMORGAN.

THE PROVISION OF AFFORDABLE HOUSING WILL BE NEGOTIATED ON A SITE BY SITE BASIS TAKING INTO ACCOUNT THE EVIDENCED VIABILITY OF THE DEVELOPMENT.

ON SITES OF 10 OR MORE DWELLINGS AFFORDABLE HOUSING SHALL BE PROVIDED ON SITE, UNLESS EXCEPTIONAL CIRCUMSTANCES ARE DEMONSTRATED, WITH THE REQUIREMENT BEING ROUNDED UP TO THE NEAREST WHOLE NUMBER. ON SITES OF FEWER THAN 10 DWELLINGS THE AFFORDABLE HOUSING REQUIREMENT WILL BE CALCULATED AND ANY WHOLE UNITS SHALL BE PROVIDED ON SITE, UNLESS EXCEPTIONAL CIRCUMSTANCES ARE DEMONSTRATED, WITH THE RESIDUAL AMOUNT BEING PROVIDED AS AN EQUIVALENT FINANCIAL CONTRIBUTION. OFF-SITE CONTRIBUTIONS RECEIVED WILL BE USED TO DELIVER ALTERNATIVE AFFORDABLE HOUSING IN THE VALE OF GLAMORGAN.

CONTRIBUTIONS WILL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS SET OUT IN THE COUNCIL'S AFFORDABLE HOUSING SPG, WHICH PROVIDES GUIDANCE ON VIABILITY AND THE CIRCUMSTANCES UNDER WHICH CONTRIBUTIONS MAY BE VARIED OR REVIEWED.

4.2 For the purpose of Policy MG4 the requirements shall apply to those areas within the delineated settlement boundary of the relevant settlement cited, as shown on the Proposals Map. The 'Rural Vale of Glamorgan' means the area outside any defined settlement boundary. Development sites adjoining or close to the settlement boundaries of Barry, Llantwit Major, Rhoose and St. Athan will be treated as the 'Rural Vale of Glamorgan' and will be expected to deliver 40% affordable housing, unless the developer provides viability evidence to justify an alternative.

4.3 Policy MG4 shall apply to all self-contained dwellings (i.e. all uses that fall within class C3 the Use Class Order) including C3 residential elements of mixed use schemes as well as self-contained units for people of pensionable age (e.g. 'retirement' apartments), and supported/sheltered housing or extra care developments where these are not affordable housing in their own right i.e. developed by a Registered Social Landlord (RSL). An exception is Rural Enterprise dwellings that would not be expected to make a contribution to affordable housing as these do not benefit from normal market conditions and are subject to the planning condition suggested in Technical Advice Note 6 that require them to be retained as rural enterprise dwellings or otherwise become 'affordable housing' in perpetuity. [The Council has also introduced an exemption for self-build properties \(see Section 10 below\).](#)

4.4 On sites of 10 or more dwellings, where the percentage of affordable housing does not equate to a whole number, the requirement will be assumed to be a minimum and therefore, the figure should be rounded up to the nearest whole number, unless it is demonstrated that the requirement undermines the viability of the development, which is considered in more detail below. The approach on smaller sites is explained below at section 6.

4.5 Development Viability as set out in section 6 below will be considered for any application triggering an affordable housing contribution. If a development viability appraisal satisfactorily demonstrates that a reduced contribution should be sought, then this will be considered as set out in section 6.

#### **Subdivided and phased development sites**

4.6 Where a site is subdivided, the Council will treat such sites in their totality if the schemes, together, would accommodate more than the relevant number of dwellings. Under such circumstances, each subdivided plot will be required to provide a contribution towards the relevant obligation proportionate to its size and relative to the overall site requirements for affordable housing. If sites are proposed in such a way as to undermine the delivery of affordable housing, this could lead to a refusal of planning permission. For outline planning applications a commitment to the delivery of affordable housing will be necessary at this stage and will be secured through a Section 106 Agreement, and then detailed in any subsequent Reserved Matters application.

4.7 Where developments are proposed which fall short of the threshold by up to 10%, it will be necessary for the Local Planning Authority to consider whether this is deliberate underdevelopment of the site to avoid the affordable housing threshold. If so, there is planning case law to support a stance that the requirement should be applied.

4.8 As a general rule LDP Policy MD 7 (Housing Densities) sets out that a minimum density of 30 dwellings per hectare will be considered appropriate to most sites, with a lower density of 25 dwellings per hectare being appropriate in the minor rural settlements. However, site specific or contextual constraints may make lower densities necessary and this will need to be considered by the Local Planning Authority on a site by site basis.

## Funding arrangements

4.9 Traditionally, the funding for the delivery of affordable housing has come from subsidy in the form of grant funding available from Welsh Government, such as Social Housing Grant (SHG). However, as a result of the increased levels of affordable housing need across Wales and reduced levels of public subsidy available, the Welsh Government is now placing greater emphasis on the planning system to deliver affordable housing through developer subsidy.

4.10 Consequently, in order to satisfy the Council's affordable housing requirements, developers and landowners should, in the first instance assume that no grant or other funding sources are available. Indeed the Council's viability assessment prepared as evidence for the LDP Examination tested development viability with zero grant availability, and therefore the Council considers that in most cases the absence of grant funding should not be an issue with regard to development viability in the Vale of Glamorgan.

4.11 Having regard to the findings of the Council's Local Housing Market Assessment (2015) (LHMA), and the evidence on development viability, the Council will usually seek a tenure split of 70% social rented housing and 30% intermediate housing, which may be intermediate rent or low cost home ownership. Both tenures are delivered differently and require a different amount of developer subsidy, as set out below. However, tenure mix can be considered on a case by case basis where evidence suggests that the Council's preferred mix is not appropriate or deliverable.

4.12 The Council will use the Welsh Government's Acceptable Cost Guidance (ACG), which sets out the cost at which RSLs should expect to build **social rented housing** for within the Vale of Glamorgan. These costs are based upon construction costs for Social Housing.. The developer will be required to subsidise the affordable housing units at a rate of 58% of ACG in line with the level of funding otherwise secured through SHG. In other words, the price a Registered Social Landlord (RSL) will be expected to purchase a social rented property for will be no more than 42% of the relevant ACG figure for that type of property in that location. ACG figures are published by the Welsh Government and are available on their website<sup>1</sup>.

4.13 **Intermediate properties** are usually purchased at 70% of the Open Market Value (OMV) of the relevant property which is usually determined once the OMV of the units can be reasonably established on the development. Such matters should be agreed between the developer, the RSL and the Council in light of appropriate evidence. Therefore, the level of developer subsidy for intermediate properties is usually 30% OMV for the relevant property.

## Section 106 Agreements

4.14 Affordable Housing will normally be secured by means of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended). These are usually between a local planning authority and developers or land owners and specify that a proportion of the dwellings to be built on site are built and thereafter maintained as affordable housing. Section 106 agreements run with the land as a land charge and apply to successive owners.

<sup>1</sup> <http://gov.wales/docs/desh/publications/150401-acceptable-cost-guidance-en.pdf>

4.15 Section 106 agreements will normally specify:

- The number or percentage, type and tenure mix of affordable homes to be provided on the site;
- The amount and timing of any financial contribution to be paid in lieu of on-site delivery (if appropriate);
- The control and management of the housing to ensure it is secured in perpetuity which will usually be by the transfer of the affordable homes to a registered social landlord and any hand-over arrangements;
- The occupancy of the housing which will be reserved for people in housing need according to criteria determined by the Welsh Government and the Council;
- The location and phasing of affordable housing provision in relation to the development of the site and any trigger points when affordable housing must be provided; and
- Arrangements for the fall-back provision of financial contributions in lieu of on-site provision in exceptional circumstances and arrangements for unusual circumstances such as mortgage default.

## Mix and Types of Affordable Housing

### House Types

4.16 The Council's Local Housing Market Assessment highlights the need to provide a range of dwelling sizes across the Vale of Glamorgan, with the greatest current demand being for 1 and 2 bedroom properties. Some of this demand can be attributed to Central Governments ongoing welfare reforms and the removal of the Spare Room Subsidy, more commonly known as the "Bedroom Tax", which has significantly increased the need for one and two bedroom properties, to allow people to downsize from unsuitable and increasingly unaffordable properties. However, it is acknowledged that in April 2019 with the introduction of further welfare reforms which will affect the affordability of one bedroom social rented properties for single applicants, it is anticipated that the need for one bedroom units will potentially decrease. The Council will continue to seek to provide a mixture of dwelling sizes and, in some circumstances, may look to negotiate a proportion of dwellings suitable for older persons such as bungalows or supported housing. However, the house type and mix should also reflect the overall house type mix of the development proposed such that the affordable housing integrates well with the overall development.

4.17 In terms of the types of properties developed the Council's preference is likely to be for two bedroom properties to be provided in the form of houses since flats are largely unsuitable to meet the needs of households with children. Where smaller 1 or 2 bedroom properties are located within flatted developments, these should be provided in the form of walk up flats as they offer long term sustainability for tenants. In order to establish the actual dwelling mix and type, it is recommended that developers seek advice from the Council's Housing Strategy Team at an early stage so that the tenure and mix preferences can be established as part of the application process.

## Tenure Mix

4.18 The Council's Local Housing Market Assessment revealed that the greatest affordable housing tenure need within the Vale of Glamorgan is Social Rented, followed by Low Cost Home Ownership (LCHO) and Intermediate Rent. Accordingly, the Council will usually 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. The Council's viability appraisal prepared to inform LDP Policy MG4 considered this tenure ratio when establishing the impact of affordable housing on development viability across the Vale of Glamorgan. However, on smaller sites where the affordable housing provided would be a single unit, the Council will require this to be social rented dwelling.

4.19 **Social Rented Housing** is rented housing owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime.

4.20 **Intermediate Housing** is that which is available to either rent or purchase at prices above those of social rent, but below market prices, providing an important role in bridging the gap between social and affordable rented homes and owner occupation, hence the term "intermediate". This tenure includes Intermediate Rented dwellings and Low Cost Home Ownership dwellings.

4.21 **Intermediate Rented Dwellings** are generally set at or below Local Housing Allowance (inclusive of service charges), set by Welsh Government for the Vale of Glamorgan.

4.22 **Low Cost Home Ownership (LCHO)** can take the form of shared equity, shared ownership and HomeBuy schemes. A number of RSL's within the Vale of Glamorgan are also members of the "Homes Within Reach Scheme" a shared equity home ownership scheme for first time buyers. These schemes enable a household to purchase an equity share (initially a minimum 70%) and the remaining equity is retained by an RSL, although purchasers are offered the opportunity to purchase the property outright in the future, known as "staircasing". To enable the mortgage to be at an affordable rate, the purchase price of the LCHO unit is discounted against open market values

4.23 It is vitally important to the Council for all affordable housing secured through the planning system to be made financially accessible particularly to those household on lower incomes who cannot afford open-market housing. The Council shall therefore usually require open market housing to be discounted at 30% below open market value. In areas of the County where there is a particularly pronounced affordability problem, with higher house price to income ratios, developers will be encouraged to consider setting the price at a lower level of market value. The legal agreement will ensure the same discount from full price is used in all future sales of the property. This will be considered on a site by site basis, based upon average house prices, income evidence and housing need in the area.



## 5. Delivering Affordable Housing Provision & Commuted Sums

### Onsite and Offsite Provision

5.1 At paragraph 12.5 TAN 2 states: "The strong presumption is that affordable housing secured through planning obligations will be provided on the application site so that it contributes to the development of socially mixed communities. Development plans (or SPG) should set out the exceptional circumstances where provision may not need to be on an application site (for example where the management of the affordable housing cannot be effectively secured)."

5.2 In line with the above advice, the Council will normally expect developments to deliver affordable housing on development sites, usually in the form of units built for and transferred to the Council or a Registered Social Landlord. LDP Policy MG4 specifies this to be required unless exceptional circumstances are demonstrated as to why this cannot be achieved, such as:

- Insurmountable development viability issues caused or exacerbated by the affordable housing requirements;
- Site specific circumstances which would make affordable housing delivery and/or management extremely difficult; or
- There is a demonstrable local over-supply of affordable housing and/or severe shortage of affordable housing elsewhere in the Local Authority Administrative Area that could be best catered for through off-site contributions to deliver affordable housing in the areas of highest need.

5.3 Where it has been established (see viability section below) that affordable housing cannot (or should not) be secured on site, the second preferred approach will be off-site provision that is where the equivalent amount of affordable housing is delivered by the developer on an alternative suitable site. In such cases, a site should be identified, have secured planning permission and be delivered within an agreed timescale to coincide with the delivery of the 'parent' market housing site. Developers will be expected to demonstrate that they have made reasonable efforts to identify appropriate alternative sites for the delivery of off-site affordable housing in the area. The Council would expect, as a minimum, the developer to have contacted the Council's Housing Division to consider the delivery of off-site affordable housing via this arrangement, and undertaken an appropriate site search in the locality prior to dismissing this method.

### Commuted Sums

5.4 Where the delivery of affordable housing cannot readily be delivered either on or offsite, a financial contribution in lieu of on-site provision may be accepted and would need to be secured through a Section 106 Agreement.

### Establishing the value of the commuted sum payment

5.5 Commuted sums will be directly linked to what the contribution would have been if the affordable dwellings would have been on site, and calculated using the Welsh Government's current Acceptable Cost Guidance (ACG), this being the notional development cost of an affordable home, and includes land acquisition. For the Vale of Glamorgan the ACG band is 4 within Barry, Rhoose and St Athan areas and band 5 elsewhere. The ACG value will reflect the type of house that the Council would seek to build off-site to meet housing need in the locality type of market dwellings being proposed on the site e.g. 2-bed flats or 4-bed houses. Therefore, it is recommended that developers seek advice from the

Council's Housing Strategy Team at an early stage so that the house type / size can be established as part of the application process.

The table below shows the current ACG values at the time of adoption of this guidance, which are periodically updated by Welsh Government.

Figure 1: Welsh Government Acceptable Cost Guidance (~~January 2018~~April 2015)

Home	Band 1	Band 2	Band 3	Band 4	Band 5
7P4B H	198,400	213,400	228,400	248,400	268,400
6P4B H	187,800	200,500	213,200	230,100	247,100
5P3B H	160,700	171,700	182,700	197,400	212,100
4P3B H	150,500	160,300	171,100	184,800	198,600
4P2B H	143,400	153,200	164,000	177,700	191,500
3P2B B	128,900	141,600	154,300	171,200	188,100
3P2B F	124,400	129,500	134,700	141,500	148,400
2P1B F	98,300	102,900	107,500	113,600	119,700

UNIT TYPE		BAND 1	BAND 2	BAND 3	BAND 4	BAND 5
7P4B	HOUSE	176300	191300	206400	226500	246600
6P4B	HOUSE	166500	179200	192000	209000	226000
5P3B	HOUSE	142600	153600	164700	179400	194200
4P3B	HOUSE	133500	143900	154200	168000	181900
4P2B	HOUSE	127100	137500	147800	161600	175500
3P2B	BUNGALOW	115200	128000	140700	157700	174700
3P2B	FLAT	109400	114500	119700	126600	133500
2P1B	FLAT	86600	91200	95800	101900	108000
1P1B	BEDSIT	64800	68500	72200	77100	82000

5.6 Where the Council agrees that a commuted sum payment is appropriate this will be calculated on the basis of the below formula:

$$\text{Affordable Housing Contribution (AHC)} = \text{ACG } \text{£ per unit} \times \% \text{ SHG} \times \text{N}$$

Where:

- ACG= Acceptable Cost Guidance per dwelling, related to dwelling type and occupancy (e.g. 2 person 1 bed flat) for different cost bands in Wales, being the current ACG published by the Welsh Government. For the Vale of Glamorgan, the ACG bands are 4 and 5.

- % SHG= Social Housing Grant rate. This is normally expressed as the total proportion of actual scheme costs that will be funded by WAG, usually being 58%
- N= Number of affordable housing units (at parity and rounded to the nearest whole unit).

5.7 On sites of 1 or 2 dwellings a commuted sum is more likely in a practical sense to deliver affordable housing through payment of a financial contribution in lieu of on-site provision. On sites between 3 and 9 dwellings, the Council will expect some affordable housing to be provided on site, with financial contributions to be paid where the number of dwellings does not equate to a whole number.

5.8 Within the Barry, Llantwit Major, St. Athan and Rhoose housing market areas the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 5 or more dwellings to provide an element of affordable housing:

### Barry

On sites between 5-9 dwellings, requiring **30%**, this would work as follows:

- 5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.5)
- 6 dwellings – 5 market units and 1 affordable units plus contribution (AHC x 0.8)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.1)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.4)
- 9 dwellings – 7 market units and 2 affordable unit plus contribution (AHC x 0.7)

### Llantwit Major, Rhoose, St. Athan

5.9 On sites between 5-9 dwellings, requiring **35%**, this would work as follows:

- 5 dwellings - 4 market units and 1 affordable unit plus contribution (AHC x 0.75)
- 6 dwellings – 4 market units and 2 affordable units plus contribution (AHC x 0.1)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.45)
- 8 dwellings - 6 market units and 2 affordable unit plus contribution (AHC x 0.8)
- 9 dwellings – 6 market units and 3 affordable unit plus contribution (AHC x 0.15)

### The rest of the Vale of Glamorgan

5.10 Within the rest of the Vale of Glamorgan the Council's Affordable Housing policy requires all residential sites resulting in a net gain of 1 or more dwellings to provide an element of affordable housing:

In areas with a **40%** requirement, this would work as follows:

- 1 dwelling - financial contribution only (AHC x 0.4)
- 2 dwellings – financial contribution only (AHC x 0.8)
- 3 dwellings – 2 market units and 1 affordable unit plus contribution (AHC x 0.2)
- 4 dwellings - 3 market units and 1 affordable unit plus contribution (AHC x 0.6)
- 5 dwellings - 3 market units and 2 affordable units
- 6 dwellings – 4 market units and 2 affordable units plus contribution (AHC x 0.4)
- 7 dwellings - 5 market units and 2 affordable units plus contribution (AHC x 0.8)

8 dwellings - 5 market units and 3 affordable unit plus contribution (AHC x 0.2)  
9 dwellings – 6 market units and 3 affordable unit plus contribution (AHC x 0.6)  
10 dwellings - 6 market units and 4 affordable units

### Tenure split for on-site provision

5.11 In term of on-site requirements for small sites, the tenure split for small sites would reflect the 70:30 tenure split as elsewhere, as follows:

1 dwelling = social rented  
2 dwellings = 1 x social rented, 1 x Intermediate  
3 dwellings = 2 x social rented, 1 x Intermediate  
4 dwellings = 3 x social rented, 1 x Intermediate

### How will commuted sums be spent?

5.12 At paragraph 12.5 TAN 2 states: “any off-site provision of affordable housing or a financial contribution in lieu of on-site provision must contribute towards the objective of providing affordable housing. This could be achieved by bringing existing housing back into use for affordable housing or supporting the delivery of affordable housing on another site (either for 100% affordable housing or another site where affordable housing is to be provided).”

5.13 The Council will seek to make the most effective use of any financial contributions for affordable housing, taking into account the availability of suitable opportunities at the time they are received. The following list of potential spending options is not in order of priority nor is it exhaustive, and may change over time, depending on needs and opportunities. Affordable housing contributions may be used to:

- Support the renewal of existing Council housing stock;
- Support specific initiatives to regenerate the existing housing stock, e.g. empty property grants.
- Support Registered Social Landlords (RSLs) or the Council to purchase suitable properties on the open market and adapt them for affordable housing
- Fund the purchase of land for development by a RSL or the Vale of Glamorgan Council for affordable housing; and
- Support site development and / or construction costs on land already owned by the Council or RSL - to bring forward development and/or improve tenure mix and enhance affordability for rental and affordable home ownership options.

5.14 The Council may combine financial contributions from different sites if appropriate and will spend contributions in the way that best achieves the Council's and local communities' priorities for affordable housing. The number of units resulting from expenditure may be more or less than the units used to calculate the contribution as dwelling types, tenure, specifications and other aspects will vary from scheme to scheme.

5.15 Section 106 agreements will include a clause requiring the Council to refund any unexpended financial contributions to the developer within a set timeframe. For affordable housing contributions, this

will normally be a minimum of 10 years from the date of receipt. This reflects the complex nature of delivering affordable housing, including the time taken to identify appropriate sites and to identify a partner for delivery and future management of the affordable housing.

## 6. Reviewing Development Viability

6.1 Planning Obligations and affordable housing will have an impact on land values and landowner expectations, therefore the Council will expect that applicants have considered in full the overall cost of development, including the required planning obligations and any abnormal costs, when negotiating the purchase of land. The Council has developed this document alongside the Planning Obligations SPG to enable Developers to undertake this assessment. A template is provided at Appendix A for developers to complete to demonstrate the viability assessment of their proposals and the Council's Section 106 Officer or Planning Case Officer will be able to provide advice and support to applicants on the information required. In addition the Council offers pre-application advice to Developers to fully establish the policy position in respect of these matters in advance.

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6.2 Where a site is still under option it will always be expected that the policy requirements can be met provided that the scheme is not abnormally costly or abnormally under value for the area. These costs should be reflected in the price that the developer purchases the site for so ensuring that the proposed development site is economically viable to meet the Council's affordable housing requirements. If there is any doubt about viability on a particular site, it will be the responsibility of the developer to offer the land owner less for the site, or to maximise the mix on site to achieve policy prior to entering into discussions with the Council.

6.3 In setting its planning policies for affordable housing and other planning obligations, the Council has undertaken strategic viability assessments which demonstrate that, in most cases, the Council's policy requirements are achievable and realistic. This will be the starting point for negotiations and therefore, the burden of proof shall lie with the developer to demonstrate why there are extraordinary viability constraints on their development.

6.4 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) states that Local Planning Authorities should be clear about those situations where the Council will be willing to accept reduced planning obligations or affordable housing contributions and notes that in some cases it may be appropriate for an authority to refuse to agree these (paragraph 5.4 refers). The Council considers that reduced planning obligations or affordable housing contributions will only be justified on the grounds of development viability where there is sufficient planning merit weighing in favour of the development, such as:

- The delivery of a strategically important development site in the context of the Local Development Plan;
- There are unusual or extraordinary site constraints affecting viability that must be overcome for the site to be developed and the development would be in the wider public interest (e.g. protection of a listed building, contaminated land, urban renewal project etc.) or
- The development itself is being used as a means of delivering / subsidising a mixed use, commercial or community project (in the public interest) which would not be deliverable without financial support.

6.5 In order to demonstrate that a reduction in the affordable housing provided is absolutely, necessary to make a development financially viable and deliverable, the Council will require the applicant to

undertake a full and robust Development Viability Appraisal for assessment by the Council, which can then be used for negotiating a reduction in affordable housing or other planning obligations.

6.6 Before commencing with a site viability appraisal, the Council will require evidence from the developer that shows that they have fully considered ways that may reduce development costs and/or increase the scheme value to enable the scheme to deliver the required level of affordable housing. Such measures may include consideration of alternative site densities, dwelling mixes and tenure, site layouts, landscaping and construction specifications. Consultation with RSLs can also help ascertain design standards which will be expected for affordable units, which can help with developing accurate costs.

### **Development Viability Appraisal Requirements**

6.7 The Council can only make sound judgments about site specific development viability on the basis of full and robust development appraisals. Therefore, the Council will require applicants to provide the following detailed information. The level of supporting evidence required (i.e. valuations, costs reports etc.) will depend upon how far the viability inputs deviate from acceptable parameters based on industry norms. Any 'assumptions' must be clearly explained and justified.

6.8 The evidence will be assessed on whether the figures prove that the scheme would be unviable if it were to meet all affordable housing and other planning obligation requirements. Where an applicant wishes for some information to be kept confidential in the interests of commercial sensitivity this should be clearly stated and the submission will not be made publically available without the developer's consent, though it will be referenced in Planning Committee reports if being relied upon to justify a departure from planning policy.

6.9 All information submitted will need to be independently verified by either a suitably qualified quantity surveyor with local market knowledge and/or the District Valuer, the cost of which should be borne by the developer. Information should be set out under the headings below so that this can be cross referenced back to the Wales Development Appraisal Toolkit. Developers should only provide those costs applicable to their development.

#### **(i) General Requirements:**

- The Council's policy requirements should be the starting point for applicants and viability appraisals should work backwards from this. The Council will expect land transactions to reflect policy, rather than the other way around.
- Evidence should be provided to show what consideration has been given to alternatives in order to improve viability. Such measures can include altering development densities, layout, dwelling tenure, and design and build specifications.

#### **(ii) Development incomes / Revenues**

##### **Open Market Sales Income**

Projected sales values should be evidenced by either a bespoke valuation provided by an independent chartered surveyor (RICS), using the red book valuation approach, or three local estate agent market appraisals specific to the unit type and location. Recent sales evidence of comparable development sites should be submitted in support of these assumptions.

#### **Social Rented and Intermediate Tenure Income**

Projected values of rented units to be sold to an RSL must be based on what an RSL would pay taking into account the maximum rent levels and reasonable costs associated with managing and maintaining the properties. In respect of LCHO the value of units to be sold to an RSL, will be required to take into account the relevant required discount percentage from open market value (as set out in section 5 of this SPG).

#### **Any other potential revenues to the scheme, such as**

- Grant/subsidy
- Ground rents
- Cross subsidy from a commercial element

#### **(iii) Development costs**

Cost estimates should be provided by a Quantity Surveyor or other suitably qualified professional. Build costs should be provided as £ per m<sup>2</sup> of Gross Internal Area (GIA) and should cover sub and super structure. This will be different for different types of dwelling (e.g. flats compared with housing; conversion compared with new-build).

#### **(iv) External works and infrastructure.**

Site Preparation/Demolition – site preparation/prelims and a reasonable allowance for demolition is included within BCIS so additional cost should not be included in this section if BCIS data is used. If substantial demolition is required the costs should be evidenced by quotes. Written evidence will be required to support site infrastructure costs/external works, such as the following:

- Roads and sewers
- Services (power, water, gas, telecommunications and IT)
- Strategic landscaping
- Off-site works
- Public open space
- Site specific sustainability initiatives
- Plot specific external works

#### **(v) Professional fees.**

These may include fees for planning application(s), land acquisition, architect, planning agent, quantity surveyor, building control and stamp duty.

#### **(vi) Finance costs (including how these have been calculated).**

Details of project finance, related to phasing of construction and sales, should be clearly set out. The proportion of the overall cost to be met by securing bank loans, and the rate of interest applicable to

these, should be included in the open book assessment. Developer internal overheads are often included within developers return/profit, however, where these are shown as a separate item they should be reflected in the reasonable projected profit margin.

**(vii) Fees relating to the marketing and sale of the units.**

These may include the reasonable costs of sales (e.g. marketing agent commission) and legal input for the sale or transfer of units. These costs must be benchmarked in line with current industry standards and phased appropriately.

**(viii) Abnormal/exceptional development costs.**

Any developer buying a site would be expected to undertake a proportionate amount of due diligence work to ensure that the price paid for the land reflects the prevailing conditions. Whilst the following may be considered as 'abnormal costs' the Council would expect the land transaction price to reflect these costs:

- demolition works - included in external works and infrastructure
- noise bunds
- knotweed removal
- decontamination
- archaeological and ecological surveys
- land stabilisation
- drainage and flood prevention measures

The above list is not exhaustive, and it is recognised that there may be other genuine unknown abnormal/exceptional development costs. All costs will need to be robustly evidenced.

**(ix) Build contingency.**

The Council recognise that an inclusion of a contingency allowance to cater for the unexpected is often necessary. The amount is usually reflected as a percentage of the construction build cost, dependent upon the nature of the development and associated risk. The developer will be required to justify the level of contingency included within their viability appraisal.

**(x) Land Value Benchmark and /or Land Acquisition Cost**

The Council will need to agree with the applicant an appropriate Land Value Benchmark (LVB). Normally the LVB will be the Existing Use Value (EUV) of the site, although in some instances an AUV (Alternative Use Value) may be considered appropriate. A reasonable amount of uplift from EUV will be expected to incentivise a landowner to release land for development, and typically this would be expected to be between 10-20% more than existing use values.

Examples of EUV are agricultural value, or industrial value; typically £10,000 per hectare and £200,000 per hectare respectively in South Wales. The Council will consider the uplift and whether returns to land owner are competitive. Normally a 10 to 20 fold increase in value from agricultural is considered viable (Homes and Communities Agency Area Wide Viability Model).



The Council will be receptive to cases where an applicant has property evidence an existing use value. But this must be based on the current use value and not hope value for residential or any other use.

**(xi) Developer margin / profit**

The developer margin on open market units should be shown as a % of the Gross Development Value (GDV). Developer margin on affordable units should be shown as a % of costs. The level of developer profit will reflect the degree of risk to the developer. The required profit margin should be fully justified. For affordable units the level of profit should be significantly less than for open market units, to reflect the lower risk profile. Typically, the level of developer profit on the open market housing will be between 15% and 20% depending on the prevailing market conditions, the site specific circumstances and the degree of risk involved. Typically, the level of developer profit on the affordable housing would be around 6%.

Where a developer is seeking a reduction in affordable housing or other planning obligations, they should be prepared to be flexible on the amount of developer profit and should not expect to protect a 20% profit margin at the expense of affordable housing or planning obligations. A balanced approach should be taken to have regard to both the commercial interests of the developer and the public interest being secured through planning obligations and affordable housing delivery.

**(xii) Phasing**

In some cases, a phased approach will be recommended. The anticipated build period should be stated, along with an estimate of projected sales values and projected development costs for the period of the build. The applicant should state whether the affordable housing or other planning obligation requirements have been front loaded in their appraisal.

**Mechanisms for Dealing with Development Viability Issues**

6.10 Following the independent validation of the evidence provided, the Council will assess the viability of the development against the land value benchmark under consideration. Where the Council is satisfied that the development cannot meet the affordable housing requirement the Council will discuss with the developer the options available to achieve economic viability. Before exploring the potential for either off site provision or a commuted sum payment, the council will also consider the balance between seeking affordable housing and its other planning obligation requirements and wider strategic planning issues.

6.11 In considering how planning obligations will be prioritised, the Council will consider the specific needs arising from the development, using the following categories:

**Essential Infrastructure** required to enable the development of the site e.g. Transport infrastructure and services for pedestrians, cyclists, public transport and vehicular traffic; service and utilities infrastructure; ecological mitigation (where a protected species is affected by the development) and flood prevention.

**Necessary Infrastructure** which includes:

- Infrastructure required to mitigate the impacts of the proposed development on local services and to provide for the needs generated by the development, where they cannot be met by existing facilities e.g. educational facilities; community facilities; healthcare facilities; public open space and recreational facilities.
- The delivery of affordable housing to meet local need.
- Infrastructure required to satisfy the Council's aim of delivering high quality developments that bring environmental and other benefits to the Vale of Glamorgan e.g. public art; environmental protection and enhancement; town centre regeneration; pollution management; historic renovation; recycling and waste facilities.

This categorisation should only be relevant where the developer has demonstrated that the development cannot deliver all of the Council's planning obligation requirements because of viability constraints.

6.12 The Welsh Government guidance on Delivering Affordable Housing Using Section 106 Agreements, A Guidance Update (2009) identifies a range of mechanisms which aim to enhance scheme viability while guarding against the developer/landowner 'pocketing' an advantageous planning permission, which they implement when development viability improves. The Council endorses this guidance, which also states that reducing or otherwise altering planning obligations (including affordable housing requirements) should not be agreed without such mechanisms in place. Appropriate mechanisms include:

- Altering the affordable housing delivery on site, including the tenure mix or phasing which may assist to release early capital receipt;
- Re-phasing planning obligations;
- Reduced obligations associated with a time-limited permission;
- Reviewing obligations through the life of a permission; or
- A deferred payment arrangement.

6.13 The Council will seek to agree with developers, which is the most appropriate mechanism on a case by case basis.

## **7. Affordable Housing in Rural Areas**

### **Rural Exceptions Affordable Housing**

7.1 The Council recognises that communities need housing to meet their local housing requirements and in many of the small villages in the Vale of Glamorgan, it may only be possible to provide housing of an appropriate scale on sites outside the existing built up area, traditionally in the way in which settlement patterns have evolved to what they are today.

7.2 Consequently, within the smaller rural communities, where it would not normally be appropriate to develop housing because of limited availability of facilities and services, there may be circumstances where the provision of housing to meet a local need outweighs these factors.

7.3 Such proposals are commonly described as “rural exceptions housing”, where permission is granted solely for affordable dwellings that are built to meet the housing needs of the immediate village or community ward within which the housing is proposed. Before the Council will grant planning permission for affordable housing on a rural exception site, it must therefore be satisfied that there is an evidenced need for affordable housing in the locality. LDP Policy MD10 sets out criteria against which these proposals will be assessed.

#### **POLICY MD10 – AFFORDABLE HOUSING DEVELOPMENTS OUTSIDE SETTLEMENT BOUNDARIES**

SMALL SCALE AFFORDABLE HOUSING DEVELOPMENTS WILL BE PERMITTED OUTSIDE SETTLEMENT BOUNDARIES WHERE THEY HAVE A DISTINCT PHYSICAL OR VISUAL RELATIONSHIP WITH AN EXISTING SETTLEMENT AND WHERE IT IS DEMONSTRATED THAT:

1. THE PROPOSAL MEETS AN IDENTIFIED LOCAL NEED WHICH CANNOT BE SATISFIED WITHIN IDENTIFIED SETTLEMENT BOUNDARIES;
2. THE NUMBER OF DWELLINGS IS IN PROPORTION TO THE SIZE OF THE SETTLEMENT;
3. THE PROPOSED DWELLING(S) WILL BE OF A SIZE, TENURE AND DESIGN WHICH IS COMMENSURATE WITH THE AFFORDABLE HOUSING NEED;
4. IN CASES WHERE THE DWELLING IS TO BE PROVIDED BY EITHER A PRIVATE LANDLORD OR THE INTENDED OCCUPIER, SECURE MECHANISMS ARE IN PLACE TO ENSURE THE PROPERTY SHALL REMAIN AFFORDABLE IN PERPETUITY; AND
5. THE DEVELOPMENT HAS REASONABLE ACCESS TO THE AVAILABILITY AND PROXIMITY OF LOCAL COMMUNITY SERVICES AND FACILITIES.

7.4 Additionally, the Council will expect rural exception sites to:

- Comply with local and national planning policy,
- Be of a scale appropriate to the size and character of the individual village concerned and the level of services and facilities available in the village
- Demonstrate that the affordable housing could not reasonably be provided elsewhere on a site allocated for residential development
- Undertaken consultation with the community or ward council and local residents
- Be subject to a “local lettings and sales policy” developed in partnership with the local Community Council (see below), and remain affordable in perpetuity.

#### **Cross-subsidised Rural Exceptions Housing**

7.5 In exceptional circumstances, the Council may allow rural exception housing to include an element of market housing where it is clearly demonstrated that the market housing element is essential to the delivery of the affordable housing, by increasing the viability of the development and incentivise landowners to bring forward sites, rather than maximising development value.

7.6 In this regard proposals must be affordable housing led and the tenure mix of both the market and affordable dwellings are aligned with local need. Accordingly, it is expected that the market housing element should seek to address any particular shortages of property types and sizes locally. Such

proposals will be restricted to sites of less than 10 dwellings and the housing mix strictly controlled to a ratio of at least 70% affordable dwellings to 30% market dwelling.

7.7 The Council will expect such proposals to involve a RSL so as to ensure that the affordable housing element of the scheme remains available to those in local need; at an affordable rate initially and in perpetuity; and is managed appropriately. Other providers may be considered if it can be demonstrated satisfactorily that the affordable housing will be retained as such in perpetuity.

### **Local Community Engagement**

7.8 The Council will expect that all rural affordable housing proposals to be developed in partnership with the local community. This can be achieved through effective community engagement at the pre-application stage to take into account of the view of local residents and the community council as well as explore any alternatives and the earliest stages. When submitting a planning, applicants should provide a brief statement outlining the measures undertaken to engagement with the community and how the proposal has taken on board any feedback received.

7.9 Engagement with the Community Council may also provide the opportunity to discuss any specific housing needs of the community, as well as the scope of criteria to be considered in the local lettings criteria (see below) to enable priority for affordable housing to be given to existing residents and those who have a local connection to the area. In this regard, the Council has its own rural housing enabling officer who seeks to deliver rural exception sites, working alongside Community Councils, local communities and landowners and can assist in this process.

### **Local Connection Criteria and Cascade Arrangements**

7.10 Affordable Housing in the Vale of Glamorgan is allocated via the Homes4U lettings scheme. Homes4U 'bands' applicants according to their housing need and members are then able to 'bid' for properties they wish to live in.

7.11 Within rural areas the Council uses a local letting criteria, developed in partnership with RSL's and the local Community Council's to identify the priorities that will be given to the allocation of affordable housing lettings and in the determining of what qualifies as a local connection. Local lettings and sales policies will apply to all new affordable housing, including social housing and low cost home ownership properties developed in the rural Vale.

7.12 The purpose of the local connection criteria is to ensure that priority for affordable housing is given ensuring affordable housing meet the needs of the local resident population and wherever possible provide for the needs of the immediate community. For this reason, all rural schemes will be subject to a Local Lettings Policy.

7.13 In all cases relevant occupancy controls will be included within a section 106 legal agreement to ensure than the local connection criteria applies to initial and subsequent occupants.

### **Agricultural Workers and Rural Enterprise Dwellings**

7.14 Where proposals for new dwellings in support of an agricultural business or rural enterprises are justified and found to satisfy the assessment tests of Technical Advice Note 6 Planning for Sustainable Rural Communities, it will be necessary to ensure that the dwellings are kept available for this need. Accordingly, the dwelling(s) shall be subject to occupancy conditions restricting occupation to those

employed in either agriculture or a rural enterprises; and where it is shown that the dwelling is no longer required for such purposes, the dwelling will be made available to persons eligible for affordable housing under the Council's housing policies<sup>2</sup>.

## 8. Design Considerations

8.1 The Council is determined to ensure that affordable housing should not imply substandard accommodation, poor quality design or materials. Affordable housing should blend in with the neighbouring open market housing in order that they are integrated properly whilst providing quality and choice in the neighbourhood. Consequently, in order to facilitate greater social mix and enable a greater variety in building form and design, the different types of affordable houses will be dispersed throughout the site, in clusters of no more than 10 dwellings unless the Council agrees that the amount of affordable housing and the nature of development makes this impractical or undesirable.

8.2 The identification of the affordable housing areas will be secured through a Section 106 agreement and where relevant require the involvement of a RSL at the outset to ensure that the completion and occupation of the affordable housing groups is phased in relation to the market housing.

8.3 In this regard, the ratio of market dwellings to affordable housing to be completed and available for occupation at any time should normally be no more than 3:1. This will ensure a phased development of a mixed and integrated development.

8.4 Attention should be given to the complementary policies contained within the LDP, relevant development briefs or other supplementary planning guidance (e.g. amenity standards and parking standards). This will ensure that the design, layout and development standards that apply to other residential development proposals are maintained within affordable housing schemes, are appropriate to the residential character of the area, and provides a satisfactory standard of accommodation.

### Development Quality Requirements (DQR)<sup>3</sup>

8.5 The Council will require all new and refurbished social rented and intermediate housing built for RSLs for the purposes of affordable housing, including LCHO, irrespective of whether Social Housing Grant is received to be designed and built in accordance with the standards set out by the Welsh Government 'Development Quality Requirements: Design Standards and Guidance, July 2005'. DQR cover issues such as space, standards, accessibility, energy efficiency and security. The Council accepts that it might not always be viable for developers to satisfy all planning obligation requirements and ensure that all affordable units are designed and built to DQR standard. Where a developer can robustly demonstrate that the DQR standard will adversely impact the viability of the development, and the Council is satisfied, the Council will negotiate this requirement. However, this will only be negotiated following the submission of a full and verified viability appraisal and on a site by site basis.

### Secured By Design<sup>4</sup>

8.6 The WG requires all homes funded by Social Housing Grant to be built to "Secured by Design" standards. These are provided in the Welsh Assembly Design Quality Requirements and Standard

<sup>2</sup> Technical Advice Note 6 Planning for Sustainable Rural Communities (paragraph 4.13.1)

<sup>3</sup> <http://gov.wales/topics/housing-and-regeneration/publications/devqualityrequire/?lang=en>

<sup>4</sup> <http://www.securedbydesign.com/industry-advice-and-guides/>

Contract Documentation ([www.securedbydesign.com](http://www.securedbydesign.com)). When RSLs are considering developing a site, they are required to discuss at the outset how to incorporate Secured by Design standards with their Police Force Design Out Crime Officer.

## 9. Schemes for 100% Affordable Housing of 25 units or less

9.1 On 5th September 2016, Cabinet agreed that schemes for 100% affordable housing developments of twenty-five residential units or less delivered either by the Council or its four Housing Association Partners (Hafod Housing, Newydd Housing, United Welsh Housing and Wales & West Housing) will be exempt from paying financial planning obligations (Minute C3271 refers).

9.2 Historically, for the majority of 100% affordable housing developments financial contributions were usually sought for sustainable transport, education, public open space, community facilities and public art, in order to mitigate the impact of such a development, in accordance with the Council's Planning Obligations SPG and evidence contained with the LDP background papers. However, due to the relatively limited subsidy available and the overall cost of delivering new affordable housing, such contributions often made sites marginally unviable. Consequently, this approach seeks to maximise the use of Council funding and any subsidy available to RSLs, in order to maximise the delivery of affordable housing units.

9.3 This approach does not seek to waive any necessary 'in kind' contributions necessary to make a development acceptable in planning terms. There may still be site-specific impact mitigation requirements, without which a development should not be granted planning permission. Some of these needs may be provided for through planning obligations, particularly if they are very local in their impact. Each individual scheme will be considered on its own merits, on a site by site basis.

9.4 It is recognised that the lack of section 106 financial contributions for matters such as sustainable transport, public open space, community facilities and education will inevitably lead to pressure from future residents for those service areas to meet their needs through their own budgets as service providers. However, there is a critical need in the Vale of Glamorgan for affordable housing and previous research has shown that if a person does not live in a stable and good quality home, it can have a detrimental impact on both their health and educational attainment. Therefore this is a policy decision to prioritise affordable housing over other service areas.

## 10. Exemption for Self Build Housing Developments

10.1 The Council recognise that the self-build housing industry is important to the economy and has been delivering sustainable, innovative and custom-designed homes for many years. It is recognised that self-build housing provides an important route into home ownership for individuals who want to play a role in developing their own homes, whilst also contributing to overall housing provision. Therefore, the requirement to pay an off-site affordable housing contribution is not applicable for self build housing developments.

10.2 This exemption applies to a person(s) building a new house as a Self Build Dwelling, meaning a dwelling built, or commissioned to be built, by a person, who will occupy it as their sole or main residence for a minimum period of 3 years from first occupation. A Section 106 Agreement will still need to be entered into requiring the payment of an Affordable Housing Contribution, unless an exemption is claimed and approved by the Local Planning Authority. The procedure is set out below:

### Procedure

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A person who wishes to benefit from the exemption for a Self-Build Dwelling must submit a claim in accordance with the following provisions.

### Stage 1

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(1) The claim must:

(a) be made by a person who intends to build, or commission the building of, a new dwelling, and intends to occupy the dwelling as their sole or main residence for the duration of the Clawback Period (meaning a period of 3 years from the date of first Occupation of the Self Build Dwelling);

(b) be received by the Council prior to the commencement of the development;

(c) be submitted on a specified Form (Appendix B) and include the information specified or referred to in the form;

(2) A claim under this policy will lapse if the development to which it relates is commenced prior to the Council notifying the claimant of its decision on the claim;

(3) As soon as practicable after receiving a valid claim the Council shall grant the exemption and notify the claimant in writing of the exemption granted;

(4) A claim for an exemption for a Self-Build Dwelling is valid if it complies with the requirements of paragraph 1.

(5) A person who is granted an exemption for a Self-Build Dwelling ceases to be eligible for that exemption if a commencement notice is not submitted to the Council before the day the development is commenced.

### Stage 2

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(1) Within 6 months of the date of Occupation of the Self-Build Dwelling the claimant must submit a specified form (Form 2 Appendix B) to the Council confirming that the development is a Self-Build Dwelling.

(2) The submitted Form 2 must include the information specified or referred to in the form and be accompanied by the documents specified or referred to in the form [NB – Documents will be two of the following: Utility bill; Bank Statement; Council Tax bill; or Local Electoral Roll Registration]

### Stage 3

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(1) On the first, second and third anniversary of the date of Occupation of the Self Build Dwelling the claimant must submit a specified form (Form 2 Appendix B) to the Council confirming that the development remains a Self-Build Dwelling.

(2) The submitted Form 2 must include the information specified or referred to in the form and be accompanied by the documents specified or referred to in the form [NB – Documents will be two of the following: Utility bill; Bank Statement; Council Tax bill; or Local Electoral Roll Registration]

**Withdrawal of the Exemption for Self-build housing**

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(1) A Self Build Dwelling will cease to be eligible for the exemption if a Disqualifying Event occurs before the end of the Clawback Period

(2) For the purpose of this paragraph a Disqualifying Event is:

(i) the sale of the Self Build Dwelling;

(ii) the letting out of the Self Build Dwelling;

(iii) a failure to comply with the provisions of Stage 2 or Stage 3 of the procedure set out above.

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(3) If a Disqualifying Event occurs the exemption for the Self Build Dwelling is withdrawn, the Relevant Person is liable to pay the Affordable Housing Contribution pursuant to the s.106 Agreement.



Appendix A

**Development Viability Assessment Template**

Date Prepared: \_\_\_\_\_

<u>1. Overview and proposed scheme details</u>	
<u>Site Address</u>	
<u>Current Use of Site</u>	
<u>Gross Site Area (Hectares)</u>	
<u>Net Developable Area (Hectares)</u>	
<u>Existing constraints impacting on the net developable area</u>  (e.g. levels constraints, flood zone, noise impact, protected trees etc.)	
<u>2. Details of Proposed Scheme</u>	
<u>Description of development</u>  e.g. Development of 2 no. dwellings	
<u>Dwelling type (including house type and no. of bedrooms)</u>	
<u>Size of dwellings (internal floorspace) (sqm)</u>	

<u>Number of storeys</u>	
<u>Dwelling tenure (affordable / market split)</u>	
<b>3. Gross development value (GDV)</b>	
<u>Anticipated residential sales values and/or rental estimates*</u>  <u>*Residential sales values and/or rental estimates should be evidenced by either a bespoke valuation provided by an independent chartered surveyor (RICS), using the red book valuation approach, or three local estate agent market appraisals specific to the unit type and location. Recent sales evidence of comparable development sites should be submitted in support of these assumptions.</u>	
<u>Any existing income that will continue to be received over the development period</u>	
<u>Anticipated grant funding for affordable Housing*</u>  <u>*This will only be applicable where an affordable housing unit is provided on site and where grant is available.</u>	
<u>Anticipated value of affordable units (with supporting evidence/explanation of how these have been valued and assumptions)*</u>  <u>*This will only be applicable where an affordable housing unit is provided on site.</u>	
<b>4. Development Costs</b>	
<u>Estimated build costs (supported by a full QS cost report also showing how costs have been estimated)</u>	
<u>Demolition costs</u>	

<u>Site preparation costs</u>	
<u>External works / Infrastructure costs (only include those costs not included elsewhere such as estimated build costs)</u>	
<u>Any anticipated abnormal/exceptional costs and evidence to support such costs</u>	
<u>Finance costs (usually a percentage of market value)</u>	
<u>Marketing fees (usually a percentage of market value)</u>	
<u>Development Programme i.e. construction period, marketing period.</u>	
<u>Contingency (usually reflected as a percentage of the construction build cost).</u>	
<u>Professional fees (Usually a percentage of build costs) such as:</u> <ul style="list-style-type: none"> <li><u>– Architect</u></li> <li><u>– Planning consultant</u></li> <li><u>– quantity surveyor</u></li> <li><u>– structural engineer</u></li> <li><u>– mechanical/electrical engineer</u></li> <li><u>– project manager</u></li> </ul>	
<u>Developer profit on market housing (usually a percentage of GDV)</u>	
<u>Developer profit on affordable housing (usually a percentage of development cost)</u>	
<u>5. Planning Obligation Costs</u>	

<p><u>Planning Obligation costs*</u></p> <p><u>*See Planning Obligations SPG for details and discuss with Planning Department to verify site-specific requirements.</u></p>	
<p><u>6. Site Value / Acquisition Costs</u></p>	
<p><u>Site value / acquisition cost*</u></p> <p><u>The developer will need to justify that the site value appropriately reflects the market value having regard to planning policy and any unusual site constraints</u></p>	
<p><u>7. Residual development value</u></p>	
<p><u>Residual value</u></p> <p><u>(development value minus development costs)</u></p>	

The following supporting evidence should be attached to the above completed template:

- Valuation report provided by an independent chartered surveyor, or three local estate agent market appraisals specific to the unit type and location.
- Recent sales evidence of comparable development sites to support valuation assumptions
- Development cost report provided by an independent Quantity Surveyor including a full breakdown of costs
- Justification for contingency allowance (e.g. site / development risk appraisal)
- Justification for professional fees (e.g. consultants quotes)
- Justification for the anticipated profit level (e.g. site / market risk appraisal)
- Any other supporting information relevant to evidence constraints on the site affecting costs or values of the development.

## Development Viability Assessment Template (Example)

Date Prepared: 4<sup>th</sup> January 2018

<u>8. Overview and proposed scheme details</u>	
<u>Site Address</u>	<u>Land adjacent to Little Cottage, Green Village</u>
<u>Current Use of Site*</u>	<u>Paddock for horses next to existing house</u>
<u>Gross Site Area (Hectares)</u>	<u>0.03 hectares</u>
<u>Net Developable Area (Hectares)</u>	<u>0.03 hectares</u>
<u>Existing constraints impacting on the net developable area</u>  <u>(e.g. levels constraints, flood zone, noise impact, protected trees etc.)</u>	<u>N/A</u>
<u>9. Details of Proposed Scheme</u>	
<u>Description of development</u>  <u>e.g. Development of 2 no. dwellings</u>	<u>Development of 1 no. dwelling</u>
<u>Dwelling type (including house type and no. of bedrooms)</u>	<u>1 x 3-bed detached house</u>
<u>Size of dwellings (internal floorspace) (sqm)</u>	<u>148 sqm</u>
<u>Number of storeys</u>	<u>2</u>
<u>Dwelling tenure (affordable / market split)</u>	<u>100% Market</u>

<u>10. Gross development value (GDV)</u>	
<u>Anticipated residential sales values and/or rental estimates*</u>  <u>*Residential sales values and/or rental estimates should be evidenced by either a bespoke valuation provided by an independent chartered surveyor (RICS), using the red book valuation approach, or three local estate agent market appraisals specific to the unit type and location. Recent sales evidence of comparable development sites should be submitted in support of these assumptions.</u>	<u>£325,000 (see supporting evidence from local estate agent valuations)</u>
<u>Any existing income that will continue to be received over the development period</u>	<u>None</u>
<u>Anticipated grant funding for affordable Housing*</u>  <u>*This will only be applicable where an affordable housing unit is provided on site and where grant is available.</u>	<u>N/A</u>
<u>Anticipated value of affordable units (with supporting evidence/explanation of how these have been valued and assumptions)*</u>  <u>*This will only be applicable where an affordable housing unit is provided on site.</u>	<u>N/A</u>
<u>11. Development Costs</u>	
<u>Estimated build costs (supported by a full QS cost report also showing how costs have been estimated)</u>	<u>£237,600 (see QS breakdown of costs)</u>
<u>Demolition costs</u>	<u>None</u>
<u>Site preparation costs</u>	<u>None</u>
<u>External works / Infrastructure costs (only include those costs not included elsewhere such as estimated build costs)</u>	<u>£15,000 for utilities connections</u>

<u>Any anticipated abnormal/exceptional costs and evidence to support such costs</u>	<u>£25,000 for land engineering works and retaining works (see supporting surveyor' report)</u>
<u>Finance costs (usually a percentage of market value)</u>	<u>£14,898</u>
<u>Marketing fees (usually a percentage of market value)</u>	<u>£5,850 (1.5% plus VAT)</u>
<u>Development Programme i.e. construction period, marketing period.</u>	<u>1 year</u>
<u>Contingency (usually reflected as a percentage of the construction build cost).</u>	<u>None</u>
<u>Professional fees (Usually a percentage of build costs) such as:</u> <u>– Architect</u> <u>– Planning consultant</u> <u>– quantity surveyor</u> <u>– structural engineer</u> <u>– mechanical/electrical engineer</u> <u>– project manager</u>	<u>£27,760 (10% of build costs)</u>  <u>£1,800 legal fees</u>
<u>Developer profit on market housing (usually a percentage of GDV)</u>	<u>£41,640 (12.8%)</u>
<u>Developer profit on affordable housing (usually a percentage of development cost)</u>	<u>N/A</u>
<u>12. Planning Obligation Costs</u>	
<u>Planning Obligation costs*</u>  <u>*See Planning Obligations SPG for details and discuss with Planning Department to verify site-specific requirements.</u>	<u>None</u>
<u>13. Site Value / Acquisition Costs</u>	

<u>Site value / acquisition cost*</u>  <u>The developer will need to justify that the site value appropriately reflects the market value having regard to planning policy and any unusual site constraints</u>	<u>£36,250</u>
<u>14. Residual development value</u>	
<u>Residual value</u>  <u>(development value minus development costs)</u>	<u>-£80,798</u>  <u>(£405,798 - £325,000)</u>

Note: In this example development viability is clearly an issue even without the requirement for an affordable housing contribution.

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Appendix B

Self Build Exemption Claim Forms



The Vale of Glamorgan Council,  
Dock Office, Barry Docks, Barry, CF63 4RT  
Tel: (01446) 700111  
Email: [planning@valeofglamorgan.gov.uk](mailto:planning@valeofglamorgan.gov.uk)

### Self Build Exemption Claim Form Part 1

An exemption for a self build home must be submitted on this form and approved by the Vale of Glamorgan Council **prior to the commencement of the development**. The applicant will otherwise be liable for the affordable housing contribution specified in the Section 106 Agreement.

Part 2 of this form must be submitted to the Vale of Glamorgan Council within six months after the completion of the development, and thereafter on the first, second and third anniversary of the date of Occupation of the Self Build Dwelling confirming that the development remains a Self-Build Dwelling. For the avoidance of doubt, a 'Self Build Dwelling' means a dwelling built, or commissioned to be built, by a person, who will occupy it as their sole or main residence for a minimum period of 3 years.

Please complete the form using BLOCK capitals and black ink and send to the Vale of Glamorgan Council.

#### Section A: Claiming Exemption - General Information

*(To be completed by the individual(s) claiming self build exemption)*

##### 1. Application Details

Applicant  
Name:

Planning Portal Reference (if applicable):

Local authority planning application number (if allocated):

Please provide the full postal address of the application site:

If postal address/postcode not known, please provide grid reference:

Easting:

Northing:

Description of Development:

## Section B: Self Build Declaration

I declare that this a "self build project" for purposes of the exemption

I declare that I will occupy the premises as my sole or main residence for a period of 3 years from completion of the property

I declare that I will provide the required supporting documentation as set out in 'Self Build Exemption Claim Form Part 2' within 6 months of completion of the property and I understand failure to do this will result in the affordable housing contribution becoming payable

*'Self Build' for the purposes of this exemption is defined as all homes built or commissioned by individuals or groups of individuals for their own use, either by building the home on their own or working with builders.*

*'Completion' for the purposes of this exemption is defined as the issuing of a compliance certificate for this development issued under The Building Regulations 2010 or the Building Act 1984 (final certificates).*

## Declaration

I/we confirm that the details given are correct.

I/we understand:

The meaning of a 'disqualifying event' for this self build exemption and that where a disqualifying event occurs before or after commencement of development I must inform the Vale of Glamorgan Council within 14 days.

That my claim for self build exemption will lapse where development commences prior to the Vale of Glamorgan Council informing me of its decision.

Signature:

Name - Claimant:

Date (DD/MM/YYYY):

<input type="text"/>	<input type="text"/>
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On receipt of this application the Vale of Glamorgan Council will make a decision on your claim as soon as practicable.



The Vale of Glamorgan Council,  
Dock Office, Barry Docks, Barry, CF63 4RT  
Tel: (01446) 700111  
Email: [planning@valeofglamorgan.gov.uk](mailto:planning@valeofglamorgan.gov.uk)

### Self Build Exemption Claim Form Part 2

This form must be completed and submitted to the Vale of Glamorgan Council within **6 months after the completion of the Self Build Dwelling**, and thereafter on the **first, second and third anniversary of the date of Occupation of the Self Build Dwelling**.

The completion of this form is essential, to ensure that the dwelling has remained a 'Self Build Dwelling' since it's construction. For the avoidance of doubt, a 'Self Build Dwelling' means a dwelling built, or commissioned to be built, by a person, who will occupy it as their sole or main residence for a minimum period of 3 years. In the event that this form is not completed at the relevant trigger points, the applicant may otherwise be liable for the affordable housing contribution specified in the Section 106 Agreement.

A Self Build Dwelling will cease to be eligible for the exemption if a Disqualifying Event occurs before the end of the Clawback Period, and the affordable housing contribution will be applicable.

Please complete the form using BLOCK capitals and black ink and send to the Vale of Glamorgan Council.

#### Section A: Claiming Exemption - General Information

*(To be completed by the individual(s) claiming self build exemption)*

##### Application Details

Applicant Name:

Local authority planning application number:

Please provide the full postal address of the application site:

If postal address/postcode not known, please provide grid reference:

Easting:  Northing:

Description of Development:

**Section B: Submission of Evidence;**

1. Please indicate [x] which trigger point this claim form submission relates to:
  - a) 6 months after the completion of the Self Build Dwelling
  - b) The first anniversary of the date of Occupation of the Self Build Dwelling
  - c) The second anniversary of the date of Occupation of the Self Build Dwelling
  - d) The third anniversary of the date of Occupation of the Self Build Dwelling

2. If this form is submitted in respect of 1(a), please confirm whether the dwelling is now occupied by the Applicant?

Yes  No

If yes, please confirm the date of occupation (DD/MM/YYYY):

If no, please confirm the anticipated date of occupation (DD/MM/YYYY):

Please confirm below what evidence you are providing to support your claim for a self build exemption. If this form is submitted in respect of 1(a) above please provide the information requested in 3 and 4 below. If this form is submitted in respect of 1(b),(c) or (d) above please provide the information requested in 4 below.

3. Please enclose a copy of all of the following items:

- a) A compliance certificate for this development issued under either:
  - i) Regulation 17 (completion certificates) of the Building Regulations 2010 or
  - ii) Section 51 of the Building Act 1984 (final certificates)

What date was the compliance certificate issued (DD/MM/YYYY)?

- b) Title deeds of the property to which this exemption relates (freehold or leasehold)
- c) Council Tax certificate

4. Please enclose two further proofs of occupation of the home as sole or main residence. Please enclose a copy of at least two of the following items showing your name and the address of the property (the self build dwelling):

- |                                   |                          |
|-----------------------------------|--------------------------|
| Utility bill                      | <input type="checkbox"/> |
| Bank statement                    | <input type="checkbox"/> |
| Local electoral roll registration | <input type="checkbox"/> |

**Declaration**

I/We confirm that the details given are correct.

Signature:

Name (PRINT):

Date (DD/MM/YYYY):

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE :

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.

**2017/01136/HYB** Received on 30 October 2017

BDW South Wales Zoe Aubrey, Oak House, Village Way, Tongwynlais, Cardiff, CF15 7NE

BDW South Wales Zoe Aubrey, Oak House, Village Way, Tongwynlais, Cardiff, CF15 7NE

### **Former St. Cyres Lower School, Murch Road, Dinas Powys**

Hybrid application comprising Full application for residential development for 215 units, highways and drainage infrastructure and associated landscaping; and Outline application in respect of the community and recreational use zone.

### **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 extends to an area of 12.05 hectares of land comprising the former St. Cyres Lower School (now demolished), associated playing fields, and greenfield land, including agricultural land and woodland. The site lies within the settlement boundary for Dinas Powys as defined in the Local Development Plan, and is allocated for a mixed use of residential and community facilities under policies MG2 (28) and MG7 (2).

There are a number of Tree Preservation Orders on and adjacent to the site. To the south is an Ancient Woodland, designated as a Site of Importance for Nature Conservation (SINC). To the east of the site is the identified Green Wedge between Dinas Powys and Penarth. Additional designations identified in the LDP that surround the site include Limestone Mineral Reserves, and the dormant mineral site of Cross Common Quarry to the south.

This is a hybrid application that seeks full planning permission for 215 dwellings and associated works, including access road, drainage, and landscaping, plus outline permission for a community and recreational use zone (CRUZ).

To date objections have been received from Dinas Powys Community Council, local ward members, and approximately 35 residents, including the Dinas Powys By-Pass Steering Group. The objectors have raised concerns over the exacerbation of existing traffic problems and the impact on highway safety; the area of the site includes the line of the Dinas Powys By-pass and would prejudice its development; the submitted Traffic Assessment is flawed; air pollution from increased traffic; danger during construction, particularly combined with other developments in the area; lack of infrastructure; inadequate provisions for sewage; surface water and flooding; adverse impact on wildlife; loss of trees; failure to comply with Local Development Plan policies;; and concerns that financial constraints will affect development of the community area.



Having regard to both local policy and national guidance, it is considered that the main issues in the assessment of the application, include, design and visual impact; highway safety; the effect on neighbouring and general residential amenity; ecology; drainage; and the S106 legal obligations.

It is recommended that the application be APPROVED subject to a S106 legal agreement, relating to affordable housing; education; off-site play; public art; sustainable transport; and community facilities; and conditions, including, enhancement of biodiversity; mitigation for dormice; highway engineering details; materials details; levels; means of enclosure; Construction Traffic Management Plan; Construction Environmental Management Plan; potential land contamination measures; drainage details, foul and surface water; and landscaping.

### SITE AND CONTEXT

The application site as edged red extends to an area of 12.05 hectares of land comprising the former St Cyres Lower School (now demolished), associated playing fields, and greenfield land, including agricultural land and woodland. There are existing houses along the northern and western boundary of the site, along with a recently completed health centre.



There is an existing vehicular entrance off Murch Road to the north east of the site, and a Public Right of Way, No. 45, a bridleway, on the western boundary of the site which links to Longmeadow Drive/Plas Essyllt. The adopted lane on the eastern boundary of the site links with a network of rights of way to the south, including the Cosmeston, Dinas and Sully Circular Walk.

The site lies within the settlement boundary for Dinas Powys as defined within the adopted Local Development Plan (LDP) and was allocated for mixed use / housing development under LDP Policy MG2 (28) for 300 dwellings .

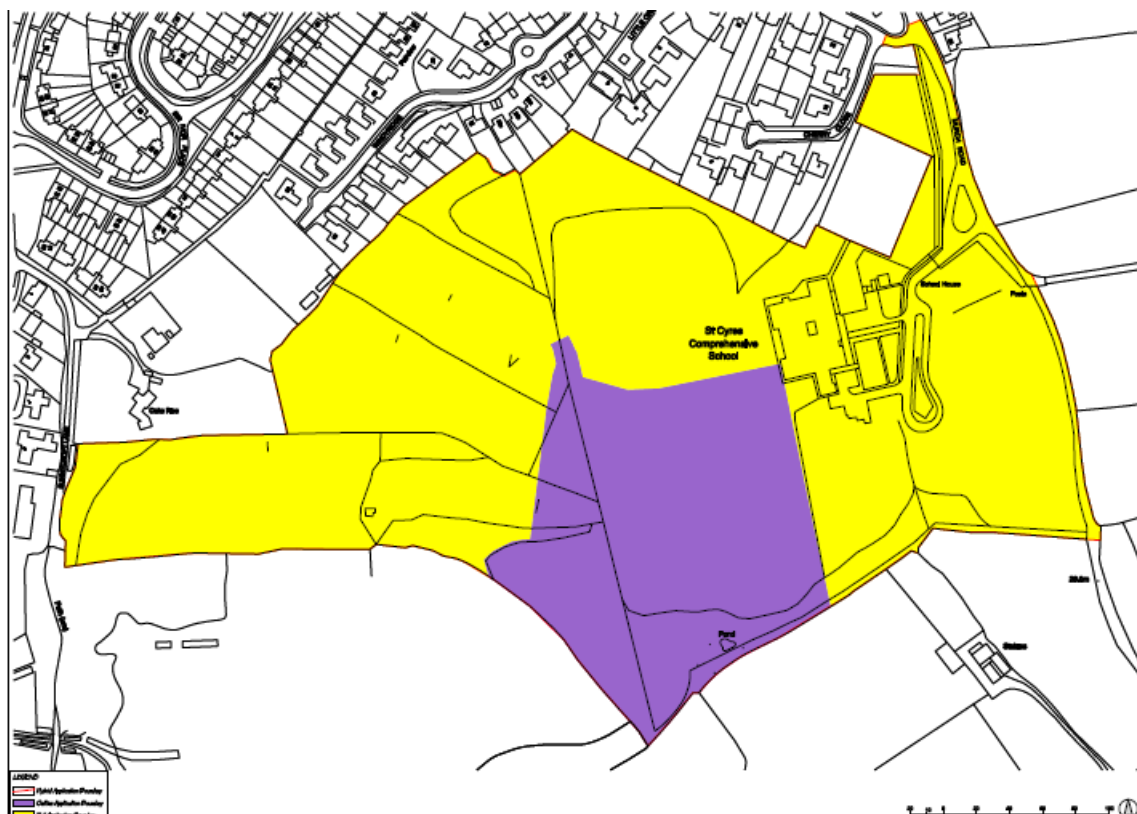
There are a number of Tree Preservation Orders on and adjacent to the site, including, TPO (No. 4) 2010, mixed deciduous on the western side, and TPO (No. 13) 2008, group of Pine, Ash and Field Maple in the north east corner. To the south is an Ancient Woodland, known as The Breeches, and this Broadleaved Woodland is designated as a Site of Importance for Nature Conservation (SINC). To the east of the site is the identified Green Wedge between Dinas Powys and Penarth. Additional designations identified in the LDP that surround the site include Limestone Mineral Reserves, and the dormant mineral site of Cross Common Quarry to the south.

There are no designated heritage assets within the site, however, immediately to the north are the Grade II listed properties at 1-6 Little Orchard, and to the south west the Grade II\* St Peters Church. Within the site there is the potential the archaeological interest at the 'Stonylands' medieval farm.

Other identified constraints on the site include evidence of dormice which are a Protected Species.

#### DESCRIPTION OF DEVELOPMENT

This is a hybrid application that seeks full planning permission for 215 dwellings and associated works, including access road, drainage, and landscaping (in yellow below) , and outline permission for a community and recreational use zone (CRUZ) (in purple below).



The proposed layout for the detailed residential element of the scheme is shown below.



The only vehicular access to the site will be via the existing entrance to the former school, which will be upgraded to provide pedestrian footpaths and a cycle route up to the proposed CRUZ. A hierarchy of roads is proposed, from the main spine roads to be adopted down to un-adopted private drives. In addition, pedestrian only links are proposed in order to provide permeability through the site. These include a route from the CRUZ to the proposed housing in the west, and a link to Sunnycroft Lane.

The proposed parking strategy includes a mix of curtilage, courtyard and on-street provision, plus cycle storage secured and sheltered either within buildings, cycle sheds or a sheltered structure.

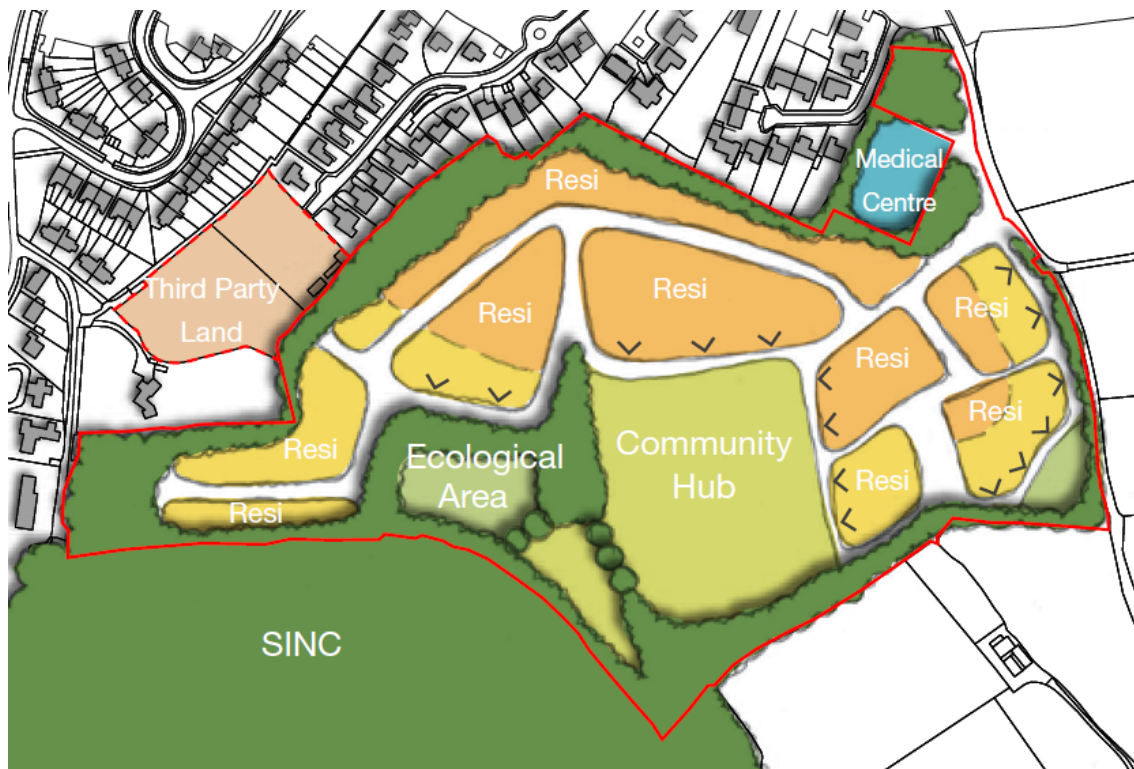
The proposal envisages a total of 215 dwellings comprising a range of sizes and tenures to accommodate a variety of household types, including 40% of affordable housing, equating to 86 units. The hierarchy of dwellings will include from detached properties within larger plots through to smaller terraced properties. The proposed heights of the dwellings will be predominantly two storey, with some two and a half storey properties defining the entrance to the community hub. Any associated garages will be single storey.

The design approach is a traditional one that aims to be in keeping with the local vernacular, with visual cohesion to be achieved through the use of local design features and a palette of external finishes. These will include, red facing brick, buff facing brick, vertical timber cladding and render to walls, with roofs of plain tiles and slates. Below are shown some of the street scenes as illustrated in the Design and Access Statement (DAS).





The landscape proposals for the site seek to retain a large part of the existing mature hedgerows and trees. This is partly dictated by the ecological constraints across the site, including the need to provide mitigation areas for Dormice. These will include 'green' areas along the north and western boundaries, plus a central area close to the proposed community hub. This is identified within the 'development brief concept plan' illustrated in the DAS below.



The outline element of the scheme covers an area of 3 ha located centrally within the site which is intended for community use. This could include a range of uses, including a community centre, sports hall and associated pitches, and allotments. All matters are reserved for subsequent detailed approval, however, the DAS outlines a number of parameters. These include, vehicular access in the north east corner; additional and separate pedestrian links to the wider site; and suitable landscaping and fencing on the perimeter; as illustrated in the DAS below.



The application is accompanied by a number of supporting documents including, a Planning Statement; a Design and Access Statement (DAS); a Transport Assessment and further Technical Note; a Residential Travel Plan; an Ecological Appraisal; a Dormouse Mitigation Strategy; a Landscape and Visual Assessment; an Arboricultural Impact Assessment ; an Agricultural Land Classification and Soil Resources Report; an Archaeological Desk-Based Assessment; a Drainage Strategy Air Quality Assessment; a Supplementary Statement on Geo-Environmental Issues; and a Pre-Application Consultation Report.

## PLANNING HISTORY

2013/00660/PND - Demolition of two storey school building and the Caretaker's house - Prior Approval not required 31 July 2013.

2017/00209/SC1 - Request for screening opinion - Environmental Impact Assessment not required 17 March 2017.

Relevant history adjacent to the site includes:-

2014/00178/FUL - Erection of 2 storey Community Health Resource Centre, associated car parking and landscaping - Approved 19 November 2014 subject to a S106 legal agreement relating to training provision, sustainable transport, community transport and public art; and conditions, including, materials, details of windows to waiting rooms, no additional windows, noise levels, implementation of new access/parking/cycle parking/ambulance turning, relocation of street lighting column, details of construction/deliveries, details of public art, details of enclosure, landscaping, implementation of ecology mitigation/biodiversity enhancement, and drainage.

## CONSULTATIONS

**Dinas Powys Community Council** were consulted and have Objected to the application on the grounds of additional residential traffic/construction traffic; the proposed site includes land that may be required to construct the Dinas Powys by-pass; concerns that the existing sewerage infrastructure is insufficient to meet the capacity requirements that 215 households will generate; concerns over flooding and water run-off. DPCC have requested that the traffic surveys used to assess the current situation and future needs are re-evaluated as there is question over their validity.

It is the view of Dinas Powys Community Council that this development should not proceed until the by-pass has been constructed.

**Dinas Powys Ward Member Cllr A Robertson** was consulted and has raised concerns over the access from the junction at Cardiff Road and increased traffic; the development would impede the probable line of a future Dinas Powys bypass; heavy plant and construction from two sites at the same time; and issues around sewerage disposal.

**Dinas Powys Ward Member Cllr R Crowley** was consulted and has stated that the plan indicates that the developer intends to build on land designated as part of proposed Cardiff to Barry link road.

**Dinas Powys Ward Member Cllr S Griffiths** was consulted and has stated that the access route for the development is via the traffic-lights junction from Cardiff Road (A4055) to Murch Road and Crescent which is already at, if not over-capacity. The traffic increase due to the construction works and other developments will make it unbearable for many who live in that area. In addition, the proposed development will be obstructing the reserved route of the Dinas Powys By-Pass. The development of the St. Cyres site should be postponed until the By-Pass is built.

**The Council's Housing Strategy section** were consulted and confirm the need for Affordable Housing in Dinas Powys, noting the requirement for 61 Social Rented:- 26 x 1 bed flats with own entrances; 25 x 2 bed houses; 6 x 3 bed houses; 4 x 4 bed houses; and 25 Low Cost Ownership:- 19 x 2 bed houses; and 6 x 3 bed houses. The affordable units should be pepper potted throughout the site to encourage community cohesion and integration. In addition all affordable homes should be built to Design Quality Requirement standards.

**Council's Ecology Team** were consulted and an initial interim objection has been removed and a number of conditions to protect biodiversity interests on site are recommended.

The recommended conditions include those recommended by NRW , with an additional two conditions required relating to the bird box strategy, and the LPA to be provided with a copy of the licence before the commencement of development on the dormouse habitat.

In line with NRW comments it is also noted some outstanding details need to be addressed, but this can be achieved at the licensing stage. Areas requiring further information include management of the newly planted areas, post development monitoring of dormouse, etc. Furthermore, in relation to the developable and non-developable areas relating to the dormouse, the submitted plan is acceptable and can be referenced within the requested condition relating to the Habitat licence (see Condition 16).

**Council's Landscape Section** were consulted and provided initial comments on the submitted landscape details, requesting additional information including , a schedule of trees to be lost, compensatory planting, further details on the 'Native Hedgerow Planting'; bulb planting and clarification of responsibility for management and maintenance.

**Council's Shared Regulatory Service - Environmental Health** were consulted and have requested the submission of a Construction Environmental Management Plan (CEMP), restrictions on hours of operation/delivering, piling, lighting, and burning of waste.

In relation to potential contaminative issues, there is a request for a number of conditions relating to possible ground contamination; and any importation of soils/aggregates.

The submitted Air Quality Assessment (AQA) considers the construction phase and operational phase impacts associated with the proposed development. The AQA has been undertaken to a high standard and the very conservative approach adopted by the model is deemed best practise allowing worst-case scenarios to be portrayed. In summary no objection is raised on the grounds of air quality. This is on the basis that during its operational phase the impact on existing receptors is predicted to be "negligible". For the construction phase, the most important consideration is dust and without appropriate mitigation, dust could cause temporary soiling of surfaces, particularly windows, cars and laundry. The mitigation measures provided within this report should ensure that the risk of adverse dust effects is reduced to a level categorised as "not significant".

The submitted Construction Environmental Management Plan should include a detailed Dust Management Plan with appropriate measures submitted and approved prior to the development proceeding.

**Council' Highway Development Team** were consulted following the submission of several amended plans, their final comments raise no highway objections in principle.

The Transport Assessment produced by RPS and submitted by the developer has been independently reviewed by Mott MacDonalds on behalf of the Council. The reviews identify that both Murch/Cardiff Road & Cardiff/Station Road are currently operating at capacity and in future year scenarios both junctions have been forecasted to be over capacity due to the background growth alone which will be subject to queuing and significant delays.



The forecasted trips generated by the development are to be of material impact and consideration, the number of trips is considered to be low in comparison and not the sole cause of the capacity issues created by the existing high volumes of traffic using Cardiff Road and the forecasted growth.

In terms of improvements to the two key junctions, the Highway Authority have already identified an improvement to Cardiff Road Junction with Station Road to be delivered as part of Capital program works. However, it is recognised that the opportunity to alter the signalised Cardiff Road/Murch Road junction to improve capacity is limited and the best form of mitigation would be to discourage private car usage and improve infrastructure to support more sustainable modes of transports such as cycling, walking and public transport to be delivered utilising sustainable contribution monies agreed as part of the S106 Planning Process.

In addition to reviewing the Transport Assessment Mott MacDonalds were commissioned to review questions raised by an objector questioning the operation of the performance of the signalised Cardiff Road/Murch Road junction. Their review has concluded that the Technical Assessment is correct and the overall summary and conclusion remains unchanged from those provided in reviewing the original Transport Assessment.

Taking onboard the conclusions within the Technical Reports of the Transport Assessments produced by Mott MacDonalds on behalf of the Highway Authority, no highway objections would be raised to the proposals in principle subject to a number of conditions including, the submission of full engineering details and associated calculations, where applicable, of the proposed access/internal road/site access works; a legally binding agreement to secure the proposed highway works; no enclosure within the required vision splays; incorporate the provision of Traffic Regulatory Orders; an initial and second Condition Survey along agreed haulage route, with remedial works where necessary; a Construction Management/haulage route plan; no lorry movements during the peak am/pm hours and half hour either side of the school times; and wheel cleansing facilities.

**Council's Transport and Road Safety section** were consulted and has requested a number of changes to the submitted 'Residential Travel Plan'. These include changes to some of the wording of the plan to emphasise the commitment to undertake the proposals, such as the replacement of 'would' with 'will', and a change in the timing of other commitments.

**Council's Public Rights of Way Officer** was consulted on 7 November 2017. No comments have been received to date.

**Council's Drainage section** were consulted and note that no development on this site should have a detrimental effect on existing flood risk in the area and surface water drainage should be carefully considered on this site.

They have requested revised calculations for greenfield runoff rates and note that the site investigation report adequately demonstrates that disposal of surface water via infiltration is not viable on this development site and that when considering SuDS an above ground attenuation basin would be preferred on this site.

The surface water drainage system for the development must not have an adverse effect on water quality and the applicant must therefore demonstrate that appropriate measures shall be put in place to demonstrate this. Preliminary storage calculations have been submitted with the application, which differs to the proposed impermeable area of the development site. These calculations are therefore required to be revised prior to approval of any surface water drainage scheme on the site.

It is recommended that a number of pre-commencement conditions are imposed on any consent, relating to, a scheme for surface water drainage; details of the proposed measures for surface water runoff treatment; a SuDS management plan; and a construction environmental management plan; and an advisory note relating to the possible need for Land Drainage Consent.

**Council's Estates - Strategic Property section** were consulted on 7 November 2017 and no comments have been received to date.

**Council's Leisure section** were consulted on 10 November 2017 and no comments have been received to date.

**Council's Waste Management section** were consulted on 10 November 2017 and no comments have been received to date.

**Natural Resources Wales (NRW) were consulted** and recommend that planning permission is granted only if a number of conditions are attached. These conditions would address significant concerns that they have identified, and there is no objection provided the conditions are attached to the planning permission.

The conditions requested include:-

- Condition 1: The development to be carried out in line with the submitted Dormouse Mitigation Strategy, Ecological Appraisal and Details Soft Landscaping Plan.
- Condition 2: Lighting Scheme in relation to Dormice.
- Condition 3: Long term habitat management and monitoring.

NRW also advise that the applicant seek a European Protected Species licence from NRW under Regulation 53(2)e of The Conservation of Habitats and Species Regulations 2010 before any habitat clearance works on site commence that may impact upon dormice. They also note that they will require further detail of a number of aspects of the Mitigation Strategy at the time of the European Protected Species licence, including of the proposed management of retained habitat prior to vegetation clearance.

**Dwr Cymru/Welsh Water** were consulted and have requested conditions on any consent, including, no development until a drainage scheme for the site has been submitted and approved; and only foul water from the development site shall be allowed to discharge to the public sewerage system. In relation to water supply, there is no objection as this can be made available. In addition, they note that the site is crossed by a distribution watermain, but it may be possible to divert this at the cost of the developer.

**Glamorgan Gwent Archaeological Trust** were consulted and have stated that the impact of the proposed development upon the archaeological resource is considered to be low and no further archaeological investigation is required. There is no objection to the positive determination of this application.

**South Wales Police - Design Out Crime Officer** was consulted and raised no objection, however, they have provided further recommendations to design out crime. The Affordable Housing units will all need to be Fully Secured by Design compliant. They note willingness to work with the developers to ensure that the whole development is built to Secured by Design standards.

**Sport Wales** were consulted on 21 November 2017 and no comments have been received to date.

## REPRESENTATIONS

The occupiers of neighbouring properties were notified on 7 November 2017. In addition the application was advertised in the press and on site on 16 and 24 November 2017 respectively.

To date objections have been received from approximately 35 local residents, plus one from a resident of Penarth and another from a resident of Barry. All of the representations are available on the electronic file for Members inspection. However, the following is a summary of the main points of objection. In addition the objection from the Chair of the Dinas Powys By-Pass Steering Group is reproduced at **Appendix A** as being generally indicative of the points raised, particularly in relation to the transport issues.

The main points of objection relate to:-

- Highway safety issues relating to the increased traffic at the junction of Murch Road and Cardiff Road; and the narrow access road to the site.
- Increased congestion along Cardiff Road.
- The area of the site includes the line of the Dinas Powys By-pass and would prejudice its development.
- The submitted Traffic Assessment is flawed.
- Air pollution from increased traffic.
- Danger during construction, particularly combined with other developments in the area.
- Lack of infrastructure.
- Inadequate provisions for sewage.
- Surface water and flooding.
- Adverse impact on wildlife.

- Loss of trees.
- Failure to comply with Local Development Plan policies.
- Consultation with developers not proper consultation process, as this should have involved the Council.
- Concerns that financial constraints will affect development of the community area.

## REPORT

### Planning Policies and Guidance

#### **Local 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP1 - Delivering the Strategy.  
 POLICY SP3 - Residential Requirement.  
 POLICY SP4 - Affordable Housing Provision.  
 POLICY SP7- Transportation.  
 POLICY SP10 - Built and Natural Environment.

#### **Managing Growth Policies:**

POLICY MG1 - Housing Supply in the Vale of Glamorgan.  
 POLICY MG2 (28) - Housing Allocations.  
 POLICY MG4 - Affordable Housing.  
 POLICY MG7 - Provision of Community Facilities.  
 POLICY MG21 - Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species.

#### **Managing Development Policies:**

POLICY MD2 - Design of New Development.  
 POLICY MD3 - Provision for Open Space.  
 POLICY MD4 - Community Infrastructure and Planning Obligations.  
 POLICY MD5 - Development within Settlement Boundaries.  
 POLICY MD6 - Housing Densities.  
 POLICY MD7 - Environmental Protection.  
 POLICY MD8 - Historic Environment.  
 POLICY MD9 - Promoting Biodiversity.

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

### **Planning Policy Wales:**

National planning policy 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 4.3.1, 4.4.3, 4.9, 4.10 and 4.11; Chapter 5-Conserving and Improving Natural Heritage and the Coast, including paragraphs 5.1.1 and 5.2; Chapter 6-The Historic Environment; Chapter 8-Transport, including paragraph 8.7; Chapter 9-Housing, including paragraph 9.3-Development management and housing; Chapter 11-Tourism, Sport and Recreation, including paragraphs 11.1.3 and 11.3.2; Chapter 12-Infrastructure and Services, including paragraph 12.4; and Chapter 13-Minimising and Managing Environmental Risks and Pollution, including paragraphs 13.7 and 13.12.

### **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 12 - Design, including paragraphs 2.6 and 5.5.
- TAN 16 - Sport, Recreation and Open Space including paragraphs 3.16, 3.21 and 4.15.
- TAN 18 - Transport including chapter 9.
- TAN 24 - The Historic Environment, including chapter 4.

### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. 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.

- Public Art.
- Sustainable Development - A Developer's Guide.
- Trees and Development.
- 

In addition, the following background evidence to the Local Development Plan is considered relevant to the consideration of this application insofar as it provides a factual analysis and information that is material to the issues addressed in this report:

- 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).
- Green Wedge Background Paper (2013).
- Habitats Regulations Assessment - Appropriate Assessment Report of Deposit LDP (2013).
- Habitats Regulations Assessment Screening of Focused Changes (2015) and Matters Arising Changes (2016).
- Identification of SINCs (2013).
- 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).
- Sustainable Settlements Appraisal Review (2016).

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

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007).
- Welsh Office Circular 016/2014: The Use of Planning Conditions for Development Management.
- Welsh Office Circular 13/97 - Planning Obligations.
- Conservation of Habitats and Species Regulations 2010 as amended.

### **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 relate to design and visual impact; highway safety; the effect on neighbouring and general residential amenity; ecology; drainage; other environmental impacts and the S106 planning obligations.

#### Principle

In policy terms, the development plan for the area is the Local Development Plan (LDP) formally adopted in June 2017. It is noted that a number of the objections submitted refer to the proposal not complying with the LDP policies, and also the lack of infrastructure to serve the development.

The site is one of the identified housing allocations within Policy MG2 of the LDP, with Dinas Powys defined as a 'Primary Settlement'. In addition, Policy MG7 allocates the site for new community infrastructure as part of a mixed use development.

The LDP has been the subject of many years of consultation and amendment, including a public examination by an independent Planning Inspector who, having considered the evidence base and the views of stakeholders, has concluded that the LDP is sound. As part of this process the Council was required to undertake a combined Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) of the LDP to ensure that sustainability is at the heart of the plan. The strategic objectives of the LDP include consideration of the Sustainability Appraisal, with a Settlement Hierarchy that identifies sustainable settlements which are considered to be capable of accommodating additional development during the Plan period.

## Residential Development

Thus in assessing the residential element of the scheme, it is noted that criterion 1 of policy SP1-Delivering the Strategy seeks to provide a range and choice of housing to meet the needs of all sectors of the community, whilst criteria 7 and 8 seek to promote opportunities for recreation and healthy living. In addition MG1 relates to Housing Supply in the Vale of Glamorgan, and makes provision for new dwellings which will be met in a variety of ways, including allocated sites. The site is allocated for a mixed use of residential and community facilities under policies MG2 (28) and MG7 (2) of the LDP. This supports spatial Policy SP3-Residential Requirement, which identifies a need for the provision of 9,460 new homes within the Vale of Glamorgan. The future development of this allocated site is therefore required to meet the scale of growth required in Vale of Glamorgan to meet the projected future populations and housing need over the plan period to 2026, and forms an integral part of the LDP's 5-year land supply.

## Community Use

The outline element of the scheme covers an area of 3 ha located centrally within the site which is intended for community use, in line with the requirements of Policy MG7 - Provision of Community Facilities.

The community/recreation area of the site sits at the heart of the scheme and will form an integral feature of the final design. It is envisaged that the area may be used as a community centre, sports hall and associated pitches. However as there are currently no proposals for the area consideration is only given to assessing the design parameters of any potential uses.

The DAS states that the minimum height of any building should be at least 2m and the maximum height of any building should not exceed 8m. It is considered that the range of minimum and maximum heights would allow flexibility on the type of building that could be provided on the site given the range of community/recreation uses. However, dependant on the scale and massing of the building(s), the siting of any building(s) will need to respect residential amenity of nearby residents. The consideration of such impacts, including other associated impacts such as visual impacts, noise and parking etc, would form part of any subsequent reserved matters application (see Conditions 1 to 7).

## Density

Whilst the quantum of land for community uses within the CRUZ is in accordance with the Council's requirements (3ha), it is noted that the number of residential units falls short of the 300 units identified in Policy MG2(28).

Policy MD6 of the LDP relates to housing densities and requires a minimum of 30 dwellings per hectare in Primary Settlements. PPW encourages local planning authorities to ensure sufficient density in areas accessible to non-car modes of transport, however, each site must be considered with regard to its particular circumstances. However, Policy MD6 does allow for lower density levels where it can be demonstrated that:



*“1. Development at the prescribed densities would have an unacceptable impact on the character of the surrounding area;*

*2.. Reduced densities are required as a result of significant site constraints or to preserve a feature that would contribute to existing or future local amenity; or*

*3. The proposal is for a mixed use development where a residential use is the subordinate element of the proposal.”*

In addition, the supporting text to policy MG1 of the LDP, which relates to housing supply, indicates that whilst the LDP provides a framework for the delivery of 9,460 dwellings, there is the inclusion of a 10% margin for flexibility to ensure the availability of a range and choice of housing land throughout the Plan period.

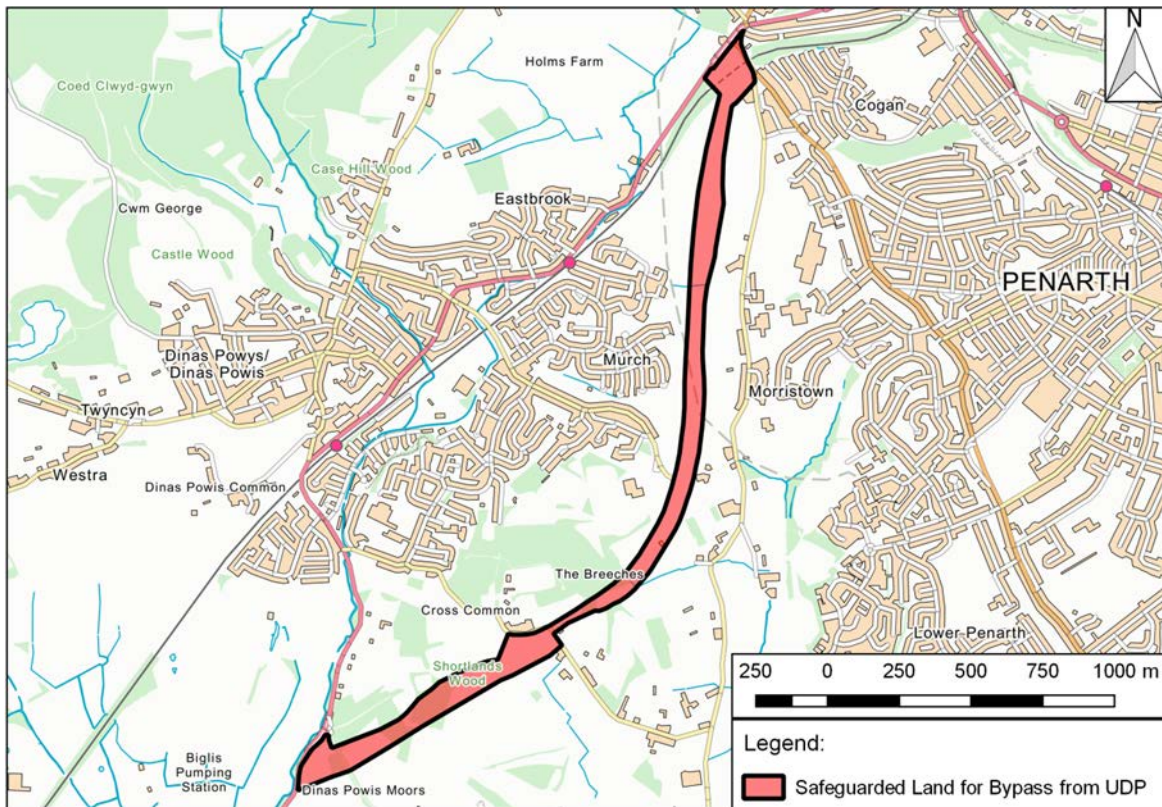
In this instance, it is considered that the reduced density is acceptable due to the significant restraints on the site from the presence of a protected species, the dormouse, and the requirements of Natural Resources Wales (NRW). These include areas of land that must remain undeveloped in order to provide compensatory habitats for the dormice. As the applicants note in the supporting Planning Statement at paragraph 4.6:-

*“Whilst it is recognised that the site will not quite deliver the quantum of development anticipated by the LDP allocation, the ecological sensitivities of the application site, has resulted in areas of the site that cannot be developed. The masterplan for the site however benefits from additional ecological and landscaping areas as a result of the compensatory habitats being provided to prevent loss of biodiversity within the application site. The site will however deliver 3 hectares of land for community uses within the CRUZ in accordance with the requirements of the Vale of Glamorgan Council.”*

However, the density of development within the (net) developable areas, outside of the community hub and the compensatory areas for dormice, is actually relatively high, as detailed below under layout considerations

### **Implications of the development for the Dinas Powys Bypass**

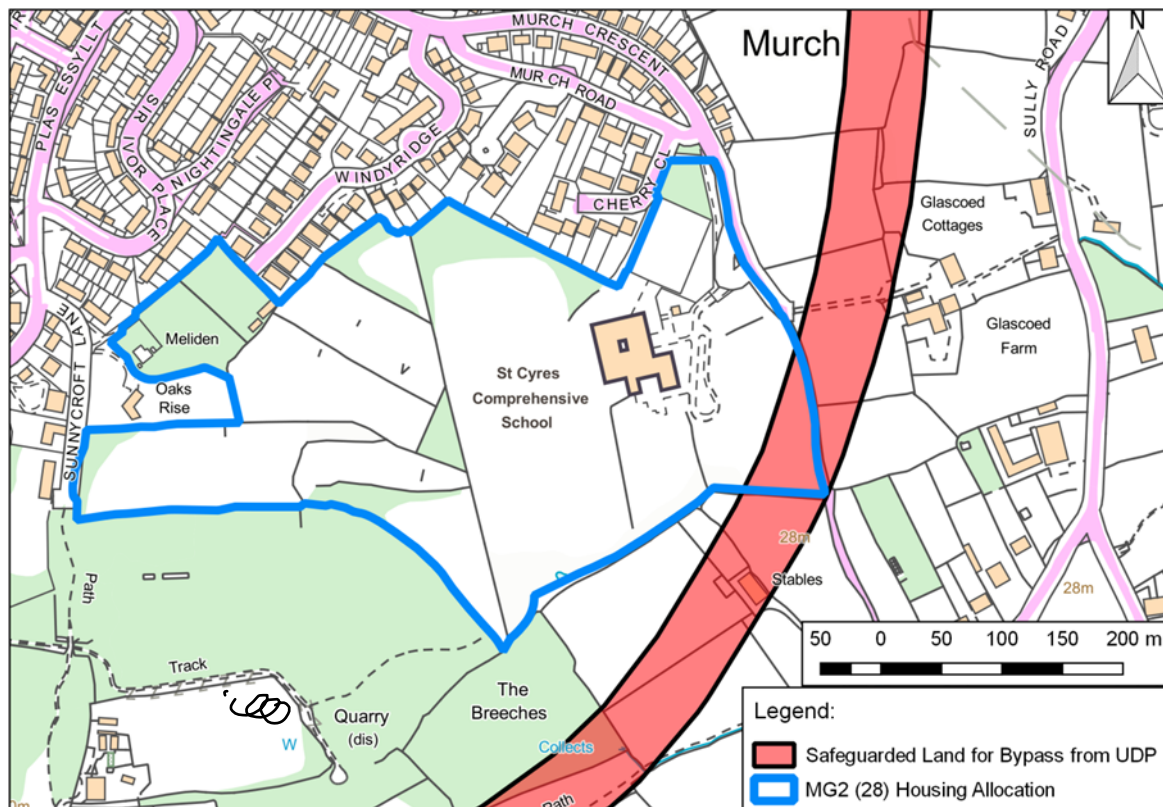
Members will be aware that the previous development plan (the Unitary Development Plan) identified and protected land for a strategic highway between Cardiff and Barry known locally as the ‘Dinas Powys Bypass’. The land protected in the UDP is shown in red on the plan extract below.



### **Barry Waterfront to Cardiff Link route (UDP Policy TRAN 1(ii))**

When preparing the Local Development Plan, the Council had to review all infrastructure projects such as this to consider whether they were likely to be delivered during the plan period (i.e. up to 2026) and in accordance with Welsh Government advice, it was considered appropriate and reasonable to only include schemes that could be proved to be delivered. At the time of the LDP preparation there was no certainty that there would be funding available for a bypass and therefore the proposal was not included under the policies in the LDP and the route was no longer identified or safeguarded on the LDP Proposals map.

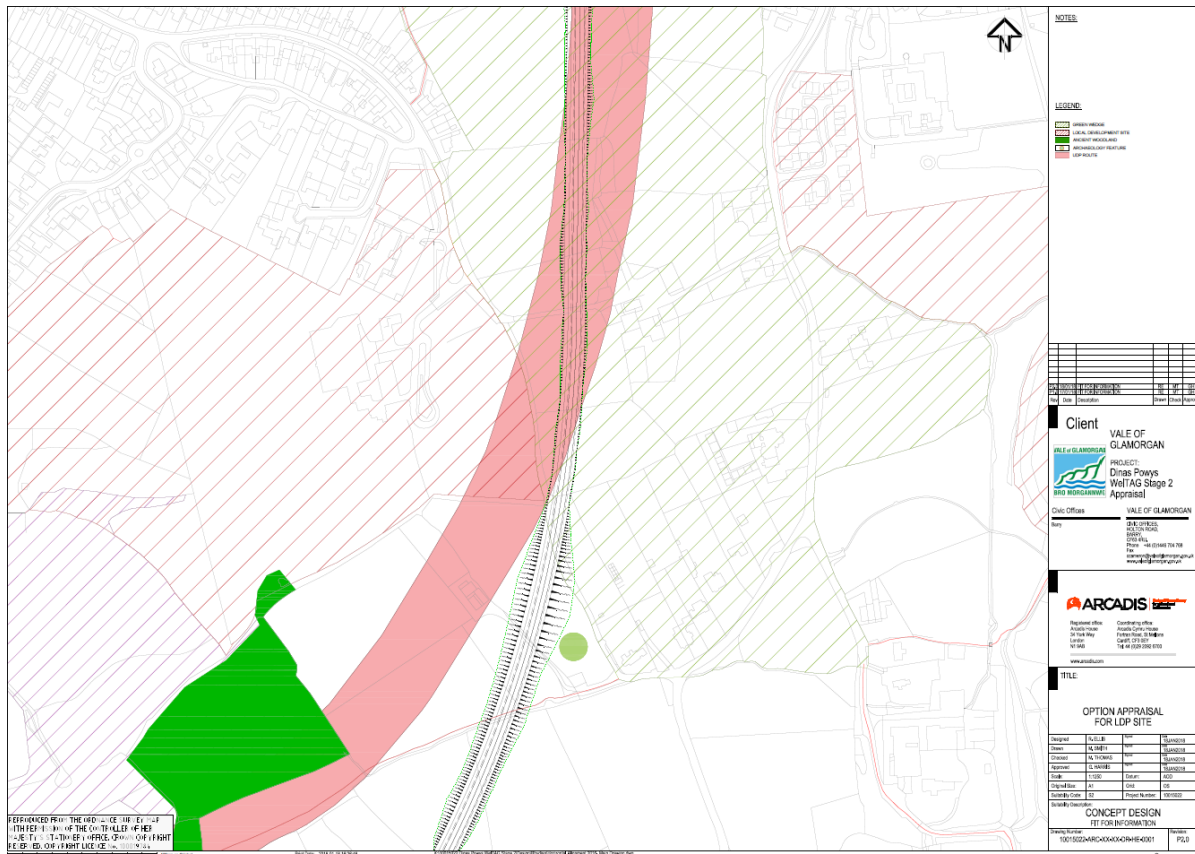
Of particular relevance to this planning application, the previously identified bypass route overlapped the application site (and accordingly the land allocated under Policy MG2(28)) as shown on the plan below.



### LDP Policy MG 2(28) Housing Allocation and Barry Waterfront to Cardiff Link route (UDP Policy TRAN 1(ii)) overlaid

This matter was given consideration during the LDP Examination and officers gave evidence to the LDP Inspector to explain that the scheme was not included in the list of Highway schemes under LDP Policy MG 16 (Transport Proposals) nor identified on the proposals map, due to delivery uncertainty. However, officers also advised that the allocation of the 'Land at and adjoining St. Cyres School' would not preclude the delivery of a bypass scheme in the future (if one were to come forward) because there is still sufficient land between Dinas Powys and Penarth, protected as a Green Wedge, to enable its delivery if funding became available. The Inspector was satisfied that this was the case and found the LDP housing allocation to be sound.

Given that the route is no longer identified in the development plan, the weight to be attributed to it in any planning application is reduced. However, letters of representation have raised concerns that the development would hamper the future delivery of a Dinas Powys Bypass. Therefore, transport consultants Arcadis Consulting Limited, were asked to undertake some technical feasibility work to consider whether the development of the site would prevent a future bypass scheme. Using assumptions for road widths and safety standards for a 60pmh road, and having regard to physical constraints on the ground such as flooding, trees, built development etc., Arcadis Consulting Limited have concluded that there is still sufficient land available for a bypass route as shown on the plan below:



The route shown above (edged green) is the option closest to the existing route, however Arcadis Consulting Limited have identified that there are other options that could be assessed in due course, further to the East which would similarly not be precluded by the development of the allocated housing site.

Any such scheme will necessitate land acquisition (and potentially Compulsory Purchase Orders) and this work is not intended to prejudice any future process in this regard. Furthermore, it is not intended to pre-judge the outcome of the current WellTAG Stage 2 work being undertaken by Arcadis Consulting Limited on behalf of the Council regarding all transport options and opportunities in Dinas Powys. However, it does demonstrate that that the development of the application site does not prevent a future bypass proposal should it be identified in the future as necessary and the relevant funding be available to deliver the road.

Agricultural Land Quality

The application is supported by an ‘Agricultural Land Classification and Soil Resources’ report. Criteria 9 of policy MD1 relates to the ‘Location of New Development’ and requires that development has no unacceptable impact on the best and most versatile agricultural land. The findings of the submitted report indicate that the agricultural land quality at the site is affected mostly by soil wetness and workability and is limited severely to Grade 4 or moderately to Subgrade 3b agricultural quality.

## Design and visual impact

Policy MD5 relates to Development within Settlement Boundaries and permits development subject to certain criteria, including, criterion 3 – is of a scale, form, layout and character that is sympathetic to and respects its immediate setting and the wider surroundings and does not unacceptably impact upon the character and appearance of the locality.

Policy MD2 relates to the Design of New Development has a criteria relating to context, and criterion 1 which requires new development to be of a high standard of design that positively contributes to the context and character of the surrounding natural and built environment and protects existing features of townscape or landscape interest.

The accompanying Design and Access Statement (DAS) outlines the design evolution of the layout from the initial draft development brief, through a presentation to the Design Commission for Wales (DCfW), subsequent public consultation, and negotiations with the Council, to the current proposal. As the DAS notes within the summary section 5:-

*“The design of the scheme has largely been in response to the ecological constraints of the site and the necessary Dormice mitigation along with the Design Commission for Wales comments on the Development Brief. The result is a high quality development that makes the most of the woodland/green setting of the site. The community and recreation area sits at the heart of the scheme and will be a focus for the new community. Although there are currently no proposals for this part of the site, this document sets out a number of design parameters to ensure any proposals compliment the development.”*

The approach to the proposed layout has been significantly influenced by the ecological constraints on the site, with the retention of existing woodland, hedgerows (where possible), with additional green spaces provided at the edges of the development. These “green buffers” provide the opportunity for a layout which respects the context of the site, and which contributes towards the ‘sense of place’ referred to in TAN12-Design, and identified by the DCfW.

Following consultation, including the response from the DCfW, and the Pre-Application Consultation (PAC) with members of the public, a number of changes have been made to the initial design concept. It is considered that these have served to improve the overall design and layout of the scheme. These are identified in the DAS, and some of the key features include:

- The retention of the existing woodland to help form an ecological area for the protection of Dormice on the site, which also provides the wooded character of the scheme. However, due to the requirements of this ecological protection, these areas will be fenced off and not available for public use.
- Properties overlooking the community hub which serve to form a strong relationship and provide natural surveillance and activity at the heart of the development.

- Green spaces at the edges of the development help form a natural and 'green' boundary serving to integrate the scheme within the surrounding landscape setting.
- Properties formed around a series of perimeter blocks that define private space at the rear and public space at the front. Where parking courts are situated within the rear of the blocks, where possible, properties overlook these spaces.
- An informal pedestrian route onto Sunnycroft Lane to help increase the schemes connectivity with the surrounding area.
- Providing "corner" turning units with appropriate elevational detailing

As regards the scale of the development, it has already been noted that the overall numbers of housing and density of development does not meet the allocation. Notwithstanding this, the layout of the development is considered acceptable due to the identified ecological constraints on the site. However, the density of development within the (net) developable areas, outside of the community hub and the compensatory areas for dormice, is actually relatively high (as identified by the level of private amenity space considered later in this report). The DAS notes within section 3 relating to the new development vision:-

*"Areas of higher and lower densities have been identified to help ensure the character of higher density core and lower density edges to sit more appropriately in the landscape context."*

It is considered that the proposal generally reflects the scale of existing development in the area, particularly in relation to the storey heights and mix of terrace, semi-detached and detached houses.

The plan above shows the affordable housing distribution throughout the site. In addition it is recognised that these will comply with the Welsh Government's Design Quality Requirements (DQR). The DCfW noted in their report:

*"It is positive to hear that DQR compliant house types have been designed that can be easily pepper-potted through the development. We welcome the principle of integration of affordable housing across the site."*

In terms of the appearance of the development, the DAS notes the following:-

*"The proposed houses are designed to ensure a high quality environment that is in keeping to the local vernacular. The new development will possess visual cohesion by using a materials palette and design styles which reflect local character."*

The design approach is a traditional one, with a simple form and detailing that is intended to complement the local vernacular. The proposed materials for the development include a mix of red and buff facing brick, render, and vertical timber cladding to walls, with plain tiles and slate to roofs. These will be varied across the site. Details of samples and finishes shall be submitted by condition (Condition 21)

## Landscape / Visual Impacts from outside the site

The submitted DAS recognises that the existing location and topography of the site can allow for wide ranging views out of the site and close range views into the site. The application is supported by a Landscape and Visual Appraisal (LVA), which assesses the effects on landscape elements and features including built heritage assets (e.g. listed buildings and scheduled monuments); landscape character; and visual amenity.

A Zone of Theoretical Visibility (ZTV) plan has been produced and shows areas from which the proposed development may be visible. The ZTV takes account of the screening effect of landform, significant built up areas and woodland/tree belt vegetation within the study area. The representative viewpoints were agreed with Council's Landscape Architect.

The report concludes that as the site benefits from a high level of enclosure as a result of extensive peripheral vegetation, hedgerows trees and woodland blocks, the proposed development would be successfully assimilated into the landscape with limited visibility of the proposed residential units from the surrounding receptors. Where parts of the site are visible, views of the development would be heavily filtered by intervening trees, and such views would reduce over time with the appropriate management of the existing retained on-site vegetation and the growth of amenity tree planting.

The site has a central 'plateau' but falls away steeply to the west, and with a difference in levels to Watery Lane on the east. Some cross-sections have been provided through parts of the site, which indicate that the site can be developed without any adverse visual impact. However, full finished levels details across the site will be required and can be required by condition (see Condition 22).

## Design out crime

On the issue of security across the site, the South Wales Police, Crime Prevention Design Advisor, has confirmed that there are no objections to the proposal. However, advice is provided on measures that can be undertaken to improve community safety, including appropriate locks to windows/doors; front located service meters; secure rear gardens; and rear courtyard parking and unsighted alleys to be avoided.

It is also confirmed that the Affordable Housing units will need to be Secured by Design compliant to be in accordance with Welsh Government Housing Quality standards. In relation to the layout matters that can be controlled under planning legislation, it is acknowledged that there is an area of rear courtyard parking at the centre of the scheme. This is considered acceptable as there will be natural surveillance from neighbouring houses to the north.

## Landscaping and enclosures

In respect of the landscaping of the site, it is recognised that this is integral to the ecology issues, and is an important element in creating the 'sense of place' and overall character of the development. The proposal will retain as much of the existing woodland and hedgerow as possible, with additional green spaces provided at the edges of the development. These will form a natural boundary to the site which will not only serve to enhance the setting of the development but will provide compensatory wildlife habitat.

The application has been supported by a detailed Soft Landscape Strategy, which covers the landscaping proposals for the residential element of the scheme. The proposals for landscaping on the remainder of the site relate to the retention of existing planting, and the provision of new planting, which is related to the ecology of the site. The detail of this is included within the Dormouse Mitigation Strategy and the Ecological Appraisal.

The Council's Landscape section commented on the proposal, requesting additional information and amendments, including, a schedule of trees to be lost should be provided, and compensation planting of new semi-mature native trees, such as Field Maple. In addition further details were requested on the soft landscape strategy and specification regarding the 'Native Hedgerow Planting', with a number of specific recommendations made relating to appropriate species.

The applicants have subsequently submitted additional details within and amended Arboricultural Impact Assessment. This is welcomed, and it is noted that the applicants will address the remaining landscape issues through a condition on any consent requiring further details to be agreed (see Condition 38) Furthermore, in relation to the Landscape Officer query over management/maintenance, the applicants have confirmed that the majority of the woodland is owned by third parties and they will not be able to manage or maintain any land that falls outside our ownership. As for the on-site areas, these will be transferred to a private management company.

In relation to the means of enclosure, the Council's Landscape section raised concerns over the fencing proposed for dormouse protection, and surfacing of the informal paths. The concerns related to the long term maintenance of the proposed fencing, which is identified as timber post and wire agricultural style fencing, with the informal path being meadow grass. Subsequent discussions with NRW have confirmed that this is a specific requirement of the Dormouse mitigation, and no alternatives are acceptable.

As regards the proposed enclosure of the residential units, the scheme proposes a mixture of walls, railings, and timber fencing. It is considered that the types of enclosure, and their identified location, are generally acceptable, with screen walls identified on public frontages. However, further details are required as to the exact location of the particular means of enclosure, which identifies two types of railings and a variety of walls and fencing (see Condition 23).



## Highways and Traffic Issues

Criterion 6 of MD2 of the LDP requires that new development has no unacceptable impact on highway safety nor cause or exacerbate existing traffic congestion to an unacceptable degree. In addition, Criterion 9 requires the provision of car parking in accordance with the Council's Parking Standards SPG.

It is noted that the likely impact of the development on the existing highway network is one of the main points of objection raised in the representations received from local residents and the Community Council.

The application is supported by a Transport Assessment (TA), which itself has been criticised by objectors. The Council has sought an independent assessment of the TA from consultants Mott McDonald.

In summary the TA review undertaken by Mott McDonald concluded that both Murch/Cardiff Road & Cardiff/Station Road are currently operating at capacity. Future scenarios for both junctions have been forecasted to be over capacity due to the background growth alone which will be subject to queuing and significant delays. Although the forecasted trips generated by the development are material, the number of trips is considered to be low in comparison and not the sole cause of the capacity issues created by the existing high volumes of traffic using Cardiff Road and the forecasted growth. When considering any potential improvements to the two key junctions, the Highway Authority have already identified works to Cardiff Road/Station Road junction within its Capital program. As for the Cardiff Road/Murch Road junction there is limited opportunity for improvement. The Highways team indicate that the best form of mitigation would be to discourage private car usage and improve infrastructure to support more sustainable modes of transports such as cycling, walking and public transport to be delivered utilising sustainable contribution monies agreed as part of the S106 Planning Process. In terms of its location, the site is considered to be sustainable, insofar as it is accessible by walking and cycling to public transport and a range of local shops and facilities within 1km (10 minutes' walk) as summarized below (measured from site boundary):

Dinas Powys Railway station – approx.. 900m (from west access)

Eastbrook Railway Station – approx. 960m (from main access)

Bus Stops on Plas Essyllt – approx. 260m (from west access)

Bus stops on Cardiff Road – approx. 1000m (from main entrance)

Murchfield Community hall, playing fields, bowling green etc. – approx. 500m (from west access)

Murch Junior School, Dinas Powys Library, Church – approx.. 600m (from west access)

Dinas Powys Infants School – approx. 1000m (from main entrance)

St. Joseph's Primary School – approx. 850m (from main entrance)

St. Cyres Comprehensive School – approx.. 1000m (from main entrance)

Cams Corner shops (approx. 500m from western access, 640m from main access)

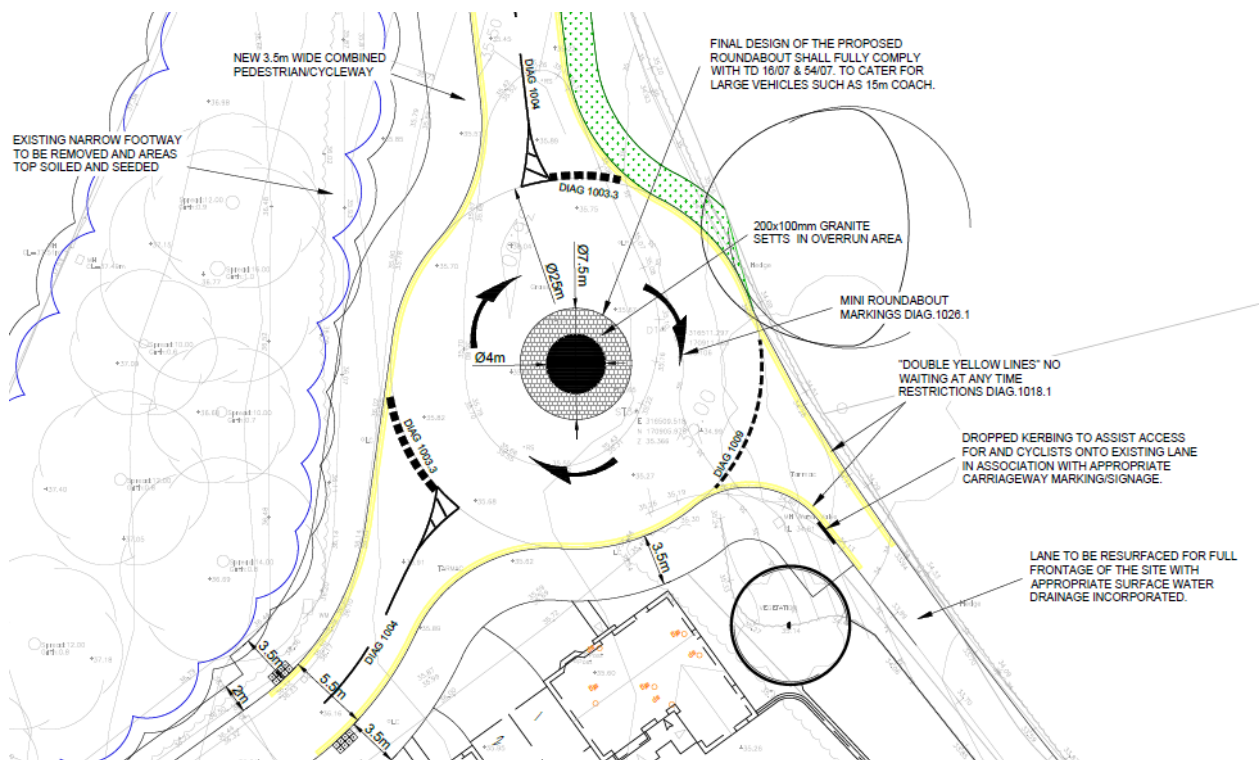
Castle Court shops – approx. 710m (from main entrance)

Dinas Powys medical centre and pharmacy – approx. 50m

The Travel Plan submitted by the developer should also assist towards the aim of sustainable transport to and from the site. In respect of the submitted Travel Plan, the Council's Transport and Road Safety officer has reviewed the plan and has requested changes to emphasise positive commitment to undertake the proposals, and a change in the timing of other commitments. These amendments can be secured by way of Condition (**Condition 20**).

In addition to reviewing the submitted TA, Mott MacDonalds were commissioned to review questions raised by an objector relating to the operation of the performance of the signalised Cardiff Road/Murch Road junction. Their review has concluded that the Technical Assessment is correct and the overall summary and conclusion remains unchanged from those provided in reviewing the original Transport Assessment.

In relation to the works along Murch Road up to the entrance, the proposal envisages a new roundabout with the provision of a 3.5m wide combined pedestrian/cycleway and crossing points



The Council's Highway Development Team raised a number of concerns over the initial layout, relating to highway and footpath width, road/junction geometry, and forward visibility etc. Following negotiations, a final amended layout has been submitted which is now acceptable to the Highway Engineer, subject to conditions, including full engineering details and design calculations; where applicable, of the proposed access/internal road/site access works; a legally binding agreement to secure the proposed highway works; no enclosure within the required vision splays; incorporate the provision of Traffic Regulatory Orders; an initial and second Condition Survey along agreed haulage route, with remedial works where necessary; a Construction Management/haulage route plan; no lorry movements during the peak am/pm hours and half hour either side of the school times; and wheel cleansing facilities.

The requirement for full engineering details is included within Condition 17. A number of the other issues referred to, such as legal agreements, and maintenance of visibility splays, are covered by Highway's own legislation. The remainder of the requirements relating to haulage routes, restrictions on vehicle movements, and wheel cleansing is can be controlled within one Construction Management Transport Plan (CMTP), (see Condition 24).

In respect of car parking, the submitted DAS acknowledges the requirements of the Council's Parking Standards. The Council's Highways team raised some initial concerns, including issues relating to location of parking spaces and the number of visitor spaces. Following negotiations, an amended layout has been submitted which has re-positioned some of the proposed access drives/parking bays, and introduced a number of additional lay-by visitor spaces. Thus it is considered that the level of on-site parking provision for the proposed development is acceptable, particularly bearing in mind, the sustainable location of the site.

PARKING SCHEDULE					CYCLE SCHEDULE	
House Type	Number of Bedrooms	No of Spaces (Excluding Garages)	Garage? (Y / N)	Number of Units	No of Spaces	Location
<b>Open Market</b>						
Exeter	4	2	Y - Integ (Single)	6no	2	Garage
Layton	4	2	Y - (Single)	5no	2	Garage
Chelworth	4	2	Y - (Double)	6no	2	Garage
Holden	4	2	Y - (Single)	13no	2	Garage
Cornell	4	2	Y - (Single)	7no	2	Garage
Bradgate	4	2	Y - (Single)	7no	2	Garage
Ashtree	4	2	Y - (Single)	2no	2	Garage
Shenton	4	2	Y - (Single)	2no	2	Garage
Moresby	3	3	N	6no	2	Preparatory Garden Store
Buchanan	3	2	Y - (Single)	5no	2	Garage
Richmond	2	2	N	6no	2	Preparatory Garden Store
Maldstone	3	3	N	16no	2	Preparatory Garden Store
Collaton	3	2	Y - (Single)	16no	2	Garage
Eskdale	3	2	Y - P76,83,98,160 (Single)	6no	2	Garage / Preparatory Garden Store
Ennerdale	3	2	Y - (Single)	3no	2	Garage
Andover	3	2	Y - Integ (Single)	3no	2	Garage
Kingsley	4	2	Y - (Single)	8no	2	Garage
Thornton	4	2	Y - (Single)	1no	2	Garage
Alderney	4	2	Y - (Single)	7no	2	Garage
Kingsville	4	2	Y - (Single)	4no	2	Garage
<b>Affordable Housing</b>						
Washington	2	2	N	19no	2	Preparatory Garden Store
Berton	3	2	N	6no	2	Preparatory Garden Store
Alder	1	1	N	26no	1	Preparatory Garden Store
Olive	2	2	N	25no	2	Preparatory Garden Store
Larch	3	2	N	6no	2	Preparatory Garden Store
Cherry	4	2	N	4no	2	Preparatory Garden Store
<b>Total no. Visitor Spaces</b>				<b>43no</b>		

### Neighbouring and residential amenity

Criterion 8 of Policy MD2 requires that new development should safeguard existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance. Additional guidance is contained in the Council's SPG on Amenity Standards.

Clearly the introduction of an additional 215 dwellings, in addition to the community hub, will have some impact on the amenity of existing residents, not only from the general disturbance from the additional volume of traffic along Murch Road, but also pedestrian movements to and along Sunnycroft Lane, which whilst private road is a bridleway.

As regards the more local effect on the immediately adjoining neighbours, it is considered there should be no detriment in relation to issues of privacy, overshadowing or overbearing impact. The neighbours immediately adjacent to the application site include occupiers of Sunnycroft Lane, Windyridge, Little Orchard, and Cherry Close. Even accounting for the difference in levels across the site and surrounding land, it is considered that there will be no overlooking or overshadowing of the neighbouring properties. This is mainly due to requirement to provide compensatory habitat for dormice, which results in a 'green' boundary to the site. Much of this is relatively substantial in depth, but even at its narrowest alongside Cherry Close, it is more than sufficient to provide a good landscape screen, and ensure that the development meets the Council's Supplementary Planning Guidance on Amenity Standards.

Whilst there may be impacts from the development during its construction phase, this is considered under the other environmental impacts section of this report.

#### Amenity space

The residential amenity of the future occupiers of the proposed development must also be considered. It is noted that a large number of the proposed plots do not meet the full standards for privacy or garden space as outlined in the Council's Amenity Standards SPG.

This is acknowledged in the submitted DAS which states:-

*"Whilst not all of the properties achieve amenity standard guidelines, given the proximity of the residential development to the Community Use Zone and the extent of landscaping on site, the amenity of future residents is not comprised. In addition, it should be noted that the site is allocated for 300 residential units and due to ecological mitigation measures only 215 residential units are being promoted at the site."*

It is accepted that the ecological constraints on the site have resulted in a reduction in the number of units allocated for the site from 300 to 215. In addition, these have had to be concentrated in a much smaller developable area. As such, in order to achieve the numbers now proposed, at the density levels promoted in the LDP, there is an inevitable reduction in levels of amenity space and privacy compared to lower density developments. Members will be aware that the Council has prepared an amended SPG which takes account of this change, which is currently out to consultation. However it is considered that the size of the gardens would still provide occupants with an appropriate level of amenity space.

## Ecology and biodiversity

It is recognised that the ecological issues relating to the site are a constraint on its development, and have resulted in a reduction in the overall housing numbers envisaged within the LDP allocation. As already noted, there are no statutory designated sites of nature conservation interest within the application site itself. However, there is a Site of Importance for Nature Conservation (SINC) located adjacent to southern boundary, an Ancient Woodland known as The Breeches.

Policy MG21 of the LDP relates to Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, with MD9 also relevant to ecological interests, and which seeks to promote biodiversity. These are supported by the Council's SPG on Biodiversity and Development. National guidance is 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.”*

The application is accompanied by an Ecological Appraisal and a Dormouse Mitigation Strategy. These reports have been prepared following ecological surveys undertaken between 2015-2017, which include breeding birds, bats, dormouse, badgers, great crested newts and reptiles. These survey results confirm that the site contains a number of protected habitats and species, in particular dormice.

The developers have been in dialogue with NRW before and during the submission of the application to ensure that the proposed scheme does not result in a net loss of biodiversity, and where possible, hedgerows and woodland are retained. In order to meet the NRW's requirements, the creation of compensatory habitat, and the enhancement of retained habitats, has been incorporated in to the development. Following consultation with NRW and the Council's Ecology team, it is confirmed that there are no objections to the proposal, however, this is subject to the requirement for a number of conditions on any consent.

NRW have recommended that planning permission is granted only if the following conditions are attached, which would address the significant concerns that they have identified with the proposal:-

- The development to be carried out in line with the submitted Dormouse Mitigation Strategy, Ecological Appraisal and Details Soft Landscaping Plan.
- Lighting Scheme in relation to Dormice.
- Long term habitat management and monitoring.

NRW also advise that the applicant seek a European Protected Species licence from NRW under Regulation 53(2)e of The Conservation of Habitats and Species Regulations 2010 before any habitat clearance works on site commence that may impact upon dormice. They also note that they will require further detail of a number of aspects of the Mitigation Strategy at the time of the European Protected Species licence, including of the proposed management of retained habitat prior to vegetation clearance.

The interim objections submitted by the Council's Ecology team have now been removed subject to the imposition of a number of conditions to protect biodiversity interests on site. These include conditions as per NRW recommendation, with an additional two conditions required relating to the bird box strategy, and the LPA to be provided with a copy of the licence before the commencement of development on the dormouse habitat (see Conditions 5 and 6 (outline) and 12 to 16 (full)).

In line with NRW comments, it is also noted that some outstanding details need to be addressed, but this can be achieved at the licensing stage. Areas requiring further information include management of the newly planted areas, post development monitoring of dormouse, etc.

It is recognised that Dormice are a European Protected Species (EPS) under the Conservation of Habitats and Species Regulations 2010, and where a development proposal is likely to contravene the protection afforded to them, development may only proceed under a licence issued by NRW, having satisfied the three requirements set out in the legislation. These requirements are translated into planning policy through PPW, Sections 5.5.11 and 5.5.12, and TAN5 - Nature and Conservation and Planning. The Local Planning Authority should take them into account when considering development proposals where an EPS species is present.

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.**

The development of the site has benefits in terms of providing much needed housing, including affordable housing, in the wider public interest in providing a range of choice of housing to meet the identified need within the Vale of Glamorgan. The development will also provide a community and recreational use. As identified within the principle section of this report, the site is allocated for a mixed use of residential and community facilities under policies MG2 (28) and MG7 (2) of the LDP. This supports spatial policy SP3-Residential Requirement, which identifies a need for the provision of 9,460 new homes within the Vale of Glamorgan. The future development of this allocated site is therefore required to meet the scale of growth required in Vale of Glamorgan to meet the projected future populations and housing need over the plan period to 2026, and forms an integral part of the LDP's 5-year land supply.

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**

In terms of any satisfactory alternatives, it is noted that the LDP has been the subject of many years of consultation and amendment, including a public examination by an independent Planning Inspector who, having considered the evidence base and the views of stakeholders, has concluded that the LDP is sound. As part of this process, the Council was required to undertake a combined Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) of the LDP to ensure that sustainability is at the heart of the plan. The strategic objectives of the LDP include consideration of the Sustainability Appraisal, with a Settlement Hierarchy that identifies sustainable settlements which are considered to be capable of accommodating additional development during the Plan period.

Thus the site is a sustainable one within an identified settlement boundary, where the Council would wish to see such development. Not providing such sustainable development to meet the Vale of Glamorgan's housing supply requirements is not considered to be a satisfactory alternative.

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

As regards this third test, NRW note from the submitted reports that dormice are confirmed on site and that approximately 1ha of suitable habitat for this species will be removed to facilitate the development.

NRW have considered whether any authorised development will 'not be detrimental to the maintenance of the favourable conservation status (FCS) in their natural range'. They have assessed the submitted reports and plans, and note the measures set out within the Dormouse Mitigation Strategy. These include the creation of replacement habitat and the long-term security and management of this and retained habitats for dormice. They consider that the submitted information collectively provides an adequate basis upon which to assess the likely impacts of the proposals on the maintenance of the favourable conservation status of this species. As already noted they have concluded that consent can be granted subject to the conditions specified above.

Thus it is considered that the proposal meets the requirements of all 'three tests' for derogation specified under the Conservation of Habitats and Species Regulations 2010, as amended, and is in line with local and national policy, guidance and regulations, including, policies MG21 and MD9 of the LDP, 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, as amended.

#### Drainage and Flooding

Policy MD7 of the LDP relates to Environmental Protection, and requires that proposals demonstrate they will not result in an unacceptable impact on people, residential amenity, property, and/or the natural environment resulting from a number of factors, including pollution of surface water/ground water, or flood risk.

It is noted that a number of the objections raised relate to inadequate drainage and surface water flooding.

The application is supported by a Drainage Strategy and engineering drawings. These indicate that in respect of the foul drainage of the site, the development will discharge from the site to the local adopted system north of the site following discharge to an existing pumping station to the south. This will include improvement works to the current system. As regards the surface water strategy for the development, this will discharge to existing infrastructure to the south west of the site at a rate equivalent to the existing greenfield run-off rate. Attenuation shall be via cellular storage for the adoptable system and exceedance flows up to the 100 year event, plus 30% climate change. Both surface and foul water sewers will be offered for adoption to Welsh Water.

Welsh Water have confirmed that they have no objections to the proposals. They refer to a discrepancy on the submitted form which identifies that surface water will discharge into the mains sewer, but this is superseded by the additional drainage information, and conditions that will be imposed on any consent. Notwithstanding this, they advise that it is unlikely that sufficient capacity exists at Stonylands Sewerage Pumping Station (SPS) to accommodate the proposed development, which also appears to be situated within the protection zone of the 4 inch public rising main which crosses the site. As such, they have request a number of conditions and advisory notes be attached to any consent, to ensure no detriment to existing residents or the environment, or to Dwr Cymru/Welsh Water's assets. The requested conditions include:-



- 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.
- Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at:
  - i. A point of connection on the public sewerage system identified by a hydraulic modelling assessment, which shall be first submitted to and approved by the local planning authority. Thereafter the connection shall be made in accordance with the recommended connection options following the implementation of any necessary improvements to the sewerage network as may be identified by the hydraulic modelling assessment.
  - or
  - ii. The 150 mm foul sewer at manhole reference number ST16714001 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

No building shall be occupied until it is served by the approved connection.

Welsh Water have also confirmed that there are no problems envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site. In relation to water supply, there is no objection as this can be made available. In addition, they note that the site is crossed by a distribution watermain, but it may be possible to divert this at the cost of the developer. (See **Conditions 33 and 34**)

The Council's Drainage section has confirmed that is site is not located within a DAM zone at risk of tidal or fluvial flooding. In addition, NRW flood maps indicate that there is a very low to low risk of surface water flooding across the site. There is a known risk of surface water flooding to properties adjacent to the northern boundary of the site due to sheeting flows from existing fields. Therefore, no development on this site should have a detrimental effect on existing flood risk in the area and surface water drainage should be carefully considered on this site.

In relation to the submitted calculations for greenfield run-off, the Council's Drainage section has indicated these will need to be revised prior to any surface water drainage scheme being approved for the site. In addition, the preliminary storage calculations submitted with the application, are also required to be revised prior to the approval of any surface water drainage scheme on the site.

The proposed surface water drainage scheme outfalls to an existing watercourse and the applicant must therefore demonstrate that appropriate measures are in place to protect water quality. In accordance with the interim non-statutory standards for SuDS in Wales, and the SuDS Manual, an appropriate treatment train should be put in place on this development site in association with consideration of water quality.

Additional information has been submitted with the application, including flood exceedance flow routes. The plan indicates that exceedance flows will be routed towards the northern boundary, where there are existing properties and is an area of known flood risk. As such, the Council's Drainage section has indicated that, prior to the commencement of works on site, consideration must be given to, and measures must be put in place, to ensure that there will be no increase in flood risk to surrounding properties, in addition to a SuDS management and maintenance plan detailing the perpetual on-going maintenance requirements for the lifetime of the development..

Furthermore, Council's Drainage section has requested that a construction environmental management plan be submitted prior to any work commencing on site. This must detail measures to manage silt and surface water runoff during construction phase of the development; demonstrate how silt build up within the drainage system shall be dealt with upon completion of the site; and include a phasing plan to clearly demonstrate when drainage assets shall be constructed on site. This can be required by condition (See **Conditions 35 to 37**

In addition to the above comments, further neighbour concerns were raised over recent surface water flooding, and sewage overflow in the locality. Both Welsh Water and the Council's Drainage section were again consulted for their views on this issue. Welsh Water have indicated that they are aware of the sewerage incidents at Murch Crescent Area and Castle Drive, and these are being investigated separately by their network operations department. Notwithstanding this, they confirm that foul flows can communicate to a suitable point of connection at manhole reference ST16714001, located to the north of the application site. This was also confirmed as part of their statutory pre-application consultation response, whereby foul flows from the proposed development can be accommodated within the public sewerage system by virtue of capacity generated by the historic flows from the former use of the site as a school. They are satisfied that the conditions recommended above will afford suitable control to prevent hydraulic overloading of the public sewerage system and ensure no pollution or detriment is caused to the environment in the interests of protecting the health and safety of existing residents.

The Council's Drainage section has provided an additional response to further queries from neighbours relating to surface water flooding. They confirm that the proposed surface water drainage system for the development is separate from any existing DCWW or private surface water sewer in the area, and discharges into an existing watercourse south of the site. As already noted above, it is accepted that there are known surface water flooding issues at the northern boundary of the site, and insufficient details have so far been submitted regarding this, however pre-commencement conditions are requested to ensure that the development will not have a detrimental effect on flood risk in the area. It is envisaged that appropriate mitigation measures along the northern boundary can alleviate some of the surface water flood risk in this area (see Conditions 35 to 37).

### Other environmental impacts

As already noted Policy MD7 of the LDP relates to Environmental Protection, and requires that proposals demonstrate they will not result in an unacceptable impact on people, residential amenity, property, and/or the natural environment resulting from a number of factors, including, pollution of the air, land contamination, and any other identified risk to public health and safety.

The Council's Environmental Health section have submitted a number of comments in relation to construction works on the site, potential land contamination, and air quality.

In relation to potential contaminative issues, Council's Environmental Health initial comments identified the site as having the potential for contamination, bearing in mind the former school use and its structures, now demolished. In addition, records indicate a disused quarry located in the vicinity of the application site, to the south west. As such, an investigation of the extent and nature of the infilling of the quarry site was recommended.

A number of conditions were requested relating to possible ground contamination; ground gas; and any importation of soils/aggregates. Following the submission of the additional report on, Supplementary Statement on Geo-Environmental Issues, the Environmental Health section have identified that the ground gassing condition is no longer required. However, the remainder of the conditions previously requested in relation to potential ground contamination and any importation of soils/aggregates are still required to be imposed on any consent (see **Conditions 26 to 32**)

On the issue of air quality, Environment health's initial comments requested that the applicant quantify whether or not an Air Quality Assessment (AQA) should be undertaken, focusing on dust omissions and vehicle omissions from the construction phase of the development and potential exposure of local and future residents due to increased traffic flows. In addition, a condition relating to dust control was requested.

Further comments have been submitted and a review has been undertaken of the Air Quality Assessment Report. These confirm that the findings detailed in the report and the methods and approach used to derive the findings are acceptable. The AQA has been undertaken to a high standard and the very conservative approach adopted by the model is deemed best practise allowing worst-case scenarios to be portrayed.

Based on this report there are no objections to the development on the grounds of air quality. The operational impact of the proposal on existing receptors is predicted to be “negligible”.

For the construction phase, the most important consideration is dust, and without appropriate mitigation, dust could cause temporary soiling of surfaces, particularly windows, cars and laundry. The mitigation measures provided within this report should ensure that the risk of adverse dust effects is reduced to a level categorised as “not significant”.

Finally, it is noted that there is an element of risk associated with the construction phase, and, as such, a suitable Construction Environmental Management Plan should be submitted to include a detailed Dust Management Plan with appropriate measures submitted and approved prior to the development proceeding. Indeed, previous Environmental Health comments have already identified that the submission of a Construction Environmental Management Plan (CEMP) is required, which, in addition to the Dust Management Plan referenced above, should also cover, restrictions on hours of operation/delivering, piling, lighting, and burning of waste (see Condition 25).

#### Other issues

Policy MD8 of the LDP relates to the Historic Environment and requires that development proposals must protect the qualities of the built and historic environment of the Vale. In relation to listed or locally listed buildings, proposals must preserve or enhance the building, its setting, and any features of significance. For sites of archaeological interest, proposals must preserve or enhance archaeological remains and where appropriate their settings.

The application is supported by a Landscape and Visual Appraisal (LVA), which not only assesses the effects of the development in relation to landscape impacts, but also contains an assessment of the heritage assets that may be affected by the development. In addition, an archaeological desk-based assessment, coupled with a LiDAR and geophysical survey, have been undertaken in respect of the application site. It is noted that there are no designated archaeological assets (Scheduled Monuments, Registered Battlefields or Historic Parks and Gardens) within the study site.

Three Scheduled Monuments are located within a 1km radius of the study site. The survey results and assessments indicate that the proposed development would not harm the setting or significance of the Scheduled Monuments, and that the overall archaeological potential of the site is low. The results of the LiDAR and geophysical survey suggest that any remains of Stonylands Farm have been removed by the construction of the school playing field. The conclusion of the survey results is that the overall archaeological potential of the study site is low.

The Council's Archaeological advisors, Glamorgan Gwent Archaeological Trust, have stated that the impact of the proposed development upon the archaeological resource is considered to be low and no further archaeological investigation is required. As such they have no objection to the positive determination of the application.

### S106 Planning obligations

The Council's approved Planning Obligations Supplementary Planning Guidance 2017 (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 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 submission is a hybrid application that seeks full planning permission for 215 residential units and outline consent for a community and recreational use zone. However it is only the residential element of the scheme that is subject to planning obligations.

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

TAN2 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.

Relevant policies of the LDP include, SP4-Affordable Housing Provision, MG4-Affordable Housing, and MD4-Community Infrastructure and Planning Obligations. Policy MG4 requires 40% affordable housing on residential development resulting in a net gain of 1 dwelling or more.

In this instance, the affordable housing requirement equates to 86 dwellings. 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.

The scheme includes 40% of affordable housing, which equates to 86 units. The Housing Team require a tenure split of 61 Social Rented and 25 Low Cost Home Ownership dwellings, which has been appropriately dispersed throughout the site.

### Education

All new residential developments which are likely to house school aged children create additional demand on places at existing schools. Paragraph 4.4.3 of PPW 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.

Policy MD5 of the LDP allows for new development within settlements, subject to certain criteria, including, criterion 7, that it makes appropriate provision for community infrastructure to meet the needs of future occupiers. Education facilities are clearly essential community facilities required to meet the needs of future occupiers, under the terms of this policy.

The Education Department have confirmed that as 24 units are one bed units, they would not generate children of a school age. Therefore based on a pupil yield from 191 units (215 minus 24), this would equate to 19 nursery, 53 primary and 48 (40 aged 11-16 and 8 aged post 16), secondary age pupils.

The Education Department have confirmed that there is no spare capacity projected in local nursery and primary schools. However, in relation to secondary provision, there are a number of pupils that attend St Cyres Comprehensive School residing in the Cardiff area who could potentially be displaced by local children emanating from the development in future. The secondary provision is therefore reduced accordingly.

The costs are therefore :

19 nursery x £18,249 = £346,731  
53 primary x £18,249 = £967,197  
14 secondary (11 – 16) x £27,498 = £384,792  
2 secondary (post 16)x £29,823 = £59,646

Total S106 Education requirements are therefore £1,758,366

The applicant has agreed to the requested amount

### Sustainable Transport

In terms of local policy, objective 3 of the LDP seeks to reduce the need for Vale of Glamorgan residents to travel to meet their daily needs and enabling them greater access to sustainable forms of transport. In addition policy SP1 promotes sustainable transport. This policy background is supported by the advice in PPW, TAN 18-Transport, and Manual for Streets.

The Council's Sustainable Transport Assessment LDP Background Paper (2013) identifies the sustainable transport measures required to ensure better conditions for pedestrians, cyclists and public transport users, and to encourage a change in travel choices away from the single occupancy car. This is a key aim embodied in national and local planning and transport policies, which the Council is keen to deliver.

The SPG requires a contribution of £2,300 per dwelling towards sustainable transport to be used in the vicinity of the site. Based on the provision of 215 dwellings, the Council would require a financial contribution which equates to £494,500 to improve sustainable transport provision within the vicinity of the site. The applicant has agreed to the requested amount.

Following an assessment, the following (which is not an exhaustive list) have been identified as in need of new provision/ enhancements:

- Provision of new bus stop outside of the Medical Centre;
- Walking and cycling improvements throughout the village of Dinas Powys, to key destinations such as the village centre; the local primary schools and park areas.
- Contribution towards an extension to a local bus service up to the proposed bus stop;

- Contribution towards improvements to local bus stops,
- Enhancements to Ash Path and Watery Lane
- Enhancements to the bridleway between Sunnycroft Lane and Cross Common Road;

### 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 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.

As already noted policy MD5 of the LDP HOUS8 allows for new development within settlements, subject to certain criteria, including, criterion 7, that it makes appropriate provision for community infrastructure to meet the needs of future occupiers. 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 LDP Community Facilities Background Paper (2013) advises that within the the Dinas Powys Ward, additional community space is required to accommodate the projected housing growth within the Ward. Whilst the Background Paper does state that the allocated site should provide 120 sq m of community space, this is based on the site delivering 300 dwellings. The background Paper states that the deficiency is to be addressed through the provision of a new community building (to be located at the former St. Cyres School site).

Whilst the site accommodates a 3ha site allocated under Policy MG7, this site will contribute in meeting the wider needs for community facilities in the Dinas Powys Ward and is separate to community facilities requirements serving the proposed residential development.

Therefore it has been agreed that the developer pay an financial contribution, based on £1,260 per dwelling, which would equate to £270,900. This would be used to provide community facilities/enhancements serving the development



## 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. Policy MD3 of the LDP requires new residential developments to make provision for public open space at a minimum standard of,

1. Outdoor sports provision 1.6 ha per 1,000 population;
2. Children's equipped play space 0.25 ha per 1,000 population;
3. Informal play space 0.55 ha per 1,000 population.

The Council applies this policy to all residential developments of 5 or more dwellings, in addition to the basic amenity space requirements necessary to meet the immediate amenity needs of occupiers (e.g. private garden space) as outlined in the approved Amenity Standards SPG.

As previously stated, the site is constrained and whilst there are underdeveloped areas of the site and green spaces provided at the edges of the development, these areas would not have public access and form part of the mitigation. Moreover in order to meet the density requirements of the allocated site, it was not considered that the net developable areas of the site should be used for the provision of on-site public open space. This is on the basis that the allocated site includes a large 3ha site for community uses which could include recreational facilities. Whilst it is accepted that such uses are not likely to provide children's play space or play equipment, it was considered, given the unique circumstances of the site, to enhance existing off site provision such as the Murch Play Area. The acceptability of this off site provision was based on linkages between the site and the play area via Sunnycroft Lane (a distance of some 500m), which can be achieved.

It was agreed with the developer that the level of offsite contribution should be set at £160,000 to enhance existing off site provision such as the Murch Play Area.

## Public Art

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 submission indicates within the Planning Statement that a financial contribution equating to 1% of the build cost will be provided towards Public Art. However, to date the applicants have not explored how this might be provided within the site. It is considered that there will be opportunities to provide Public Art on site, which could serve to enhance the character of the site. For example, the DCfW noted the importance of the woodland and ecology of the site, and how the future residents should be able to understand this and become custodians of this important resource. The DCfW report states:

*“Further exploration of the potential to open up the woodland in a controlled way that would allow important pedestrian connections to be made across the site is required. Looking at examples of what has been done elsewhere such as the former Hellingly Hospital site developed by Persimmon Homes and an application recently submitted at Crowborough by Catesby Strategic Land could be useful to explore more flexible approaches to integrating appropriate dormouse habitat mitigation/protection and public access. A more creative dialogue with NRW that recognises the presence of protected species and habitat as well as exploring opportunities for local education, information, appreciation and ownership of the ecological asset should be explored. Consideration could then be given to whether this space could contribute towards the open space requirements for the site.”*

On this point, the applicants have undertaken further consultation with NRW, but it has been made clear that the areas of protected/compensatory habitat cannot have public access. Despite this, there remains the opportunity for appropriate Public Art to support local education, information, appreciation, and ownership of the ecological asset on the site,

In view of the above the following recommendation is made.

### RECOMMENDATION

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

- Procure that 40% (86 units) of the dwellings built on the site pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity.
- Pay a contribution of £1,758,366 for the provision or enhancement of education facilities to meet the needs of future occupiers.
- Pay a contribution of £160,000 to enhance existing off site provision such as the Murch Play Area
- Provide public art to the value of 1% of project costs in accordance with details to be submitted for approval.

- Pay a contribution of £494,500 to improve sustainable transport provision within the vicinity of the site. to provide or enhance sustainable transport facilities in the vicinity of the site to be spent on one or more of the following; walking and cycling improvements throughout the village of Dinas Powys, to key destinations such as the village centre; the local primary schools and park areas. provision of new bus stop outside of the Medical Centre, contribution towards an extension to a local bus service up to the proposed bus stop and improvements to local bus stops, enhancements to Ash Path, Watery Lane and the bridleway between Sunnycroft Lane and Cross Common Road;
- Pay a contribution of £270,900 to provide community facilities /enhancements serving the development.

### **FOR THE OUTLINE CONSENT ONLY**

1. Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason:

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

2. Any application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from 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 shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason:

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

4. The development shall be carried out in accordance with the parameters specified in the "Design and Access Statement" dated October 2017, amended document received 19 January 2018.

Reason:

To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 and to ensure a satisfactory form of development in accordance with Policies SP1-Delivering the Strategy, SP10-Built and Natural Environment, and MD2-Design of New Development of the Local Development Plan.

5. The development shall be carried out in line with the submitted Dormouse Mitigation Strategy dated October 2017, the submitted Section 5 Ecological Appraisal dated October 2017 and the submitted Detailed soft landscape plan, dated October 2017.

Reason:

To safeguard and mitigate for the ecology and biodiversity interests on the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

6. Before the commencement of development, a long-term Management Plan that builds upon the principles set out in the Dormouse Mitigation Strategy shall be submitted to and agreed in writing with the Local Planning Authority. The plan should include, but not exclusively, a drawing/plan confirming the areas of the site that will be subject to the management plan and illustrating the distribution of each habitat type; a description of each habitat type to be managed and their desired condition; the nature of management operations required to both deliver and subsequently maintain the desired condition; appropriate scheduling and timing of activities; monitoring to assess the development of and on-going suitability of the habitats present to support dormice; proposals for on-going review of management and remedial action where problems are identified by habitat and/or population monitoring.

Reason:

To ensure the favourable management of habitats for dormice within the scheme in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

7. Full details of the enclosure of the community facilities land, including height and materials, shall be submitted to and agreed in writing with the Local Planning Authority. The enclosures shall be erected in accordance with a schedule of timescales that shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on any part of the dwellings or highways adjacent to the community facilities land.

Reason:

In the interests of visual amenity and the security of the site in accordance with Policies SP1-Delivering the Strategy, SP10-Built and natural Environment, and MD2-Design of New Development of the Local Development Plan.

### **FOR THE FULL CONSENT**

8. The development shall begin no later than five years from the date of this decision.

Reason:

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

9. The development shall be carried out in accordance with the following approved plans and documents:
- Site Location Plan, Drg. No. 101 Rev B, amended plan received 19 December 2017;
  - Planning Layout, Drg. No. 100 Rev M, amended plan received 17 January 2018;
  - External Work Layout Sheet 1, amended plan received 17 January 2018;
  - External Work Layout Sheet 2, amended plan received 17 January 2018;
  - External Work Layout Sheet 3, amended plan received 17 January 2018;
  - Materials Layout, Drg. No. 103 Rev E, amended plan received 17 January 2018;
  - Storey Heights Layout, Drg. No. 104 Rev D, amended plan received 17 January 2018;
  - Affordable Housing Layout, Drg. No. 105 Rev D, amended plan received 17 January 2018;
  - Parking Strategy, Drg. No. 106 Rev D, amended plan received 17 January 2018;
  - Adoption Layout, Drg. No. 108 Rev D, amended plan received 17 January 2018;
  - Street Scenes, Drg. No. 109 Rev B, amended plan received 19 January 2018;
  - Site Access General Arrangement, Drg. No. 10069-002-1-E, amended plan received 18 January 2018;
  - Site Access Tracking, Drg. No. 10069-002-02-B, amended plan received 18 January 2018;

- Exeter Plans and Elevations, Drg. No. 200-1, amended plan received 19 December 2017;
- Exeter Plans and Elevations, Drg. No. 200 Rev A, amended plan received 19 December 2017;
- Exeter Plans and Elevations, Drg. No. 201-1, amended plan received 19 December 2017;
- Exeter Plans and Elevations, Drg. No. 201 Rev A, amended plan received 19 December 2017;
- Layton Plans and Elevations, Drg. No. 202-1, amended plan received 19 December 2017;
- Layton Plans and Elevations, Drg. No. 202 Rev A, amended plan received 19 December 2017;
- Layton Plans and Elevations, Drg. No. 203-1, amended plan received 19 December 2017;
- Layton Plans and Elevations, Drg. No. 203 Rev A, amended plan received 19 December 2017;
- Chelworth Plans and Elevations, Drg. No. 204-1, amended plan received 19 December 2017;
- Chelworth Plans and Elevations, Drg. No. 204-2, amended plan received 19 December 2017;
- Chelworth Plans and Elevations, Drg. No. 204 Rev A, amended plan received 19 December 2017;
- Chelworth Plans and Elevations, Drg. No. 205-1, amended plan received 19 December 2017;
- Chelworth Plans and Elevations, Drg. No. 205 Rev A, amended plan received 19 December 2017;
- Holden Plans and Elevations, Drg. No. 206-1, amended plan received 19 December 2017;
- Holden Plans and Elevations, Drg. No. 206 Rev A, amended plan received 19 December 2017;
- Holden Plans and Elevations, Drg. No. 207-1, amended plan received 19 December 2017;
- Holden Plans and Elevations, Drg. No. 207 Rev A, amended plan received 19 December 2017;
- Cornell Plans and Elevations, Drg. No. 208-1, amended plan received 19 December 2017;
- Cornell Plans and Elevations, Drg. No. 208 Rev A, amended plan received 19 December 2017;
- Cornell Plans and Elevations, Drg. No. 209-1, amended plan received 19 December 2017;
- Cornell Plans and Elevations, Drg. No. 209 Rev A, amended plan received 19 December 2017;
- Bradgate Plans and Elevations, Drg. No. 210-1, amended plan received 19 December 2017;
- Bradgate Plans and Elevations, Drg. No. 210 Rev A, amended plan received 19 December 2017;
- Washington Plans and Elevations, Drg. No. 211-1, amended plan received 19 December 2017;
- Washington Plans and Elevations, Drg. No. 211 Rev A, amended plan received 19 December 2017;
- Larch Plans and Elevations, Drg. No. 212-1, amended plan received 19 December 2017;

- Larch Plans and Elevations, Drg. No. 212 Rev A, amended plan received 19 December 2017;
- Ashtree Plans and Elevations, Drg. No. 213-1, amended plan received 19 December 2017;
- Ashtree Plans and Elevations, Drg. No. 213 Rev A, amended plan received 19 December 2017;
- Shenton Plans and Elevations, Drg. No. 214-1, amended plan received 19 December 2017;
- Shenton Plans and Elevations, Drg. No. 214 Rev A, amended plan received 19 December 2017;
- Barton Plans and Elevations, Drg. No. 215-1, amended plan received 19 December 2017;
- Barton Plans and Elevations, Drg. No. 215 Rev A, amended plan received 19 December 2017;
- Moresby Plans and Elevations, Drg. No. 220 Rev A, amended plan received 19 December 2017;
- Moresby Plans and Elevations, Drg. No. 221-1, amended plan received 19 December 2017;
- Moresby Plans and Elevations, Drg. No. 221 Rev A, amended plan received 19 December 2017;
- Alderney Plans and Elevations, Drg. No. 222-1, amended plan received 19 December 2017;
- Alderney Plans and Elevations, Drg. No. 222-2, amended plan received 19 December 2017;
- Alderney Plans and Elevations, Drg. No. 222 Rev A, amended plan received 19 December 2017;
- Alderney Plans and Elevations, Drg. No. 223-1, amended plan received 19 December 2017;
- Alderney Plans and Elevations, Drg. No. 223 Rev A, amended plan received 19 December 2017;
- Andover Plans and Elevations, Drg. No. 224-1, amended plan received 19 December 2017;
- Andover Plans and Elevations, Drg. No. 224 Rev A, amended plan received 19 December 2017;
- Buchanan Plans and Elevations, Drg. No. 225-1, amended plan received 19 December 2017;
- Buchanan Plans and Elevations, Drg. No. 225 Rev A, amended plan received 19 December 2017;
- Buchanan Plans and Elevations, Drg. No. 226-1, amended plan received 19 December 2017;
- Buchanan Plans and Elevations, Drg. No. 226-2, amended plan received 19 December 2017;
- Buchanan Plans and Elevations, Drg. No. 226 Rev A, amended plan received 19 December 2017;
- Collaton Plans and Elevations, Drg. No. 227-1, amended plan received 19 December 2017;
- Collaton Plans and Elevations, Drg. No. 227 Rev A, amended plan received 19 December 2017;

Continued see Condition 10.

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.

10. The development shall be carried out in accordance with the following approved plans and documents:
- Eskdale Plans and Elevations, Drg. No. 228-1, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 228-2, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 228 Rev A, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 229-1, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 229-2, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 229-3, amended plan received 19 December 2017;
  - Eskdale Plans and Elevations, Drg. No. 229 Rev A, amended plan received 19 December 2017;
  - Kingsley Plans and Elevations, Drg. No. 230-1, amended plans received 19 December 2017;
  - Kingsley Plans and Elevations, Drg. No. 230 Rev A, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 231-1, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 231-2, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 231 Rev A, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 232-1, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 232-2, amended plan received 19 December 2017;
  - Maidstone Plans and Elevations, Drg. No. 232 Rev A, amended plan received 19 December 2017;
  - Richmond Plans and Elevations, Drg. No. 235-1, amended plan received 19 December 2017;
  - Richmond Plans and Elevations, Drg. No. 235 Rev A, amended plan received 19 December 2017;
  - Ennerdale Plans and Elevations, Drg. No. 237-1, amended plan received 19 December 2017;
  - Ennerdale Plans and Elevations, Drg. No. 237 Rev A, amended plan received 19 December 2017;
  - Washington Plans and Elevations, Drg. No. 238-1, amended plan received 19 December 2017;
  - Washington Plans and Elevations, Drg. No. 238 Rev A, amended plan received 19 December 2017;



- Alder Plans and Elevations, Drg. No. 239-1 Rev A, amended plan received 12 January 2018;
- Alder Plans and Elevations, Drg. No. 239 Rev B, amended plan received 12 January 2018;
- Olive Plans and Elevations, Drg. No. 240-1, amended plan received 19 December 2017;
- Olive Plans and Elevations, Drg. No. 240-2, amended plan received 19 December 2017;
- Olive Plans and Elevations, Drg. No. 240 Rev A, amended plan received 19 December 2017;
- Larch Plans and Elevations, Drg. No. 241-1, amended plan received 19 December 2017;
- Larch Plans and Elevations, Drg. No. 241 Rev A, amended plan received 19 December 2017;
- Cherry Plans and Elevations, Drg. No. 242-1, amended plan received 19 December 2017;
- Cherry Plans and Elevations, Drg. No. 242 Rev A, amended plan received 19 December 2017;
- Kingsville Plans and Elevations, Drg. No. 243-1, amended plan received 19 December 2017;
- Kingsville Plans and Elevations, Drg. No. 243 Rev A, amended plan received 19 December 2017;
- Thornton Plans and Elevations, Drg. No. 244-Rev A, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 1, Drg. No. 250, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 2, Drg. No. 251, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 3, Drg. No. 252, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 4, Drg. No. 253, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 5, Drg. No. 254, amended plan received 19 December 2017;
- Garage Plans and Elevations Sheet 6, Drg. No. 255, amended plan received 19 December 2017;
- Enclosure Details Sheet 1, Drg. No. 260, amended plan received 19 December 2017;
- Enclosure Details Sheet 2, Drg. No. 261, amended plan received 19 December 2017;
- Enclosure Details Sheet 3, Drg. No. 262, amended plan received 19 December 2017;
- Enclosure Details Sheet 4, Drg. No. 263, amended plan received 19 December 2017;
- Engineering Layout Planning Sheet 1 of 2, Drg. No. 10069-001-06 Rev C, amended plan received 19 December 2017;
- Engineering Layout Planning Sheet 2 of 2, Drg. No. 10069-001-07 Rev B, amended plan received 19 December 2017;
- Development Areas, Drg. No. 10069-100, received 19 December 2017;
- Flood Exceedance Plan, Drg. No. 10069-101, received 19 December 2017;

- Attenuation Cross Section, Drg. No. 10069-102, received 19 December 2017;
- Appendix F In Situ Soakaway Test Results, received 19 December 2017;
- Approximate Location of Site Investigation Work, Drg. No. G/NC832/03A, received 19 December 2017;
- Site Cross Section Sheet 1 of 2, Drg. No. 10069-103-01, received 9 January 2018;
- Site Cross Section Sheet 2 of 2, Drg. No. 10069-103-02, received 9 January 2018;
- Working Areas Subject to NRW Development License for Dormouse, Drg. No. edp3927\_d009, received 12 January 2018;
- Swept Path Fire Tender Sheet 1 of 4, Drg. No. 10069-003-01, received 30 October 2017;
- Swept Path Fire Tender Sheet 2 of 4, Drg. No. 10069-003-02, received 30 October 2017;
- Swept Path Large Refuse Sheet 3 of 4, Drg. No. 10069-003-03, received 30 October 2017;
- Swept Path Large Refuse Sheet 4 of 4, Drg. No. 10069-003-04, received 30 October 2017;
- Soft Landscape Strategy Sheets 1 to 7, Drg No. EDP3927/03d, amended plans received 12 January 2018;

Continued see Condition 11.

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.

11. The development shall be carried out in accordance with the following approved plans and documents:
  - Planning Statement, RPS (October 2017), received 30 October 2017;
  - Design & Access Statement, RPS (October 2017), amended details received 19 January 2018;
  - Transport Assessment, RPS, (October 2017), received 30 October 2017;
  - Response to Vale of Glamorgan Council Comments – Technical Note (JNY8501-04A), RPS January 2018, received 3 January 2018;
  - Residential Travel Plan, EDP, (October 2017), received 30 October 2017;
  - Ecological Appraisal, RPS, October 2017, received 30 October 2017;
  - Dormouse Mitigation Strategy, EDP, (October 2017), received 30 October 2017;
  - Landscape and Visual Assessment, RPS, (October 2017), received 30 October 2017;
  - Archaeological Desk-Based Assessment, CgMs (July 2017), received 30 October 2017;
  - Drainage Strategy and Flood Risk Assessment Rev C, Phoenix Design, (October 2017), received 19 December 2017;
  - Report on Site Investigations, JPB, (July 2014), received 19 December 2017;

- Arboricultural Impact Assessment, RPS, (December 2017), amended details received 19 December 2017;
- Agricultural Land Classification and Soil Resources Report, Reading Agricultural Consultants Ltd (March 2017), received 30 October 2017;
- Air Quality Assessment, RPS, (January 2018), received 15 January 2018,
- Supplementary Statement on Geo-Environmental Issues, JPB, (January 2018), received 17 January 2018;
- Pre-Application Consultation Report, RPS (October 2017), received 30 October 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.

12. The development to be carried out in line with the submitted Dormouse Mitigation Strategy dated October 2017, the submitted Section 5 Ecological Appraisal dated October 2017 and the submitted Detailed soft landscape plan, dated October 2017.

Reason:

To safeguard and mitigate for the ecology and biodiversity interests on the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

13. Prior to there erection on site, a lighting scheme shall be submitted to and agreed in writing by the Local Planning Authority. The scheme should include details of the type of lighting to be used; appropriate siting of lights; drawings setting out light spillage to demonstrate that all areas proposed as dormouse habitat are not illuminated and maintained as dark areas/corridors. The lighting thereafter installed shall be in full accordance with the agreed details and thereafter maintained.

Reason:

To ensure that lighting measures do not conflict with the dormouse use of the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

14. Before the commencement of development a long-term Management Plan that builds upon the principles set out in the Dormouse Mitigation Strategy shall be submitted to and agreed in writing with the Local Planning Authority. The plan should include, but not exclusively, a drawing/plan confirming the areas of the site that will be subject to the management plan and illustrating the distribution of each habitat type; a description of each habitat type to be managed and their desired condition; the nature of management operations required to both deliver and subsequently maintain the desired condition; appropriate scheduling and timing of activities; monitoring to assess the development of and on-going suitability of the habitats present to support dormice; proposals for on-going review of management and remedial action where problems are identified by habitat and/or population monitoring.

Reason:

To ensure the favourable management of habitats for dormice within the scheme in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

15. The development shall be implemented in accordance with the recommendations made in the Ecological Appraisal, and a Bird Box Strategy to be submitted to and agreed in writing by the Local Planning Authority.

Reason:

To safeguard and mitigate for the ecology and biodiversity interests on the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

16. Prior to the commencement of development on dormouse habitat (as identified on Working Areas Subject to NRW Development License for Dormouse, Drg. No. edp3927\_d009, received 12 January 2018), the Local Planning Authority shall be provided with a copy of the licence issued by Natural Resources Wales pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017.

Reason:

To safeguard and mitigate for the ecology and biodiversity interests on the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

17. Full engineering details and associated calculations of the proposed highway works, incorporating vision splays, street lighting, road signs, surface water drainage strategy and any retaining structures retaining or adjacent to the highway/public open space, which shall be in general accord with Planning Layout Drg. No. 100 Rev M, Site Access General Arrangement Drg. No. 10069-002-1-E, and Site Access-15m Coach Tracking Drg. No. 10069-002-2-B, shall be submitted to and agreed in writing with the Local Planning Authority before their implementation on site. The development shall be completed thereafter in accordance with the approved details.

Reason:

In the interests of highway safety in accordance with Policy MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

18. The approved access, internal road layout and car parking provision, including private curtilage parking and on road bays (as identified on Parking Strategy Layout Drg. No. 106 Rev D) shall be completed before the occupation of the residential units that they serve. The car parking provision shall thereafter be retained and maintained for use exclusively in connection with the residential units that they serve, and the wider development in relation to visitor spaces.

Reason:

To ensure adequate access and parking is provided and maintained in the interests of highway safety in accordance with Policies MD2-Design of New Development and MD5-Development within Settlement Boundaries of the Local Development Plan.

19. The alterations and improvements to the existing highway, as shown on Site Access General Arrangement, Drg. No. 10069-002-1-E, shall be completed in accordance with a phasing plan to be submitted to and agreed in writing by the Local Planning Authority.

Reason:

In the interests of highway safety in accordance with Policy MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

20. Notwithstanding the submitted details, before the commencement of the development hereby approved, a revised Travel Plan shall be submitted 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 completed in accordance with the approved details.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with Policies SP1-Delivering the Strategy), MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

21. Notwithstanding the submitted details, and prior to their use, a full schedule of materials (including samples) to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason:

In the interests of local visual amenities in accordance with Policies SP10-Built and Natural Environment, MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

22. No development shall commence until details of existing ground levels within and adjacent to the site and proposed finished ground and floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that visual, neighbouring, and general amenities are safeguarded in accordance with Policies SP10-Built and Natural Environment, MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

23. Notwithstanding the submitted plans, further details of the means of enclosure, and their specific location, shall be submitted to and agreed in writing by the Local Planning Authority. The means of enclosure shall be completed in accordance with the approved details prior to the first beneficial use of that part of the development to which it relates.

Reason:

To safeguard local visual amenities in accordance with Policies SP10-Built and Natural Environment, MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

24. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall include details of parking for construction traffic, safeguarding of the access to the medical centre, the proposed routes for heavy construction vehicles, timings of construction traffic and means of defining and controlling such traffic routes and timings; Traffic Regulatory Orders (TROs); pre construction road condition surveys and details of timings of the submission of post construction surveys and any remedial works; and wheel cleansing. The development shall be carried out in accordance with the approved Management Plan.

Reason:

In the interests of highway safety in accordance with Policy MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

25. No development shall commence, including any works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following details:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control and mitigate the emission of dust, smoke, other airborne pollutants and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- viii) hours of construction;
- ix) lighting;

- x) assess the risks from all pollution sources and pathways (including silt, cement and concrete, oils and chemicals, herbicides, aggregates, contaminated land and waste materials) and describe how these risks will be mitigated for the development;
- xi) measures to manage silt and surface water runoff during construction phase of the development;
- xii) demonstrate how silt build up within the drainage system shall be dealt with upon completion of the site;
- xiii) include a phasing plan to clearly demonstrate when drainage assets shall be constructed on site;
- xiv) demonstrate how the developer proposes to accord with the Considerate Constructors Scheme ([www.considerateconstructorsscheme.org.uk](http://www.considerateconstructorsscheme.org.uk)) during the course of the construction of the development; and
- xv) a system for the management of complaints from local residents which will incorporate a reporting system.

The construction of the development shall be undertaken in accordance with the approved CEMP.

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 SP1-Delivering the Strategy, SP10-Built and Natural Environment, and MD7-Environmental Protection of the Local Development Plan.

26. Prior to the commencement of the development an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. This assessment must be carried out by or under the direction of a suitably qualified competent person \* in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
- (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) an assessment of the potential risks to:
  - human health,
  - groundwaters and surface waters
  - adjoining land,
  - property (existing or proposed) including buildings, crops, livestock, pets,



- woodland and service lines and pipes,
- ecological systems,
- archaeological sites and ancient monuments; and
- any other receptors identified at (i)

(iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document 'Land Contamination: A guide for Developers' (2012), unless the Local Planning Authority agrees to any variation.

\* A 'suitably qualified competent person' would normally be expected to be a chartered member of an appropriate professional body (such as the Institution of Civil Engineers, Geological Society of London, Royal Institution of Chartered Surveyors, Institution of Environmental Management) and also have relevant experience of investigating contaminated sites.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

27. Prior to the commencement of the development a detailed remediation scheme and verification plan to bring the site to a condition suitable for the intended use by removing any unacceptable risks to human health, controlled waters, buildings, other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document 'Land Contamination: A guide for Developers' (July 2012), unless the Local Planning Authority agrees to any variation.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

28. The remediation scheme approved by condition 27 above must be fully undertaken in accordance with its terms prior to the occupation of any part of the development unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document 'Land Contamination: A guide for Developers' (July 2012), unless the Local Planning Authority agrees to any variation.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

29. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop, and no further development shall take place until a scheme to deal with the contamination found has been submitted to and approved in writing by the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

30. Any topsoil [natural or manufactured], or subsoil, to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with Pollution Control's Imported Materials Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

31. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with Pollution Control's Imported Materials Guidance Notes. Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

32. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with Policy / Policies SP1 (Delivering the Strategy) / MD7 (Environmental Protection) of the Local Development Plan.

33. 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 SP10-Built and Natural Environment and MD7-Environmental Protection of the Local Development Plan.

34. Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at:

i) A point of connection on the public sewerage system identified by a hydraulic modelling assessment, which shall be first submitted to and approved by the local planning authority. Thereafter the connection shall be made in accordance with the recommended connection options following the implementation of any necessary improvements to the sewerage network as may be identified by the hydraulic modelling assessment.

or

ii) The 150 mm foul sewer at manhole reference number ST16714001 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

No building shall be occupied until it is served by the approved connection.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution or detriment to the environment in accordance with Policies SP10-Built and Natural Environment and MD7-Environmental Protection of the Local Development Plan.

35. The details of surface water drainage submitted under Condition 33, showing how road and roof/yard water will be dealt with, 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. Any calculation for onsite attenuation or discharge should also be included. Good practice guidelines should be followed for the use of SuDS techniques on the site.

Reason:

In the interests of public health and safety and to ensure no pollution or detriment to the environment in accordance with Policies SP10-Built and Natural Environment and MD7-Environmental Protection of the Local Development Plan.

36. The details of surface water drainage submitted under Condition 33 shall include surface water runoff treatment measures to ensure that the development does not have a detrimental effect on water quality. The proposed measures shall be based on those suggested within The Ciria SuDS Manual and the Interim Non-Statutory Standards for SuDS in Wales.

Reason:

In the interests of public health and safety and to ensure no pollution or detriment to the environment in accordance with Policies SP10-Built and Natural Environment and MD7-Environmental Protection of the Local Development Plan.

37. No development shall commence until a SuDS management plan, which includes details on future management responsibilities for the site and its drainage assets, has been submitted to and approved in writing by the Local Planning Authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The management plan shall be implemented in full accordance with the agreed terms and conditions for the lifetime of the development.

Reason:

In the interests of public health and safety and to ensure no pollution or detriment to the environment in accordance with Policies SP10-Built and Natural Environment and MD7-Environmental Protection of the Local Development Plan.

38. No development or site clearance shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

The scheme of landscaping shall include woodland bulbs planted at a minimum of 30/m<sup>2</sup> (not 4-6m<sup>2</sup> as indicated) in natural drifts of single species rather than multiple mixes as indicated

Reason:

To safeguard local visual amenities in accordance with Policies SP1-Delivering the Strategy, SP10-Built and Natural Environment, MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

39. 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 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason:

To ensure satisfactory maintenance of the landscaped area in accordance with Policies SP1-Delivering the Strategy, SP10-Built and Natural Environment, MD2-Design of New Development, and MD5-Development within Settlement Boundaries of the Local Development Plan.

40. The Tree Protection measures included within the Arboricultural Impact Assessment, including the Drg. Nos. 710 Rev B and 711 Rev B, shall be implemented on site before the commencement of development. 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 ecology/biodiversity of the site in accordance with Policies SP10-Built and Natural Environment, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, MD2-Design of New Development, MD5-Development within Settlement Boundaries, and MD9-Promoting Biodiversity of the Local Development Plan; TAN5-Nature Conservation and Planning; and the Conservation of Habitats and Species Regulations 2010 as amended.

#### 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 for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

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

Having regard to Policies SP1-Delivering the Strategy, SP3-Residential Requirement, SP4-Affordable Housing Provision, SP7-Transportation, SP10-Built and Natural Environment, MG1-Housing Supply in the Vale of Glamorgan, MG2-Housing Allocations, MG4-Affordable Housing, MG7-Provision of Community Facilities, MG21-Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, MD2-Design of New Development, MD3-Provision for Open Space, MD4-Community Infrastructure and Planning Obligations, MD5-Development Within Settlement Boundaries, MD6-Housing Densities, MD7-Environmental Protection, MD8- Historic Environment and MD9-Promoting Biodiversity of the Vale of Glamorgan Adopted Local Development Plan 2011-2026; Supplementary Planning Guidance on Amenity Standards, Affordable Housing, Biodiversity and Development, Design in the Landscape, Model Design Guide for Wales, Parking

Standards, Planning Obligations, Public Art, Sustainable Development, and Trees and Development; and national guidance contained in Planning Policy Wales, TAN1-Joint Housing Land Availability Studies, TAN2-Planning and Affordable Housing, TAN5-Nature Conservation and Planning, TAN12-Design, TAN16-Sport, Recreation and Open Space, TAN18-Transport and TAN24-The Historic Environment, it is considered that the proposal represents an acceptable and sustainable form of mixed residential development with community and recreational use, that should have no significant adverse impact on the character and appearance of the area, highway safety, neighbouring and general amenities on the site, drainage, and other environmental factors. The proposal meets the requirements of all 'three tests' for derogation specified under the Conservation of Habitats and Species Regulations 2010. The proposal is therefore in line with both national and local policy.

**NOTE:**

- 1. The attention of the applicant is drawn to the fact that a public Water Main runs through the site and may be affected by the development.**
- 2. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 3. Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
- 4. 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.**
- 5. Any works to watercourses, including ditches and streams where defined by the Land Drainage Act 1991, may 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.**

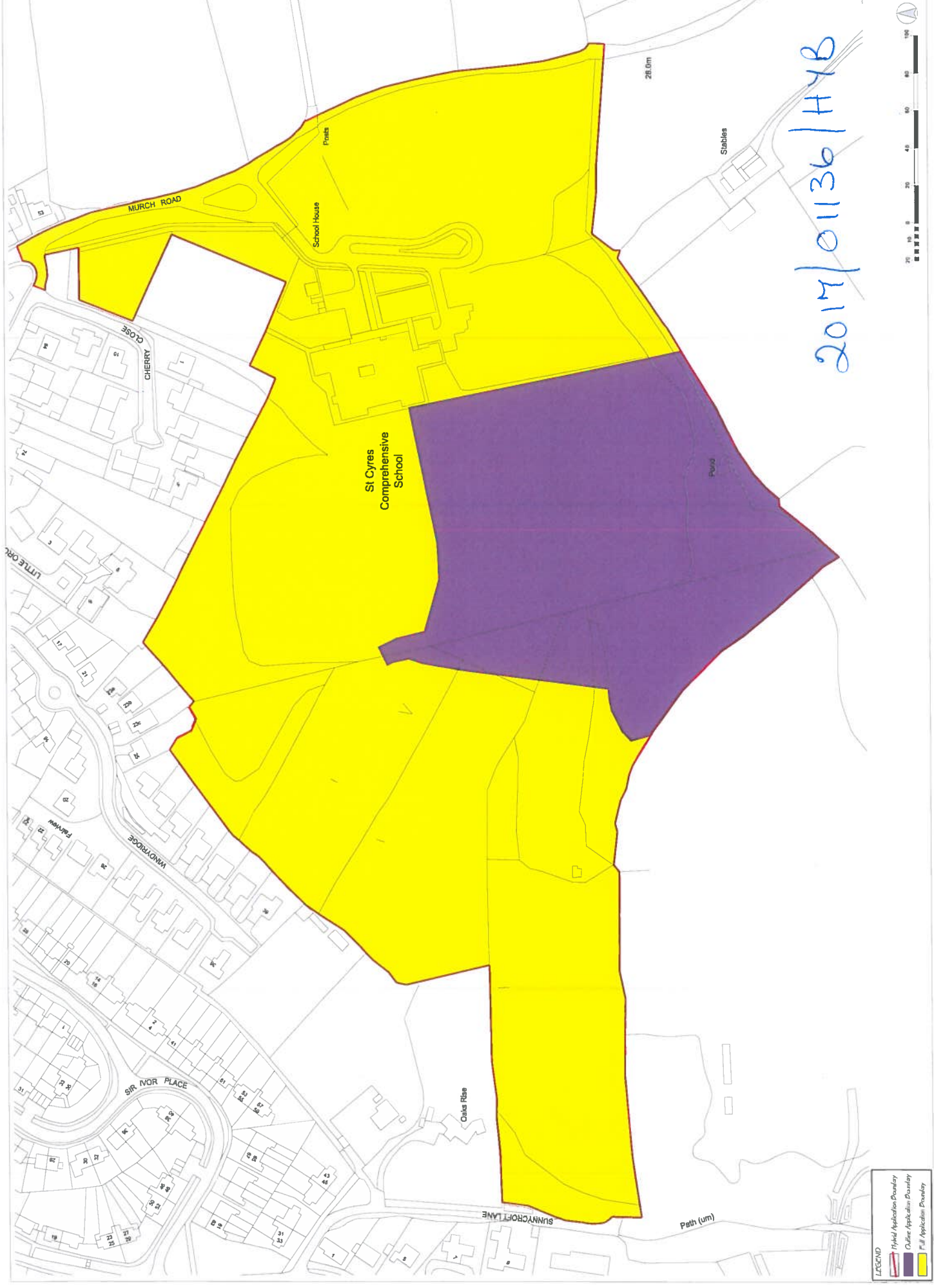


**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual 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.**



2017/01136/HYB

LEGEND

	Field Application Boundary
	Outline Application Boundary
	Full Application Boundary

## Response to Planning Application 2017/01136/HYB

### Proposed development on former St Cyres Junior School site

#### 1.0 SUMMARY

We support the provision of new housing in Dinas Powys provided the applicable policies are complied with and the applicable standards and regulations are followed.

Unfortunately this development does not currently comply with a number of national, regional and Vale Council policies and standards.

The application acknowledges that the A4055 strategic highway junction, off which this development is located, is:

- a.) already at or over capacity;
- b.) that the additional traffic from this development would make existing congestion worse and
- c.) that this impact must be mitigated.

But, despite policies which require the capacity of local infrastructure to keep pace with new development, no attempt is made to consider feasible highway improvement options and to recognise that a by-pass could totally mitigate this impact.

The Applicant's current site plan encroaches on the previously reserved corridor for a by-pass which was still applicable at the time the site was advertised for sale. Unless the site plan is revised to avoid development over the affected area, it would not be possible to achieve a smooth alignment for a by-pass.

Other identified problems are:-

- The gradient of Murch Crescent does not comply with standards for accessibility of the site by walkers and cyclists.
- The nearest existing bus stop is only just within the maximum 800m stipulated distance for pedestrians but buses from this stop do not go directly to Cardiff. For Cardiff commuters there is a walk of well over 1km to a stop on the Cardiff Road. The Applicant does not appear to have discussed with the bus operator the possibility of introducing a route to bring buses closer to the site. The application proposes greater bus use without recognising that increasing bus frequency and attractiveness isn't possible while buses are stuck in congested traffic.
- Similarly, increasing train use requires improvements to railway infrastructure and train capacity but, with a new rail franchise due in 2018, there is no certainty that these improvements will materialise and any improvements resulting from the proposed METRO City Deal are unlikely to reach this line for at least a decade.

On drainage, there are several issues.

- The storm water holding cells are located in the area previously safeguarded for a by-pass.
- Construction of the new foul rising main in the narrow road between the Health Centre and the top of Murch Crescent would probably prevent access to the Health Centre which is unacceptable.

- The capacity of the existing sewerage system into which it is proposed to discharge foul flows from the site is questionable. The Applicant relies on a February 2014 Welsh Water letter which carries the disclaimer that the information in it cannot be relied on after 12 months. Extra flow into the existing sewer could exacerbate the surcharging which occurs around the junction with Castle Drive following heavy rainfall.

A Construction traffic Management Plan has not been submitted by the Applicant to show that time limits will be placed on when such vehicles can travel to and from the site. (e.g. not at peak times or within a window of when schoolchildren are entering and leaving schools along the route).

In conclusion, we object to the application for the reasons stated. Our objections would be withdrawn if:

- 1.) the development is postponed until a by-pass connected to Murch Crescent is in place.
- 2.) the site plan is revised to free up the 'reserved corridor' areas.
- 3.) more details are provided and more commitment stated to improve the site's sustainable accessibility and the capacity of public transport to serve it.
- 4.) more convincing evidence is provided that the existing sewerage system has adequate capacity to receive foul sewage flow from this site and
- 5.) a satisfactory Construction Traffic Management Plan is provided.

## 2.0 IMPACT ON STRATEGIC HIGHWAY NETWORK

### 2.1 Regulatory Setting

New developments generate more traffic. Yes, the amount of the increase can to some extent be mitigated by improvements to sustainable travel modes and Travel Plans but there will still be an increase in the amount of traffic. To avoid increasing traffic congestion, the capacity of the highway infrastructure therefore needs to be increased.

This is recognised in a number of planning documents.

One of the priorities of the Regional Transport Plan (2010) is to: *'Develop an efficient and reliable transport system with reduced levels of congestion and improved transport links within the SEWTA region ...'* SEWTA is the South East Wales Transport Authority.

The Vale of Glamorgan Local Transport Plan 2015-2030 (LTP) states: *'The LTP also seeks to tackle traffic congestion by securing improvements to the strategic highway corridors for commuters who may need to travel by car as well as providing better infrastructure for freight.'*

This requirement is also recognised in the adopted Local Development Plan (LDP), specifically Policy SP1 point 5, Policy SP7 last paragraph and Policy MG16 under Highway Improvement Works. This last one states:

*'To mitigate the impact of development on the highway network, highway improvement works in the form of corridor or junction improvement schemes will be required.'*

All these documents adopt the same approach to the impact of new developments; that is that increasing traffic congestion is not acceptable and should be prevented.

In fact LDP clause 5.69 under Policy SP7 states: *'The delivery of planned housing and strategically important employment sites will be dependent on the implementation of key sustainable transport and highway improvement schemes.'*

LDP clause 5.81 under Policy SP7 states: *'The provision of a strategic highway network is vital to the efficient movement of people and goods throughout the Vale of Glamorgan. The Council will continue to press for improvements to the strategic highway network ..... Likewise, all new developments that have an impact on the strategic highway network will be carefully assessed in terms of the need to improve strategic access.'*

In clause 5.82 under Policy SP7, the SEWTA Highway Strategy Study (2008): *'Identifies the A4055 through Dinas Powys as a key problem area of the regional road network as a consequence of the scale of traffic and associated congestion. Barry Waterfront to Cardiff Link Road (Dinas Powys By-Pass) was viewed as having dual benefits, helping to alleviate traffic congestion and improve road safety on the A4055 through Dinas Powys, while having the potential to improve access to the wider road network.'*

## **2.2 Impact on the local Strategic Highway**

This site's road connection to the main highway network is at the junction of Murch Road with the A4055 Cardiff Road which is the strategic highway linking Barry with Cardiff. It is notable that Dinas Powys is the only Primary Settlement on a Strategic Highway Corridor in the Vale which has not been provided with a by-pass.

The LDP's section on page 180 for the planned housing allocation MG2(28) for this site states: *'a Scoping Study will need to be agreed with the Local Planning/Highway Authority, in order to inform a comprehensive and robust Transport Assessment that evaluates and determines mitigation measures which alleviate **any** detrimental impact future development proposals will have on the local highway network and associated road junctions.'*

So it is necessary to identify if this development would have an adverse impact on the Cardiff Road strategic highway and, if so, whether improvements to the highway infrastructure are proposed to avoid increased traffic congestion.

The impact of this development on the highway network is covered in the Applicant's Transport Assessment (TA) dated 18 October 2017 which in turn has been reviewed by Mott MacDonald's report (MMR) dated 8 December 2017.

The TA provides figures from work by RPS but two other consultants have done studies of the traffic situation at this junction. First a Highway Impact Assessment (HIA) by Capita Symonds for the Vale Council in 2013 and second by Asbri for the Caerleon site Applicant in 2015.

All three studies show that the Cardiff Rd / Murch Rd / Millbrook Rd junction was close to or over capacity at the start of the study period as illustrated by the figures in the following table.

Figures are shown for PRC (Practical Reserve Capacity ) and for the number of cars queuing on Murch Road back from the traffic lights. PRC is a measure of the spare capacity at a road junction. A positive PRC figure in black means the junction has spare capacity. A negative PRC in red indicates the junction over capacity. The higher the red figures the more over capacity.

Queue lengths at the lights are available for all branches of the junction but we are showing them just for the queue on Murch Road.

The HIA and Asbri figures are based on the pedestrian lights working on each cycle while the RPS figures assume the pedestrian lights working on every other cycle. Either assumption may be correct when children are being taken to or from the Infant's School on the corner of this junction. However, for comparison, the PRC figures with no pedestrian light delays are shown in brackets.

Study	HIA for Vale Council (2012)	Asbri for Caerleon (2015)	RPS for St Cyres (2015)
PRC during morning peak	-18.7% (7.8%)	16.2% (42.7%)	11.0% (36.6%)
PRC during afternoon peak	-46.7% (-5.7%)	-6.6% (15.6%)	-1.5% (16.4%)
Murch Rd morning queue	27 cars	13 cars	10 cars
Murch Rd afternoon queue	70 cars	12 cars	11 cars

The Vale-commissioned HIA study shows the junction is over capacity to a greater amount and with longer queues on Murch Road in 2012 than the studies for developers show in 2015.

All studies assess the future traffic situation taking into account general growth, committed development and planned developments such as at Caerleon Rd and St Cyres. The HIA and Asbri give projected traffic figures for 2026 and 2028 respectively while the RPS gives projections for 2022 and 2028. The TA does not give RPS figures for future years without the pedestrian lights operating.

The following table shows the predicted figures from these reports for future years.

Study	HIA for Vale Council (2026)	Asbri for Caerleon (2028)	RPS for St Cyres (2028)
PRC during morning peak	-91.8% (-40.4%)	-19.6% (2.2%)	-31.8%
PRC during afternoon peak	-84.6% (-33.5%)	-43.6% (-16.3%)	-36.6
Murch Rd morning queue	94 cars	43 cars	69 cars
Murch Rd afternoon queue	181 cars	54 cars	55 cars

What all studies show is that the predicted traffic congestion at the Cardiff Rd / Murch Rd / Millbrook Rd junction taking into account general growth and planned developments will be significantly worse in the future if these developments are completed without improvements to the highway network.

This can only mean the provision of a by-pass and its connection to the top of Murch Crescent because the Council's own Highway Authority states, as recently as November 2017, that the capacity of the Cardiff Road junction cannot be increased.

The results of the traffic analysis carried out shows that the Murch Road / Cardiff Road junction is now 'close to design capacity' (TA clause 5.42). The projected traffic figures for 2022 and 2028 clearly show that this junction would be well over capacity even after making the allowance for MOVA (Microprocessor Optimised Vehicle Actuation) operation of the traffic lights (TA clause 5.43).

The TA states that the future extra traffic 'results in the junction exceeding its design capacity' (clause 5.42) and 'the junction's predicted performance deteriorates further in the 2028 scenarios' (clause 6.8). This means that, without effective mitigating measures, this development would not be compliant with the referenced LDP and other Policies.

The MMR states: *'In both future year scenarios (2022 and 2028) without the proposed development the junction is shown to be operating over capacity, due to background traffic growth alone. With the inclusion of development traffic, the junction is forecast to be a further 10%-20% over capacity, with significant queuing and delay. It is not agreed that the development traffic is of no material impact. What can be ascertained is that in the future years assessed the junction is forecast to be over capacity and will suffer significant congestion and delay.'*

In relation to the Murch Road / Cardiff Road junction becoming even more congested, the MMR also states: *'Although not recognised in the TA, it is likely that a percentage of westbound traffic will start to use Longmeadow Drive and Cross Common Road to gain access on to Cardiff Road.'* Local residents report that traffic on these roads has already increased as have accidents.

## 2.3 Mitigation Proposals

Having stated that this development 'will see an increase in the number of vehicles on the local highway network' (clause 6.26) and acknowledged that the capacity of the existing Murch Road / Cardiff Road junction cannot be increased (clause 7.7), the TA accepts that mitigation of this adverse impact is required. The TA notes that the LTP objective cannot be met at the Murch Road / Cardiff Road junction.

It might be expected that, at this point, the TA would consider how the highway capacity could be increased, for example when the by-pass is in place with a connection to the top of Murch Crescent. This would not only mitigate the adverse impact of the extra traffic but would comply with the LDP Policies referenced in section 2.1.

Section 7 in the TA does talk about mitigation measures to improve footways and public transport but says nothing about such measures for local highways. Although it is known that the Arcadis study, which includes options with a by-pass, is in progress, the TA does not mention let alone propose any road improvement by way of mitigation. This appears to be a deliberate refusal to acknowledge the possibility that a by-pass may be chosen by the Arcadis Stage 2 study and that it could benefit this development.

Although the TA refers to the LDP's and to the other planning requirements referenced in section 2.1 regarding implementing highway improvements to cater for new developments, it chooses not to comply with them.

The TA insults the reader's intelligence by saying that these results '*show that the impact with the development will not materially affect the operation of this junction*' (clause 5.42) and that the results indicate that the traffic from the development '*can be accommodated on the local junctions*'(clause 6.4) including the Murch Road / Cardiff Road signalled junction.

Instead the only mitigation measure proposed to address the impact of extra traffic and congestion is a Travel Plan which relies totally on persuading residents to stop using their vehicles and walk and cycle more, including the elderly, infirm and parents with young children. A Travel Plan cannot be relied on to achieve the mitigation objective and thereby comply with LDP Policy SP7.

## 2.4 Conclusion

Four reputable consultants have shown that this development will have an adverse impact on the Murch Road / Cardiff Road strategic highway junction. MMR refer to the LDP's requirement that delivering key infrastructure improvement is necessary to mitigate the impact of development.

But no feasible improvements to the highway network have been mentioned let alone proposed to properly mitigate this impact. In fact, the Vale's own Highway Authority, in January 2016, when commenting on the Caerleon 70 house development, pronounced there was nothing that the applicant could do to improve the capacity of the Murch Road / Cardiff Road A4055 junction. Yet this Highway Authority then proceeded to say they would offer no objection to the application.

Similarly no mention has been made of the fact that a by-pass could fully mitigate the impact. This means that the development as proposed is non-compliant with a number of national and LDP policies and we suggest should therefore be rejected.

What's the point of having LDP policies stating that highway infrastructure capacity, particularly for strategic highways like the A4055, must keep pace with new developments if these policies are flagrantly ignored?

## 3.0 SITE BOUNDARY

The corridor for a by-pass, which had been safeguarded in the 1996-2011 Unitary Development Plan (UDP), cuts completely through the eastern corner of this site.

But, when the previous Council administration commissioned site investigation work in 2013 and offered the site for sale in late 2014, the part of the site encroaching on the safeguarded corridor was **not** excluded from the investigation scope or the sale advert and the Applicant's current Planning Application shows their proposed housing development covering that part.

The adopted UDP had time expired in 2011 but was still being referred to as the point of legal reference in other applications by Council Planners and, in 2013/14, had not been replaced by an adopted LDP which, at that time, was only in draft form. The reason for the Council's decision to proceed as it did is unclear.



The Council should have taken the adopted UDP, which included the safeguarding, into account when deciding the boundary of the land offered for sale. The Applicant's plan for this development should not encroach over the by-pass corridor and the current site plan should therefore be rejected.

## **4.0 SUSTAINABLE ACCESSIBILITY OF THE SITE**

### **4.1 Regulatory Setting**

Clause 5.69 under LDP Policy SP7 states: *'The delivery of planned housing ..... sites will be dependent upon the implementation of key sustainable transport ..... schemes.'*

In clause 2.40, the TA mentions the LDP's requirement for new developments to *'promote the use of sustainable travel'* and to *'provide a safe and accessible environment.'*

As pointed out in the MMR, though not in the TA, the Department for Transport's Manual for Streets defines the maximum walking distance to a bus stop as 800m and the desirable distance as no more than 400m.

The Manual for Streets also gives guidance on gradients for pedestrians and cyclists.

For pedestrians it states: *'steep gradients can have particular impact on older people, those with physical disabilities and parents with pushchairs.'*

- 1% (1 in 100)                    - *is never an obstacle.*
- 2% (1 in 50)                    - *can be managed by most people.*
- 2.5% (1 in 40)                - *can be managed by many people.*
- Steeper than 2.5%        - *impossible for many manual wheelchair users'.*

For able bodied pedestrians the maximum comfortable gradient is given as 5%.

For cyclists, the Manual for Streets gives the maximum gradient for distances over 100m as 3%.

### **4.2 Site's Hilltop Location**

The fact that the site is at the top of a hill is not mentioned once in either the TA or the MMR which is a serious omission since it is very relevant to the site's accessibility by walking and cycling.

The ground rises from a level of 13m amsl at the junction with Castle Drive to around 40m amsl at the entrance to the site. Murch Crescent is the steepest part of this route with a gradient of approximately 10%.

### **4.3 Sustainable Travel Proposals – Walking and Cycling**

To access local facilities, bus stops and stations from the site, pedestrians have the option of Murch Crescent / Murch Road, the Ash Path and a bridleway to Sunnycroft Lane.

For cyclists, Ash Path is not suitable due to its narrow width and, if they wished to cycle towards Barry, it would probably be quicker to use Murch Crescent / Murch Road to reach the Cardiff Road rather than the bridleway to Sunnycroft Lane.

The TA says that the bridleway would be improved and that there are footpaths each side of Sunnycroft Lane. This is not correct. Yet no commitment is made that the Developer will make the improvements or how the upper part of Sunnycroft Lane north of Longmeadow Drive, which is unsurfaced and has no footpaths at all, would be improved.

While it may be feasible for pedestrians and cyclists to travel down Murch Crescent, the gradient for journeys back to the site is far steeper at around 10% than the maximum gradients given for both pedestrians and cyclists in the Manual for Streets.

Strangely the TA talks about cycling to local bus stops though what cyclists are meant to do with their bicycles once they get there is not stated. Neither train station has under cover cycle parking facilities. The TA also proposes '*improvements to existing cycle facilities*' and says that '*provision for cyclists will be proposed as part of this application*' but, though the MMR states that improvements are critical, no details are contained in the application and no details are given and no commitment made that the Applicant will do the work and pay for it.

#### **4.4 Sustainable Travel Proposals – Buses**

The bus stop on Plas Essyllt is stated to be the nearest one at 750m from the site entrance which will be well over 1km from the western end of the site. But the bus route along Plas Essyllt does not go direct to Cardiff and its frequency is less than ten times a day, none after 17.30 or at all on Sundays. So, if commuters want to travel by bus directly to Cardiff, they must walk to a stop on the Cardiff Road which is over 1km from the site entrance and nearer 1.5km from the far end of the site.

The distance from the site entrance to the nearest bus stop is only just under the maximum 800m given in the Manual for Streets and far longer than the 400m desirable limit. The stops on Cardiff Road are well over the 800m maximum distance.

The MMR says that the developer should have had discussions with the local bus company about taking a new bus route to the top of Murch Crescent but this is not mentioned in the TA.

The TA proposes that part of the Sustainable Transport Contributions are to be used to improve the existing bus shelters on Plas Essyllt but makes no commitment that the Developer would do the work.

The TA says that the Travel Plan will promote greater bus use but notes that '*the existing infrastructure may need to be improved to accommodate the additional passengers*'. It doesn't mention that more buses won't improve the service if they are stuck in worsening traffic congestion.

#### **4.5 Sustainable Travel Proposals – Trains**

Both the TA and the MMR note that, at peak times, the trains are currently at capacity and that improvements to the existing rail infrastructure, which presumably includes facilities at stations, and the capacity of trains would be needed to help realise a shift from cars to trains. But, with a new rail franchise happening in 2018, no proposals are available so there is no certainty that this will happen. Park-and-ride facilities are minimal at one station only. Any

improvements provided by the proposed METRO City Deal are unlikely to reach this line for at least a decade.

#### **4.6 Conclusions**

The gradient of Murch Crescent means that it does not comply with the Manual for Streets as the main route for walkers and cyclists to access the site and facilities.

The only way to mitigate this would be the indefinite funding by the Applicant of a bus service up and down Murch Crescent. Otherwise the application should be rejected on grounds that it fails to comply with the guidance for sustainable accessibility.

Improvements to bus and train services and capacity are essential to enable a shift to sustainable travel. While these are somewhat outside the Developer's control, it would have helped if the TA had reported that the Applicant had held discussions with those service providers about possible improvements. But no such discussions are reported.

### **5.0 WASTE WATER DRAINAGE AND DISPOSAL**

#### **5.1 Storm Water Drainage**

The developer proposes that storm water is drained from the site's roads and hard surfaced areas into buried storm cells and that the discharge from these is limited then taken via a gravity drain into an existing water course. There is no objection to this in principle other than that the location of the storm cells is within the corridor which was safeguarded for a by-pass.

In order to leave the part of the site which encroaches on the by-pass corridor clear of development, these storm cells would need to be relocated within the site.

#### **5.2 Foul Sewage Drainage**

It is proposed to drain the site's foul sewage by gravity to an upgraded Stonylands Pumping Station and from there to pump it in a rising main to an existing sewer manhole at the top of Murch Crescent.

Our objection to these proposals relates to the route of the rising main and to the capacity of the existing sewerage system to accept the flow.

The rising main route is shown running in the existing Murch Road past the entrance to the Health Centre up to the existing manhole. But the narrow width of the existing road means that it would probably be necessary to close the road while the new rising main is laid and the trench backfilled and reinstated. But it would be unacceptable to close the road to the Health Centre not least for emergency vehicles. This could be mitigated by routing the rising main in the wide verge on the west side of the road.

The capacity of the existing sewerage system to take the foul sewage flows from the site has been the subject of correspondence between the Council and Welsh Water for several years but apparently without a definitive answer as shown below:-.

- In November 2013, the draft LDP stated under MG2(26) that the local sewer network is **'too small to accommodate the foul flows.'**
- In February 2014, a Welsh Water letter stated that foul flows **'can be accommodated within the public sewerage system'**.
- In May 2015, the DCWW / Vale Council Statement of Common Ground stated under MG2(26) that the network is **'too small to accommodate the foul flows from this development'**.
- In June 2017, the adopted LDP stated under MG2(28) that: **'A hydraulic modelling assessment will be required to establish the point of connection to the public sewer system.'**
- In September 2017, in a letter to the Applicant's consultant RPS, Welsh Water stated that foul flows **'can be accommodated'**.
- The Applicant's Drainage Strategy document dated October 2017 and submitted in support of their application includes **no clear statement** that the existing sewer can accommodate the site's foul flows.
- RPS' Pre-Application Consultation report Rev 2 posted on 30 October 2017 stated that: **'Discussions are however ongoing with the developer'** regarding discharge of the site's foul sewage into the existing sewerage system.
- In November 2017, Welsh Water's letter to the Council stated that **'foul flows can be accommodated into the existing sewer'** but also that the discharge point shall be made **'at a point identified by a hydraulic modelling assessment OR the 150 dia foul sewer at top of Murch Crescent.'**

The Applicant's updated Drainage Strategy Report posted on 19 December 2017, relies on Welsh Water's 18 February 2014 letter saying that their existing sewer can accommodate the site's foul flow. But a disclaimer at the bottom of this letter states that the information above cannot be relied on after 12 months from the date of the letter!

Although reference is made to the foul flow from this development being similar to the foul water discharge from the previous school on this site, no actual comparable figures have been provided. Young children using the toilets between 9.00 a.m and 3.30 p.m. can hardly be compared to 24/7 use by 215 households. The foul flow from the Health Centre has also not been taken into account.

Repeated reports over the years of sewer surcharging around the junction of Murch Road with Castle Drive following heavy rainfall does raise a question over the capacity of the existing sewers down and in the vicinity of Murch Road. When this history is considered together with the expected increase in foul flow from the Caerleon development and the less than reassuring record above of exchanges with Welsh Water regarding the St Cyres site, there must be a doubt over the wisdom of connecting the foul flow from over 200 more houses to the system unless its capacity is increased.

## **6.0 IMPACT OF CONSTRUCTION TRAFFIC**

This subject should be covered by a Construction traffic Management Plan but to date such a Plan has not been posted on the Council's website for this development. This application should not be considered until this Plan is provided and time given for its review.

**2017/00066/FUL** Received on 26 January 2017

B&K Future Ltd.,  
Mr. Steffan Harries, LRM Planning Ltd., 22, Cathedral Road, Cardiff. CF11 9LJ

**Tathan Hall, 6, Rectory Drive, St Athan**

Refurbishment of existing Tathan Hall to provide seven flats, construction of nine dwellings and 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 has been called in by Cllr. John Thomas due to concerns regarding the parking provision and the effect this will have on local residents.

**EXECUTIVE SUMMARY**

The proposal seeks to convert Tathan Hall, a Grade II listed building on Cadw's Buildings at Risk Register, to provide seven flats, and to construct nine houses within the curtilage. The new dwellings are proposed to facilitate the repair of the listed building.

In addition to representations from statutory and internal consultees, letters of representation have been received from eight neighbours. The neighbour representations can be broadly defined as follows:

- Concerns over highways impact, in particular car parking;
- Concerns of overdevelopment of the site;
- Concerns relating to foul and surface water drainage; and
- The principal of repairing and bringing the building back in to use was broadly welcomed.

Following re-consultation a further six letters of representation were received with five reaffirming their earlier concerns. The sixth letter echoed the concerns noted above.

Concerns were raised by the Council's Highways Officer and Ecologist which resulted in the preparation of amended details relating to the site layout and bat mitigation strategy.

It is recommended that the application be APPROVED having regard to all the submitted information subject to conditions.

## SITE AND CONTEXT

The application site is situated within the settlement boundary of St Athan. The site comprises a broadly rectangular area with a projection to the west in the form of an existing narrow access. It measures around 0.34ha and is currently occupied by the existing Tathan Hall (also known as Balfour House) within its curtilage. The last known use of the site was residential but the building is currently vacant.

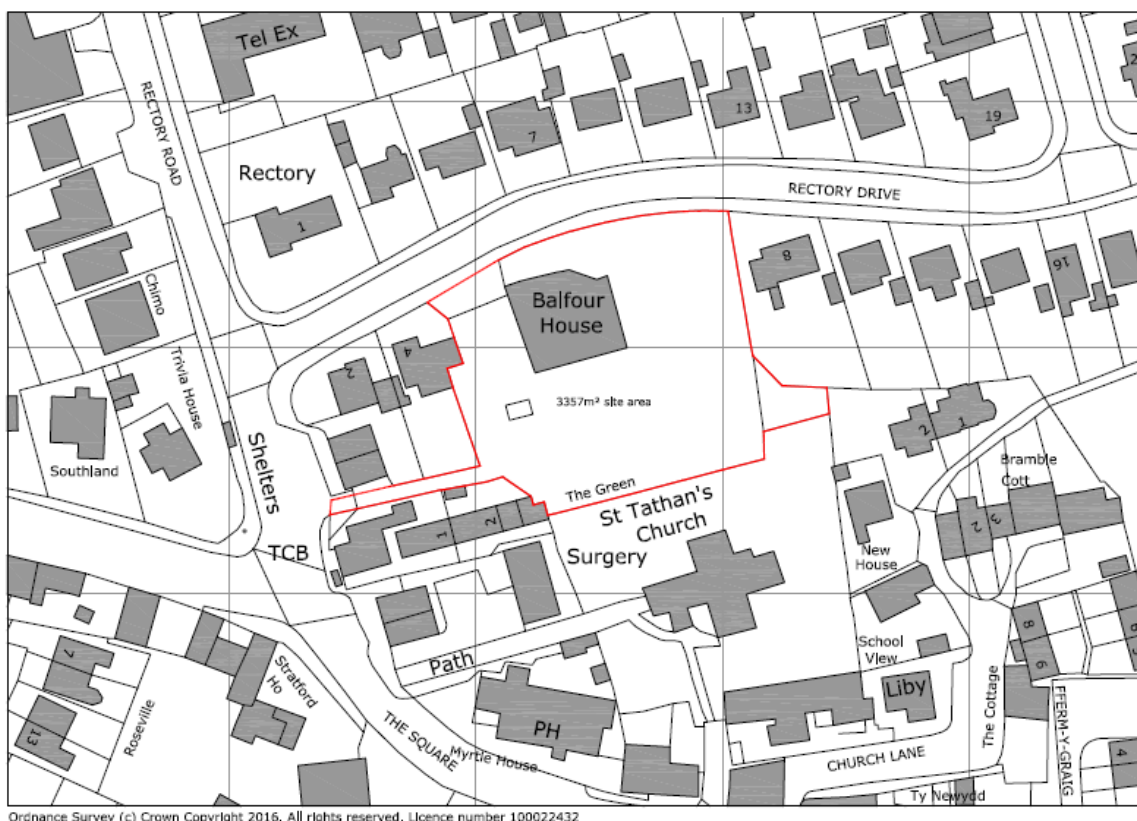


Figure 1: Site Location Plan

The site lies adjacent to and to the northeast of the village centre, facing onto Rectory Drive to the north, which would provide the principal access to the highway. To the south, it backs onto St Tathan's Church, whilst the east and west boundaries are shared with existing residential dwellings.

Tathan Hall is a grade II listed building which is included in Cadw's Building at Risk Register as a building at risk.



Figure 2: Image of Tathan Hall facing Rectory Drive

### DESCRIPTION OF DEVELOPMENT

The application relates to an amended development proposal which seeks to convert Tathan Hall to provide seven flats, and to construct nine houses within the grounds of the building.

The refurbishment of Tathan Hall seeks to provide six two-bedroom flats and one one-bedroom flat. The alterations to the building have been kept to a minimum, with some moderate alterations to internal walls and external openings to facilitate the conversion.



Figure 3: Proposed site layout





Figure 4: Proposed context elevations

The new build elements proposed comprise of nine two-storey three-bedroom houses, which are located to the sides and rear of Tathan Hall. They are traditional pitched roof design with some use of contemporary materials and details.

Plots 4&5





Figure 5: Proposed new dwellings, plans and elevations

Parking is provided at a ratio of 1:1 for the flats and 2:1 for the houses. New build plots 1, 2 and 3 will be served by 2 parking spaces each accessed directly from Rectory Drive. 5 parking spaces for the flats within Tathan Hall are also accessed directly from Rectory Drive with the remaining 2 spaces for the flats and 2 spaces per plots 4-9 served via a single access road from Rectory Drive.

The application is supported by ecology reports, a planning statement, a heritage impact assessment, a design and access statement, a structural survey and various drawings and images to illustrate the proposed development.

### PLANNING HISTORY

1982/01736/FUL, Address: Balfour House School, Rectory Drive, St. Athan, Proposal: New boys toilet block, Decision: Approved

1988/00318/FUL, Address: Balfour House School, Rectory Drive, St. Athan, Proposal: To replace existing fencing with more attractive stone wall and wrought iron gates, Decision: Approved

1995/00080/FUL, Address: Balfour House School, Rectory Drive, St. Athan, Proposal: Existing use of land (residential educational establishment) to incorporate domestic use along with ancillary use as shown, existing outbuildings to be demolished and replaced, Decision: Approved

### CONSULTATIONS

1. St. Athan Community Council was consulted on 15 February 2017. In a response dated 8 March 2017 the Community Council were pleased with the proposal to preserve the listed building, however, have some "...concerns over the number of properties being planned for the site."

The Community Council raised concerns relating to the provision of parking spaces within the site and the use of on-street parking.

Concerns were also raised about the appropriateness of the proposal to incorporate the existing boundary wall in the façade of Plot 1.

Finally, concerns raised by local residents relating to foul drainage issues are “supported”.

In their concluding statement they advise “...while in support of development of this site, it is unsustainable to include such a number of dwellings in this area, especially in light of such an obvious lack of parking, and while appreciating that the developer is trying to optimize their investment, it will have an unacceptable impact of local residents [sic], and for the many road users of Rectory Drive.”

The Community Council were re-consulted on 5 January 2018. In their response dated 17 January 2018 they objected to the proposal and reiterated their concerns in their objection of 8 March 2017, noted above.

2. Highway Development was consulted on 15 February 2017. In their initial response dated 6 March 2017 they made a number of recommendations intended to improve highway safety.

Amendments were made to the scheme by the applicant in order to satisfy these recommendations, however, this resulted in a scheme that was considered detrimental to the setting of the listed building and amenity standards.

Further amendments were sought and Highways Development was re-consulted in relation to the finalised scheme, subject of this report. In their response received on 9 January 2018 no objection is raised subject to the inclusion of conditions relating to the alignment of the pedestrian access to the principal building; the provision of cycle stands; provision of the car parking spaces prior to the beneficial occupation of the dwellings; and provision of the vehicle crossover in accordance with the Council’s parking standards.

3. The Ancient Monument Society was consulted on 15 February 2017. No response has been received to date. They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.
4. The Council for British Archaeology were consulted on 15 February 2017. No response has been received to date. They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.
5. The Georgian Group were consulted on 15 February 2017. No response has been received to date. They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

6. The Society for the Protection of Ancient Buildings was consulted on 15 February 2017. In their response dated 24 February 2017 they raised an objection to the proposed scheme. They considered “The relationship and visual link between Tathan Hall and the grade I listed Church of St Athan is significant link [sic] which must be considered.”

Furthermore, they considered “...the applicant has prioritised maximising the number of dwellings around the listed building at the detriment [sic] to the character of the house and setting. The number, scale and height of the new housing are simply too large and dense and results in the loss of the architectural hierarchy of the existing house is lost [sic].”

The Society was re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

7. The Victorian Society was consulted on 15 February 2017. In a response dated 10 March 2017 they raised concerns at the lack of enabling development justification and evidence of cost of repairing the building.

A further response was submitted on 30 June 2017 expanded on their initial response where they objected to the proposal on the basis of the lack of justification for the works and viability assessment.

It should be noted that whilst a viability assessment was submitted by the applicant, this information is commercially sensitive and could not be released externally. This is considered further below.

They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

8. The Royal Commission on Ancient & Historical Monuments were consulted on 15 February 2017. In their response dated 6 March 2017 but received on 8 March 2017 they welcome, in principle, proposals to refurbish the building. Careful consideration needs to be given to proposal to repair rather than replace historic fabric.

With regard to the new dwellings proposed around the principal building they state “[the proposal]...will need to be considered in relation to the setting of the rectory and church. The proximity of the new development to the medieval churchyard means that an archaeological watching brief is appropriate during ground disturbance”.

They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

9. Cadw (Ancient Monuments) was consulted on 15 February 2017. In a response dated 7 March 2016 they stated “there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. We therefore have no comments to make on the proposed development”.

They were re-consulted on the amended scheme on 5 January 2018. They confirmed their “no comments” view.

10. The local ward member was consulted on 15 February 2017. In an email dated 21 March 2017 Cllr. John Thomas requested the application be called in for determination by Planning Committee.

The local ward member was re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

11. The Ecology Officer was consulted on 15 February 2017. In a response dated 27 February 2017 an objection was raised on the basis that not enough information had been submitted in relation to bat mitigation.

Following a substantial amount of dialogue between the Council’s Ecology Officer and the applicant’s ecologist, the Council’s Ecology Officer advised they would defer any decision to Natural Resources Wales.

Subsequently an amended bat mitigation strategy was submitted. The Council’s Ecologist has advised she still has concerns about the proposed mitigation strategy, however, noted that Natural Resources Wales are the licence issuing authority and would defer to their decision.

12. Dwr Cymru/Welsh Water was consulted on 27 February 2017. In their response dated 7 March 2017 but received on 16 March 2017 they provided a standard condition and advisory note relating to surface water drainage to be attached to any positive recommendation. In terms of sewerage treatment ‘No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.’

They were re-consulted on the amended scheme on 5 January 2018. In a response dated 22 January 2018 they confirmed their request for the inclusion of a surface water drainage condition.

13. The Crime Prevention Design Officer was consulted on 27 February 2017. In a response dated 3 March 2017 they made a number of recommendations intended to prevent crime and improve community safety.

They were re-consulted on the amended scheme on 5 January 2018. No response has been received to date.

14. Housing Strategy was consulted on 27 February 2017. In their response dated 27 February 2017 they advised “As this proposal constitutes a net gain of 16 units, under the thresholds set by 5.10 of the draft supplementary guidance for affordable housing, we would expect to see provision of 35% (5.6 units) affordable homes which rounds up to six. In addition we ask for a tenure mix of 70% social rented and 30% intermediate units.”

They were re-consulted on the amended scheme on 5 January 2018. In their response date 10 January 2018 they reiterate their requirements set out above.

15. Natural Resources Wales were consulted on 24 October 2017. In their response dated 9 November 2017 they raised significant concerns about the proposed bat mitigation strategy and objected to the application. Following the submission of further information a further consultation on 15 November 2017 was made. In their response dated 29 November 2017 they reiterated their ‘significant concerns’ and objection to the proposal.

Following the submission of an amended bat mitigation strategy, a further consultation on 12 December was made. In their response dated 18 December 2018 they advised:

*“We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.”*

These conditions relate to the updated bat mitigation strategy and the submission of details of a lighting scheme to ensure lighting measures do not conflict with the bat use of the site.

## REPRESENTATIONS

The neighbouring properties were consulted on 15 February 2017. A site notice was also displayed on 20 February 2017.

It should be noted that several letters of representation were submitted with the reference number of the associated listed building consent application, however, it is clear that the representations related to issues that are to be considered under this application.

Eight (8) letters of representation have been received. The representations can be broadly defined as follows:

- Concerns over highways impact, in particular car parking;
- Concerns relating to drainage provision;
- The development is overdevelopment of the site; and
- The principal of repairing and bringing the building back in to use was broadly welcomed.

The submission is accompanied by a pre-application consultation (“PAC) report as required by the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016. Six responses were received from local residents. The Community Council also responded to the PAC.

To ensure neighbours views of the amended scheme were considered further consultation was undertaken with neighbours on 5 January 2018. A site notice was also displayed on 5 January 2018.

This resulted in six (6) letters of representation being received. Of these, five repeated their concerns previously stated. The representations can be broadly defined as follows:

- Concerns over highways impact, in particular car parking; and
- The development is overdevelopment of the site.

## REPORT

### Planning Policies and Guidance

#### **Local 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### *Strategic Policies:*

POLICY SP1 – DELIVERING THE STRATEGY  
POLICY SP3 – RESIDENTIAL REQUIREMENT  
POLICY SP4 – AFFORDABLE HOUSING PROVISION  
POLICY SP10 – BUILT AND NATURAL ENVIRONMENT

#### *Managing Growth Policies:*

POLICY MG1 – HOUSING SUPPLY IN THE VALE OF GLAMORGAN  
POLICY MG4 – AFFORDABLE HOUSING  
POLICY MG6 – PROVISION OF EDUCATIONAL FACILITIES  
POLICY MG7 – PROVISION OF COMMUNITY FACILITIES  
POLICY MG8 – PROVISION OF HEALTH FACILITIES  
POLICY MG19 – SITES AND SPECIES OF EUROPEAN IMPORTANCE

#### *Managing Development Policies:*

POLICY MD2 - DESIGN OF NEW DEVELOPMENT  
POLICY MD3 - PROVISION FOR OPEN SPACE  
POLICY MD4 - COMMUNITY INFRASTRUCTURE AND PLANNING OBLIGATIONS  
POLICY MD5 - DEVELOPMENT WITHIN SETTLEMENT BOUNDARIES  
POLICY MD6 - HOUSING DENSITIES  
POLICY MD7 - ENVIRONMENTAL PROTECTION  
POLICY MD8 - HISTORIC ENVIRONMENT

## POLICY MD9 - PROMOTING BIODIVERSITY

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP 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 6 of PPW sets out the Welsh Government guidance for preserving and enhancing the built historic environment.

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

### **Technical Advice Notes:**

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

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 24 – The Historic Environment (2017)

### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. 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
- Sustainable Development - A Developer's Guide
- Trees and Development

**Other relevant evidence or policy guidance:**

- Manual for Streets (Welsh Assembly Government, DCLG and DfT - March 2007)
- Welsh Office Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 13/97 - Planning Obligations
- Section 66(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.*
- Enabling Development and the Conservation of Significant Places (Historic England, 2008)

**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 main issues to be considered in the determination of this proposal are considered to be:

- The principle of the development and the justification for the proposed new-build elements of the development;
- The impact on the special interest of listed buildings;
- The effect of the development on the character and appearance of the area;
- Amenity and privacy considerations;
- Highways considerations;
- Ecology considerations; and
- Archaeology considerations.

### The principle of the development and the justification for the proposed new-build elements of the development

The site is located within the Settlement Boundary for St. Athan. Policy MD5 allows for new development within settlement boundaries subject to seven criteria. The broad principle of the development is, therefore, considered acceptable.

The principal justification for the new-build elements of the scheme is for facilitating the repair of the principal building. Paragraph 10.13 of the Heritage Impact Assessment (HIA) states:

“In respect of the Enabling Development guidance, Points a, b, c, d, f and g [of the Enabling Development policy] can all be answered in the affirmative, with the proposals minimising harm to the listed building and securing substantial benefits through the treatment and resolution of the chronic Rot infestation. The greatest threat to the listed building’s heritage values undoubtedly stems from the continued deterioration of the asset’s roof structure, as the associated Wet and Dry infestation has already claimed the decorative plaster and woodwork from the core of the Hall across all three floors. If left untreated, it is expected that the building’s heritage values will continue to deteriorate and could (in the worst case) potentially be lost in their entirety.”

A distinction is drawn here between ‘enabling’ and ‘facilitating’ development. Enabling development refers to a specific policy, published by Historic England and endorsed by Welsh Government, whereby development that is not otherwise policy compliant is proposed in order to ensure the preservation or enhancement of an historic asset. Facilitating development is considered to be development which is policy compliant but will also fund the preservation or enhancement of the historic asset.

In these particular circumstances, the development is considered to be facilitating the repair of the historic building and the information required by the Enabling Development policy is not required. Notwithstanding this, the facilitation argument is intrinsically linked to the viability of the scheme and is considered further below. In addition, it is necessary to ensure that a phasing plan is secured by condition to ensure that the works to the listed building are carried out alongside the new build homes.

### The impact on the special interest of listed buildings

For the avoidance of doubt, the local planning authority’s duty in relation to the determination of a planning application that affects a listed building is to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The application is supported by a Heritage Impact Assessment (“HIA”) which sets out the significance of the building and its setting.

It is noted that the interior of the building has previously been the subject of alterations which has diluted its evidential value in particular and as a result its significance. Notwithstanding this the proposal is considered to react in a positive manner to the findings of the HIA and seeks to preserve elements of special architectural interest such as the stair case. The conversion of the building to provide 7 no. flats is therefore considered an appropriate use that will ensure the long term preservation of the building.

Turning to the setting of the building, the HIA assesses the setting of both Tathan Hall and the Church of St Tathan which notes “The continued visual inter-relationship between the church and Tathan Hall, which was formerly the rectory until it was sold in the mid-20<sup>th</sup> century, is an element of the listed building’s setting which positively contributes to its significance as an historic asset...”

The settings of Tathan Hall and the Church are considered to be interdependent, with their visual linkage, in particular, providing significant evidential value. Whilst public appreciation of this relationship is limited from Rectory Drive it is more pronounced from within the Churchyard. In any event, this relationship contributes to the significance of both listed buildings. Notwithstanding this, legislation and policy allows for change in the setting of heritage assets where that change does not harm the significance of the listed building.

The scheme, as amended, introduces a break in the proposed new houses between plots 6 and 7 which will retain a clear visual link between the (historic) front door of the building and the church tower. In this regard, the element of the setting that contributes to the significance of the building is considered to be preserved.

In summary, the proposal is considered to preserve the building, its setting and features of special architectural or historic interest and, therefore, complies with policies SP10 and MD8 of the Local Development Plan.

#### The effect of the development on the character and appearance of the area

Policy MD2 relates to the Design of New Development and identifies 12 criteria for proposals to meet in order to be considered acceptable.

In terms of the layout and appearance of the new-build elements the site should be considered in two parts. The first, which fronts Rectory Drive and the second, located to the rear of Tathan Hall.

On the Rectory Drive frontage the proposed buildings will appear subservient to the principal building and respect the building line along Rectory Drive. Whilst the wider context is made up, primarily, of bungalows there are two storey houses on Rectory Drive to the east of the application site. Therefore the two storey buildings are considered to be acceptable in principal.

To the rear the introduction of six new dwellings will create a 'courtyard' style development. The proposed dwellings to the rear share their form and materials with those fronting Rectory Drive and, in common with those, will appear subservient to the principal building and the church.

The proposal indicates a total of 16 dwellings on a site of approximately 0.34ha giving an overall density of 47 dwellings/ha compared to the approximate density of 25 dwellings/ha for Rectory Drive. Notwithstanding this, it is noted that within the village core the density is significantly higher (circa 40 dwellings/ha equivalent) and in any event complies with Policy MD6 Housing Densities which requires a minimum density of 30 dwellings per hectare.

In terms of materials proposed, the palette is relatively simple. The new dwellings will be finished in render with stone detailing and stone cills under artificial slate roofs. Windows are to be finished in grey uPVC. This broadly reflects the materials found in the wider area and is considered appropriate in the setting of the listed building. Details and samples of materials will be required by condition (Conditions 3, 4 and 5) if a positive determination of the application is made. Special attention will need to be paid to the use of stone which should complement the principal building.

The form of the proposed dwellings is largely traditional with a strong vertical emphasis achieved through steeply pitched roofs, and tall windows. There is a strong contemporary accent provided to the rear through the use of a square projecting element. This detail is limited to rear elevations and will be largely screened from public vantage points and from outside the site, however, it is considered acceptable in its own right.

Turning to the principal building, it is clear that the building is in poor condition and the principle of its reuse is welcomed. Notwithstanding this, it was considered that the intervisibility of Tathan Hall and the Church of St Tathan contributes to the significance of both buildings. An amendment was made to the scheme to retain this intervisibility and, therefore, preserve this element of the setting which contributes to the significance of the listed buildings.

In this regard, the proposal is considered to comply with Policy SP1, SP8 MD2, MD5 and MD6 of the LDP.

#### Amenity and privacy considerations

When calculating what the private amenity space should be when applying the standard in the Council's SPG, it is clear that there is a shortfall in the provision of amenity space. 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. In addition, modest areas of open space are provided within the site.

In terms of privacy it is noted that the proposed houses are positioned relatively close to the boundary of the site. In particular plot 3 is located approximately 3.5m at its closest with No. 8, Rectory Drive. However, it is not considered that this will result in any adverse impact in relation to privacy, overshadowing or of an overbearing nature given the existing tree coverage. The rear garden to No 8, Rectory Drive is protected by the provision of open space adjacent to it.

Plot 4 is located adjacent to the rear garden of No 8, Rectory Drive. There are no principle windows on the upper floor to the front elevation of Plot 4, whilst principal windows serving the bedrooms are located so that the angle is such that residential privacy is maintained. Whilst there will be a degree of overlooking to the rear garden of No. 8, Rectory Drive, it is accepted that this is to the rear of the garden which is considered less sensitive.

Plots 8 and 9 are located close to the rear elevation of no.'s 1 and 2 The Green, however, the angle and distance between principal windows is considered to comply with the Council's standards.

Therefore, having regard to neighbouring and residential amenity, it is considered that the proposal is generally in accord with Policy MD2 of the LDP and the Amenity Standards SPG.

#### Highways considerations

The site is accessed directly off Rectory Drive which is characteristic of the street. This replication of the existing prevailing pattern along Rectory Drive is considered appropriate from the perspective of highway safety. In terms of the vehicle movements to and from the site, it is considered that the traffic generated by 16 dwellings will have a marginal impact on the highway network, not least when considering that seven of the dwellings are flats and that the previous use of the site could have generated a number of vehicular movements.

Car parking is provided at a ratio of two spaces per three-bedroom house and one space per flat. On this basis, it is recognised that in the instance of all but the one-bedroom flat, this provision is deficient by one space per dwellings in the context of the Vale of Glamorgan Parking Guidelines 2015 standards. However, this is justified when assessed against the Sustainability Checklist contained within the Authority's standards, which are adopted from the CSS Wales Car Parking Standards.

Appendix 6 therein sets out how sustainability points can be awarded to developments to justify a reduction in car parking provision for new development. Through this assessment, it is clear that the site would score 9 sustainability points, due to proximity to the varied village centre facilities and bus stops of St Athan.

This allows a reduction of one car parking space per dwelling, thereby establishing that the provision proposed is in fact compliant with the relevant

parking standards. A copy of the sustainability checklist and the points scored by the application site is provided within the appendices to the Planning Statement.

During the course of the application, extensive discussions were held resulting in a number of design iterations being prepared identifying alternative highways layouts. This process has resulted in minor changes to the scheme as submitted which are considered to achieve an appropriate balance between the provision of car parking; the provision of amenity space, good design in the context of a listed building and the viability of the development. It is, therefore, considered that the proposed layout solution best addresses this balance.

Notwithstanding this, the Highways Engineer still had some concerns relating to the location of the pedestrian access route to the principal building and sought an amendment to the scheme to direct pedestrians away from the mouth of the access road to the existing pavement. Whilst these concerns are acknowledged it is noted that the entrance door is approximately 8m from the pavement edge which will allow pedestrians time and space to assess their surroundings prior to crossing the access road. The proposed design solution is, therefore, considered reasonable.

Furthermore, notwithstanding the letters of representation received, Rectory Drive is characterised by fairly low density development, with most, if not all, adjacent dwellings benefiting from on-plot car parking. Therefore, it is considered that there is on-street parking available in the vicinity of the site and any potential overspill parking would not harm highway safety.

A condition is recommended requiring the provision of the car parking spaces prior to the occupation of the proposed development (Condition 7). Conditions are also proposed relating to the provision of cycle stands and details of the proposed cross over to be submitted (Conditions 8 and 9).

### Ecology considerations

The site has been assessed by the ecologists and the application is accompanied by a number of ecology survey reports. It is concluded that Tathan Hall is home to an established bat roost. As a result a derogation licence will need to be obtained from Natural Resources Wales should consent be granted.

The conditions on-site at the time of the Phase 1 Survey, including the presence of areas of suitable habitat also meant that further reptile survey work was recommended. No evidence of reptiles was found during the survey works. The method and findings are set out in the Reptile Survey Report that also accompanies the application.

Concerns were raised by the Council's ecologist who in discussion with the applicant's ecologist was concerned by the methodology proposed. Given the Council's concerns regarding bat mitigation, the Council deferred any decision on this matter to NRW to be directed by them. Following the submission of a bat mitigation strategy, NRW raised 'significant concerns' regarding the proposed development.

Further work was undertaken to the bat mitigation strategy which resulted in the following response from NRW:

*"We note the alterations made to the mitigation proposals include eaves access points into the Tathan Hall building and the re-location of the additional roost void to an alternative new building (Plot 6) on the south of the site where bats can access directly to/from the proposed dark corridor.*

*We continue to have concerns regarding the design of the fly-in 'roof access'. We advise that altering the design of the external timber framework to create a larger outer opening than the internal 300mm by 200mm gap may have a greater likelihood of being successfully adopted by lesser horseshoe bats. However, given the alternative eaves access points and the roost void to be created in Plot 6, we do not consider the proposed development will result in a detriment to the maintenance of the favourable conservation status of the bat species on site.*

*In addition, we also have concerns regarding the internal configuration of the fly-in access points into the Tathan Hall building and will seek to alter this proposed internal timber framework. However, we consider that this can be addressed at the time of the European Protected Species licence, and does not impair our ability to comment at this stage."*

It is, therefore, considered that the mitigation measures proposed with the submitted documents are suitable to safeguard protected species, subject to conditions (Conditions 13 and 14).

As a competent authority under the Conservation of Habitats and Species Regulations 2010 ('habitat regulations'), the LPA must have regard to the Habitats Directive's requirement to establish a system of strict protection and to the fact that derogations are allowed only where the three conditions under Article 16 of the EC Habitats Directive are met (the 'three tests') (TAN5, section 6.3.6) In order to comply with its duty under the Habitats Regulations, the LPA will need to take all three tests into account in its decision. It is essential that planning permission is only granted when the Local Planning Authority is satisfied that all three tests are likely to be met. If not, then refusal of planning permission may be justified (TAN5, section 6.3.6).

A proportional approach can adapt the application of the tests: the severity of any of the tests will increase with the severity of the impact of derogation on a

species/population.

Test 1 requires that the derogation be 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. It is considered that the proposal would have benefits in terms of preserving a listed building which is considered to be 'at risk' and providing much needed housing in the wider public interest in providing a range of choice of housing within the Vale of Glamorgan.

Test 2 requires that there is no satisfactory alternative to the development. In this case there is an imperative to preserve and enhance the listed building; and to develop the site for housing in this location, as the site has been assessed as sustainable and can provide housing needed within the Vale of Glamorgan, with mitigation and enhancement shown as possible with the submitted documentation.

Finally, Test 3 requires that the derogation is not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. This is addressed in submitted surveys and information and their recommendations, which have been agreed in writing by NRW, subject to conditions.

#### Planning Obligation (Section 106) Matters

Policy MD5 of the LDP allows for new development within settlements, subject to certain criteria, including, criterion 7, that it makes appropriate provision for community infrastructure to meet the needs of future occupiers.

The Council's approved Planning Obligations SPG provides the local policy basis for seeking planning obligations through Section 106 Agreements in the Vale of Glamorgan. In addition, the updated Planning Obligations SPG is 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 17 dwellings. On this basis, the following planning obligations are required:



## Affordable Housing

The site falls within St Athan and LDP Policy MG4 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 35% affordable housing. Paragraph 5.10, page 11 of the SPG for Affordable Housing sets out that based on the net gain, the site should deliver a minimum of 6 affordable units to be delivered on site and incorporated appropriately into the scheme.

The breakdown should be as follows:

### *5no Social Rented Units*

1no one bed flat

3no two bed flats

1no three bed house

*1no three bed Low Cost Home Ownership unit*

## 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 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 TAN 18 (Transport) at 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, Policy MD5 (Development Within Settlement Boundaries) 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. Policy MD2 (Design of New Development) states that new development should "...provide a safe and accessible environment for all users, giving priority to pedestrians, cyclists and public transport users".

In accordance with the Planning Obligations SPG, the Council would normally seek a financial contribution of £2300 per dwelling to provide sustainable transport facilities. For the amended proposals of 16 units this would equate to **£36,800**.

## Education

All new residential developments which are likely to house school aged children create additional demand on places at existing schools. Paragraph 4.4.3 of PPW 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.

Policy MD4 sets out that, where appropriate and having regard to development viability, the Council will seek to secure new and improved community infrastructure, including the provision or improvement of education facilities.

In accordance with the Planning Obligations SPG, the Council would normally seek a financial contribution of £13,811 per dwelling for Education provision. For the amended proposals of 16 units this would equate to **£220,976**.

### Public Open Space

Residential developments are expected to make provision for open space 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*'. LDP Policy MD3 require new residential developments to make provision for open space and the Planning Obligations SPG provides further advice about how these standards should operate in practice.

The site lies within St. Athan ward. The LDP Open Space Background Paper (2011) indicates an under-provision of children's play space of 0.49ha and 4.97ha of natural / semi-natural green space within the Ward. However, it is recorded that there is an overprovision of 2.16ha of outdoor sport space and 0.89ha of amenity green space.

Given the size and constrained nature of the site, there is no scope for onsite provision. Therefore, an offsite contribution of **£42,688** 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 MD3 (Provision for Open Space). This contribution would be used by the Council to provide/enhance public open space in the vicinity of the site.

### Public Art

Para 5.15 of TAN 12 (Design) 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.

### Analysis - Development Viability

During negotiations on application, the applicant has argued that the Council's requirements for planning obligations threaten 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.

LDP Policy MD4 recognises that regard should be given to development viability, and supporting paragraphs 7.29-7.30 advise as follows:

- “7.29 Where a developer contends that the Section 106 requirements are too onerous...and will potentially make the scheme unviable, they will be expected to submit a breakdown of the development costs and anticipated profits based on properly sourced evidence. Developers must take account of the necessary planning obligation requirements at an early stage to ensure these are reflected in the land value assumptions. The Council may seek independent verification of these details before considering whether to reduce the number and / or value of planning obligations sought.*
- 7.30 The Council accepts that it may not always be possible for developers to satisfy all the planning obligation requirements. Where this is proven to be the case, the Council will need to consider what the planning obligation priorities will be for that particular development, having regard to the site location and the local needs in the vicinity. This will be considered on a site by site basis having regard to the statutory tests. The Welsh Government has advised that, in such circumstances, affordable housing should be the priority once sufficient infrastructure to enable the scheme to proceed has been made available”*

To provide some background, the developer submitted a viability appraisal with the original application, which included details such as development revenue, development costs, abnormal development costs, professional fees, finance costs and build contingency and land value. The District Valuer (DV) was then appointed as an independent expert to scrutinise, analyse and review the submitted information and advise the Council on the development viability.

The DVs appraisal and report regarding the viability of the development originally

proposed under the previous application, confirmed that the abnormal development costs did in fact make the site unviable at full policy requirement (including 35% affordable housing).

This was centred primarily on the abnormal costs associated with bringing the 'at risk' listed building back in to beneficial use. On that basis and in line with the guidance set out in the SPG on Planning Obligations, and at a national level by WG no section 106 agreement is sought in relation to this application. This was verified as reasonable by the DV, given the abnormal viability constraints at this site.

These DV reports are confidential as they contain commercially sensitive information and consequently cannot be released to the public, but is available to Committee Members on request. Notwithstanding the above the conclusion of the DV is repeated below:

*“My appraisal as detailed above for a fully open market scheme providing no Affordable Housing contribution and no S106 sums provides a residual land value of £[redacted], which is below the adopted benchmark and suggests that the scheme would be rendered unviable if any S106 monies etc were to be provided.*

*If the authority [sic] are minded to grant permission on the basis of no contributions we would suggest that a time scale for delivery is agreed which if not met triggers a viability review.”*

It should be noted that given possible fluctuations in the figures attached to the assessment of viability that a limited time for the implementation of the consent is recommended. However, for such a review mechanism to work, Welsh Government guidance advises that there should be a very clear and binding definition of what amount of development needs to have been undertaken for the requirements of the permission to have been met. This could be achieved through a section 106 agreement that sets out that the development would need to be completed within 3 years.

Members will note that this is an approach advocated by the Planning Inspectorate in the consideration of an appeal in respect of application 2016/00659/FUL for 9 apartments at Ashdene, Bridgeman Road, Penarth.

Officers have considered the above, and in light of the advice published by Welsh Government, LDP Policy MD4 and the SPG on Affordable Housing, the Council consider absence of planning obligations is only acceptable in view of the development viability issues balanced against the desirability of bring a listed building considered to be at risk back in to beneficial use.

#### Other Matters

Concerns were raised relating to foul and surface water drainage. In their consultation response, Dwr Cymru Welsh Water requested a condition and advisory note be included as part of any positive recommendation relating to sewerage.

In addition, they confirmed no problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

In this respect, it is considered that the inclusion of a condition and advisory note will overcome any concerns raised.

### RECOMMENDATION

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

- That the development be complete and ready for occupation within 3 years of the planning permission.

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

1. The development shall begin no later than three years from the date of this decision.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 and provide a time limited consent reflecting the viability constraints on the site and associated relaxation in planning obligation requirements.

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

121 – AL(90)01 – Topographical Survey;  
121 – AL(90)01(E) – Revised Proposed Site Layout (received 25 Oct 2017);  
121 – AL(99)02 – Proposed Ground Floor;  
121 – AL(99)03 – Proposed First Floor;  
121 – AL(99)05 – Proposed Elevations;  
121 – AL(99)06 – Section A-A & B-B;  
121 – AL(99)07 – Section C-C & D-D;  
121 – AL(99)08 – Proposed Plans and Elevations, Plot 1 - 3;  
121 – AL(99)09 (A) – Proposed Plans and Elevations, Plot 4 & 5, 6 & 8 (received 25 Aug 2017);  
121 – AL(99)10 (A) – Proposed Plans and Elevations, Plots 9 - 10 (received 25 Aug 2017);  
121 – AL(99)11 (A) – Proposed Context Elevations (received 25 Aug 2017)

Structural Survey, Planning Statement, Design and Access Statement, Heritage Impact Assessment and Bat Mitigation Report (received 19 December 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.

3. Notwithstanding the submitted plans, prior to their use details of windows, doors, roof coverings and rain water goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed and maintained at all times thereafter in accordance with the approved details.

Reason:

To safeguard visual amenity and to preserve the setting of the listed building, as required by Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD2 (Design of New Development) and MD8(Historic Environment) of the Local Development Plan.

4. Notwithstanding the submitted details, a schedule (and samples) of materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. prior to their use. The development shall be completed and maintained at all times in accordance with the approved details.

Reason:

To safeguard local visual amenities, as required by Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD2 (Design of New Development) and MD8 (Historic Environment) of the Local Development Plan.

5. All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. The means of enclosure shall be completed in accordance with the approved details prior to the first beneficial use of the development.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Development) of the Local Development Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house, other than those approved under the terms of condition 5 of this permission.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

7. No dwelling shall be occupied until the parking spaces, access and turning area have been laid out within the site in accordance with drawing no 121 - AL(90) 02 Rev E and those spaces shall be kept available for the parking of vehicles / such purposes in perpetuity.

Reason:

To ensure that satisfactory vehicle parking and turning facilities is provided on site to serve the development, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

8. Prior to the first beneficial occupation of the development, 4 No. "Sheffield" type cycle stands shall be provided and secured within the boundary of the site for the use associated with the proposed apartments (in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority) and thereafter maintained and retained at all times for the use of the development.

Reason:

To ensure adequate cycle parking facilities are provided to serve the development, in accordance with the councils parking standards, in accordance with policy MD 2 of the LDP.

9. Notwithstanding the submitted plans, full engineering details of the new vehicular / pedestrian access points in to the site and internal roads within the site, incorporating turning facilities and vision splays, and including sections, street lighting, surface water drainage and details of the location and design of all rumble strips, shall be submitted to and approved in writing by the Local Planning Authority prior to any works to construct the access and internal road. The development shall be implemented thereafter in accordance with the approved details.

Reason:

In the interests of highway safety in accord with Policy MD2 of the Local Development Plan.

10. A landscaping scheme be submitted to and approved in writing by the Local Planning Authority, prior to the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

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

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

12. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

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



13. The scheme shall be implemented in accordance with the mitigation measures set out in Sections E and F of the report 'Application for Bat Development Licence Method Statement. Tathan Hall', prepared by Sylvan Ecology, dated 22 June 2017 (received via email on 11 December 2017).

Reason:

In the interests of ecology and to ensure compliance with In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) / MD9 (Promoting Biodiversity) / MG19 (Sites and Species of European Importance) / MG20 (Nationally Protected Sites and Species) of the Local Development Plan.

14. Prior to the commencement of development a light mitigation strategy, including measures to ensure lighting measures do not conflict with the bat use of the site, shall be submitted to and approved in writing by the Local Planning Authority.

The scheme should include:

- Details of appropriate siting and type of external lighting to be used;
- Any operational measures;
- Drawings setting out light spillage in key areas for bats to demonstrate that the southern and eastern elevations of the Tathan Hall building, the western elevation of plot 6 and the dark corridors as indicated in Section E of the bat method statement are not illuminated by external lighting and that disturbance to flight paths of bats will therefore be avoided; and
- Remedial action to be undertaken where problems are identified by the monitoring scheme.

Reason:

In the interests of ecology and to ensure compliance with In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) / MD9 (Promoting Biodiversity) / MG19 (Sites and Species of European Importance) / MG20 (Nationally Protected Sites and Species) of the Local Development Plan.

15. No development shall commence until details of existing ground levels within and adjacent to the site and proposed finished ground and floor levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason:

Reason:

To ensure that [x] are safeguarded, and to ensure the development accords with Policy MD2 (Design of New Development) of the Local Development Plan.

16. Prior to the commencement of development, a phasing plan of the proposed works demonstrating that the works to the listed building shall be undertaken alongside the delivery of the new build houses hereby approved, shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved details.

Reason:

To ensure the comprehensive development of the site in its entirety, ensuring the works to the listed building are carried out alongside the facilitating development.

### 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 for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to Policies SP1-Delivering the Strategy, SP3-Residential Requirement, SP4-Affordable Housing Provision, Policy SP7-Transportation, SP10-Built and Natural Environment, MG1-Housing Supply in the Vale of Glamorgan, MG4-Affordable Housing, MG19-Sites and Species of European Importance, MG20-Nationally Protected Sites and Species, MD2-Design of New Development, MD3-Provision for Open Space, MD4-Community Infrastructure and Planning Obligations, MD5-Development Within Settlement Boundaries, MD6-Housing Densities, MD7-Environmental Protection, MD8-Historic Environment, and MD9-Promoting Biodiversity of the Vale of Glamorgan Adopted Local Development Plan 2011-2026; Supplementary Planning Guidance, including Amenity Standards, Trees and Development, Biodiversity and Development, Affordable Housing, 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, TAN14-Coastal Planning, TAN16-Sport, Recreation and Open Space, and TAN24-Historic Environment, 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 and would preserve the setting of the listed building. The proposal is also considered acceptable in respect of neighbouring and general residential amenities of the area and highway safety. In addition, subject to appropriate conditions, there should be no detriment to ecology interests on the site.

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

**NOTE:**

- 1. 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 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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

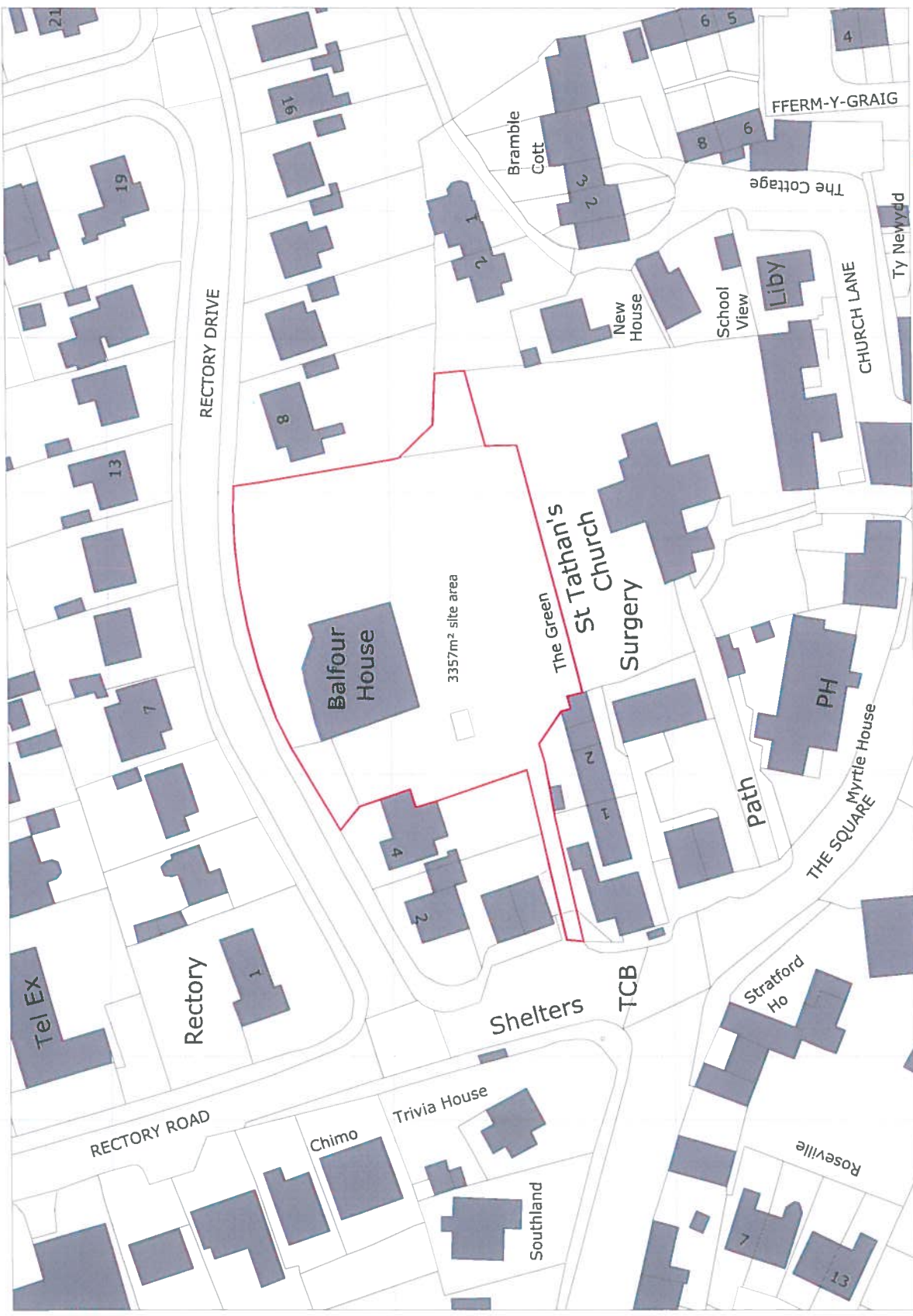
- 2. Please note that a legal agreement/planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**

**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.**



2017/000666/FUL

Date:	11.12.16
Scale:	1:300@A2
City No:	121 - A19/900
Client:	Tathan Hall
Location:	Tathan Hall, Rectory Drive, St Athan, Vale of Glamorgan
Project:	CFEZ APP
Drawn:	Site Location Plan
Revised:	

**WA**  
Westfield Architects

Address - 3 Harwood Road, Penty Isaf, Cardiff CF73 5DG. TEL: 07894 175250. E-MAIL: [sam@westfieldarchitects.co.uk](mailto:sam@westfieldarchitects.co.uk)

0 5 10 15 20 25 30m

North

THE DRAWING IS TO BE READ IN CONJUNCTION WITH OTHER PLANS WHICH FORM PART OF THE APPLICATION. IT IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN AUTHORIZATION OF THE ARCHITECTS. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED. SCALE: AS SHOWN ON THE DRAWING. DATE OF PUBLICATION: 11/12/16.

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**2017/00497/FUL** Received on 24 May 2017

Loosemore Bryneithin Ltd., 1, Pontcanna Street, Cardiff, Vale of Glamorgan.  
CF11 9HQ  
Nigel Arnold Architects The Studio, 5, Penarth Head Lane, Penarth, Vale of  
Glamorgan. CF64 1BB

### **Bryneithin Home for the Elderly, St. Andrews Road, Dinas Powys**

Retention of the development for 24 residential units granted planning permission by virtue of applications 2015/00954/FUL and 2016/00494/FUL with an amendment to the parking layout to serve that development

### **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 was formerly occupied by the Bryneithin Residential Home, within Dinas Powys. This is an application for retrospective planning permission for the retention and completion of a development of 24 units of residential accommodation for occupation by residents of 55 and over. Comments have been received from Dinas Powys Lawn Tennis Club.

The main issues to be considered in this report are: the principle of the development; design and visual impact; highway safety, access and parking; ecology; drainage; trees and landscaping; control of on-going construction; and section 106 matters.

The application is recommended for approval.

### **SITE AND CONTEXT**

The application site was formerly occupied by the Bryneithin Residential Home, Dinas Powys. The majority of the site is located within the defined settlement boundary for Dinas Powys, with the northernmost part of the site falling within the countryside for the purposes of the Local Development Plan (LDP).

The site is accessed from the public highway by a tree lined driveway. The site lies to the rear of a primary school to the south west and to the east there is a dwelling and Dinas Powys tennis club. There are a number of trees that fall within and adjacent to the application site with TPO No.14, 1973 (to the west of the access track) and No. 2, 1954 (to the east).

## BACKGROUND

The planning history to this site is of particular relevance to this current application and the matters to be considered by the planning committee.

The site is Council owned and planning permission (2015/00954/FUL) was originally granted for the demolition of the former Residential Home and erection of 18 residential units with associated parking, open space and a communal building. The occupation of the site to the over 55's was to be controlled by way of the lease that the Council, as landowner, would grant to the subsequent property owners.

There were a number of conditions attached to the 2015 application that required the submission of details for approval. A subsequent condition discharge application was submitted and approved in compliance with the requirements of these conditions.

A further application (2016/00494/FUL) was granted permission for the northern area of the site subject of the 2015 permission. Consent was granted for the construction of a further 5 residential units (with associated parking and access) on the communal public open space land at the north of the site. The application also proposed the construction of an additional residential unit on this land; this building was proposed under the 2015 scheme as a communal building for the 18 units but was proposed in the 2016 scheme as an additional residential unit (6 units in total). Again, there were a number of conditions attached to the 2016 permission requiring the submission of details for approval. Development commenced on site without the submission of the necessary details via a Condition Discharge application.

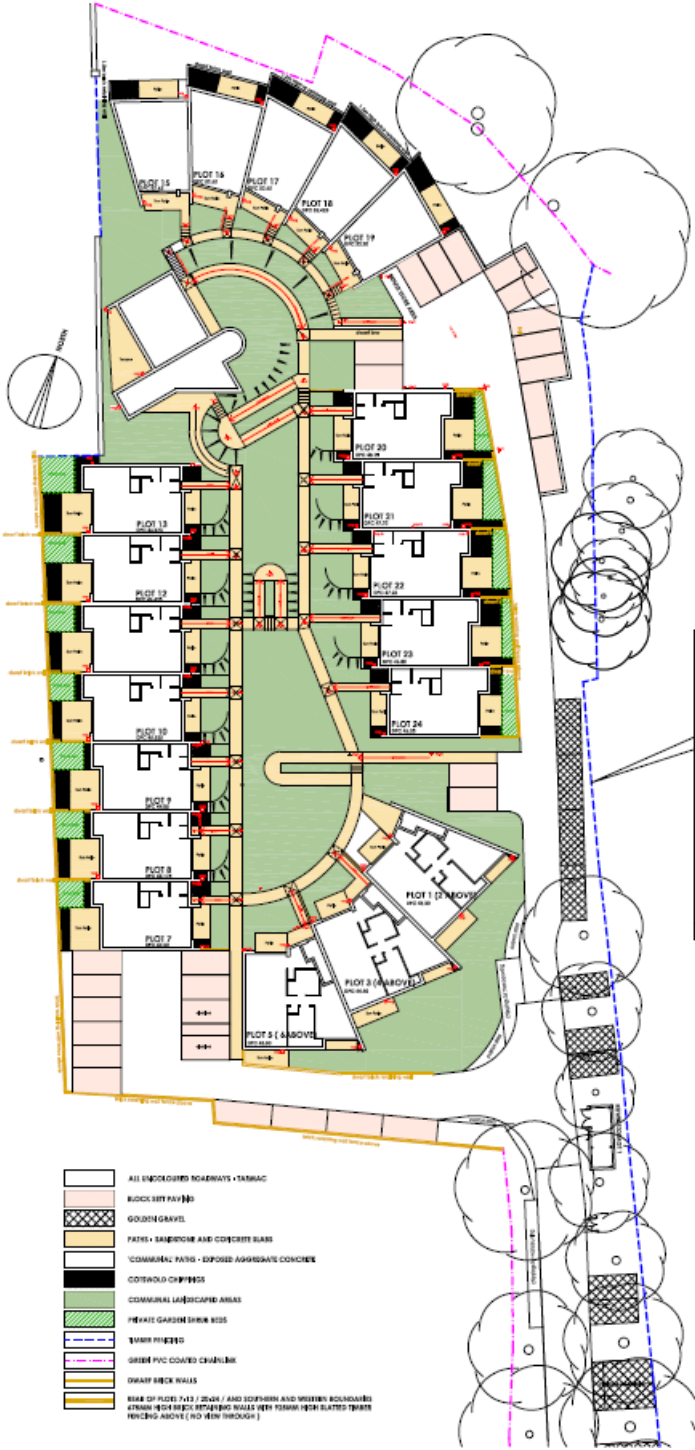
In view of the developer's failure to comply with a number of the conditions requiring the submission of details prior to the commencement of development, that element of the development (i.e. the 6 units in the northern section of the site) was rendered unauthorised and could not be considered to benefit from the 2016 planning permission. In addition to this, the parking layout serving the development had been revised and works commenced on site to construct a parking scheme that had not been approved via either of the two permissions granted.

The application subject of this report is intended to regularise the development as a whole and to seek approval of all of the outstanding matters relating to the development, as were required by condition.

The Council still retain ownership of the site and the Council still intend to lease the site, retaining the ability to control the occupation of the development to the over 55's. Accordingly, as with the previous applications, this application is to be considered on the basis of the development being occupied by residents who are 55 and over, the occupation being controlled not by planning condition, but by the leasehold arrangements for the site to be granted by the Council as freehold owner.

**DESCRIPTION OF DEVELOPMENT**

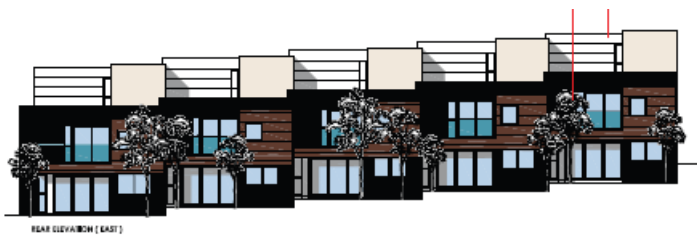
In view of the above background to this case, this is an application for retrospective planning permission for the retention and completion of a development of 24 units of residential accommodation for occupation by residents of 55 and over. The accommodation is comprised in four blocks and a single unit, as shown on the layout plan below.





The northernmost curved block and the two central staggered blocks are, essentially, three rows of terraced properties with a particularly contemporary design. The northern most terrace comprises 5 no. 2 bedroom, two storey properties. The easternmost terrace comprises an additional 7 no. 2 bedroom terrace of properties over 2 floors. The easternmost terrace comprises 5 no. 3 bedroom properties over three floors. The southernmost block of properties comprises 6 no. maisonettes (each property having its own entrance) within a two storey building; the ground floor maisonettes having 1. no. bedroom and each first floor property having 2 no. bedrooms. The single detached property, close to the northernmost terrace, is a 2 bedroom dwelling with a communal bin store at basement level.

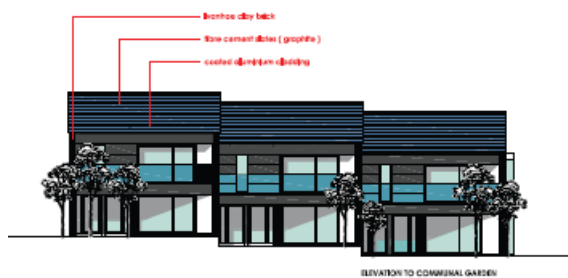
The properties are contemporary in their design and a mix of materials, roof types and layout have been used. Below are example elevations of each property:



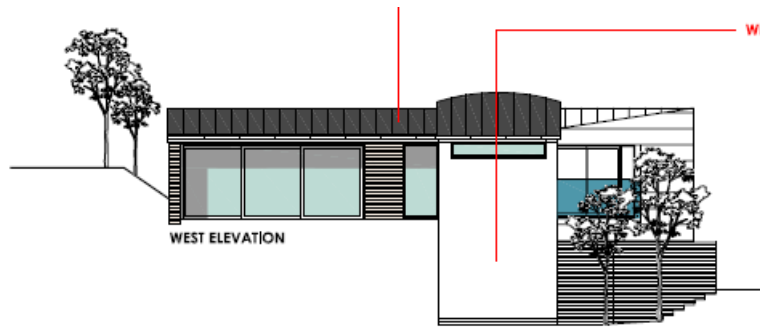
Plots 20 to 24 – each 3 bedroom



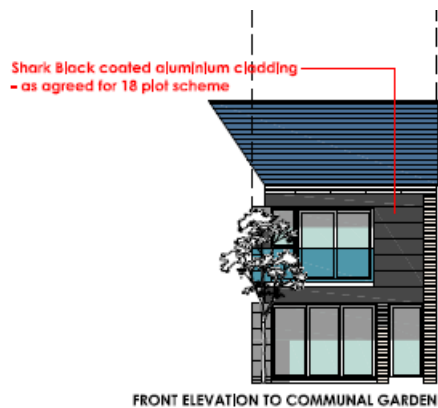
Plots 7 to 13 – each 2 bedroom



Plots 1 to 6 – 1 and 2 bedroom maisonettes.



Plot 14 - Single 2 bedroom



Plots 15 to 19 – Each 2 bedroom.

The site slopes North to South and, as such, the properties at the northern end of the site are at a higher level than those to the south.

Each property will be served by a small patio area and, in most cases, a small shrub bed. The parking provision is detached from the dwellings, and provided in communal areas that are peppered about the site. Visitor parking is provided to the east of the site entrance road. There are 35 resident and 15 visitor parking spaces proposed.

The remainder of the site is open communal space with pedestrian pathways and landscaping.

### PLANNING HISTORY

As referred to in the 'background' section above, the most relevant planning history for the site is the two applications made in 2015 and 2016 for what is effectively a 2 phase development of the site:

- **2015/00954/FUL:** Bryneithin Home for the Elderly, St. Andrews Road, Dinas Powys - Construction of small retirement complex of two and three storey linked cottages and flats with communal resident and guest facilities, parking and garden areas - Approved 17/12/2015

- **2016/00494/FUL:** Bryneithin Home for the Elderly, St Andrews Road, Dinas Powys - Construction of 5 No. two bedroom link houses, use of communal building( approved under 2015/00954/FUL) as two bedroom apartment with storage area on lower ground floor and additional parking, as part of retirement development approved under permission 2015/00954/FUL - 6 units in total - Approved 06/10/2016

The 2015 application is also linked to a condition discharge application which approved details in compliance with the relevant conditions of the 2015 permission:

- **2015/00954/1/CD:** Bryneithin Home for the Elderly, St. Andrews Road, Dinas Powys - Discharge of Condition 3 - Landscaping Scheme, Condition 5 - Tree protection Scheme, Condition 6 - Levels, Condition 7 - Traffic Calming, Condition 8 - Details of bin store, recycling, passing bay, access, etc., Condition 9 - Drainage scheme, Condition 11 - Disabled parking provision, Condition 13 - Means of enclosure, Condition 14 - Construction Environmental Management Plan (CEMP), Condition 15 - Construction materials, Condition 16 - Location of bat boxes on site and Condition 17 - Construction Traffic Management Plan (CTMP). Construction of small retirement complex of two and three storey linked cottages and flats with communal resident and guest facilities, parking and garden areas at Bryneithin Home for the Elderly, St. Andrews Road, Dinas Powys - Conditions Partially Determined (Approved only) 16/11/2016

Finally, a Condition Discharge (CD) application was submitted in order to seek approval of details required by the 2016 planning permission for the northern part of the site. As the development had commenced before the condition discharge application was submitted, the trigger for the submission of those details had passed. Accordingly, a Non Material Amendment Application (NMA) was submitted in an attempt to amend the conditions so as to allow for the approval of those details. Those applications remain undetermined but will, in effect, be superseded by this planning permission, if granted, as the details required by the relevant conditions of the 2016 permission have been submitted as part of the application subject of this report. The details of these applications are as follows:

- **2016/00494/1/NMA:** Bryneithin Home for the Elderly, St Andrews Road, Dinas Powys - Construction of 5 No. two bedroom link houses, use of communal building( approved under 2015/00954/FUL) as two bedroom apartment with storage area on lower ground floor and additional parking, as part of retirement development approved under permission 2015/00954/FUL - 6 units in total at Bryneithin Home for the Elderly, St Andrews Road, Dinas Powys - Undetermined.

- **2016/00494/1/CD:** Bryneithin Home for the Elderly, St. Andrews Road, Dinas Powys - Discharge of conditions 3, 5, 6, 8, 10, 15, 17 - Construction of 5 No. two bedroom link houses, use of communal building( approved under 2015/00954/FUL) as two bedroom apartment with storage area on lower ground floor and additional parking, as part of retirement development approved under permission 2015/00954/FUL - 6 units in total at Bryneithin Home for the Elderly, St Andrews Road, Dinas Powys - Undetermined.

## CONSULTATIONS

1. Highway Development have not objected to the planning application but have raised a number of concerns and comments, including but not limited to the following matters, which are set out in more details in the report:
  - Traffic calming details and site entrance gates;
  - Access road widths;
  - Number and dimensions of parking spaces; and
  - Pedestrian access.
2. Dinas Powys Community Council has not commented on the application.
3. The Council's Drainage Engineer has responded to the consultation and provides no comment or objection to the development.

## REPRESENTATIONS

A site notice was displayed and neighbouring properties were consulted on 5<sup>th</sup> December, 2017. Representations have been received from the Dinas Powys Lawn Tennis Club, who are the owners of the land to the east of the site. The Club submitted three letters (attached to this report as Appendix 1, 2 and 3) and raise a number of concerns that principally relate to the elements of the scheme close to the eastern boundary of the site. The Club's concerns in their first letter are summarised as follows:

1. The northernmost parking spaces are in close proximity to the lofty pines on tennis club land. We believe that this proposal will place at least one if not more, of these trees under severe threat.
2. All the mature trees on both our and the development sites have been a highly valuable part of the local amenity. There are to be new parking spaces beneath the remaining large deciduous trees to the more Southerly Eastern boundary of the site. We fear for the continuing health of these trees. The conifer trees at the top of the site are protected by tree preservation orders and as such, you have a responsibility, as the Planning Authority, for the protection of these and for not allowing damage to occur.

3. The new arrangement involves much car parking very close to our common border. It does seem that the inclusion of these spaces has required some scaled reduction in the relative infrastructure layout. Our general concern is the protection and preservation of our site boundaries from encroachment.

In their second letter, they refer to the updated Tree Impact Assessment and object to the development on the following basis:

- The report is competent with regard to identifying notable trees and proposed tree management regimes along the boundary between the development site and Dinas Powys Lawn Tennis Club but it seriously underestimates the impact on the TPO pine trees belonging to the tennis club described as G3 on the report.
- The revised planning application shows car parking spaces to the north and south the G3 trees and survey plan clearly shows the root protection area (RPA) being encroached upon by these car parking spaces.
- The survey fails to take into account the difference in height (1.5 – 2.0 m) between the development roadways/parking and the land on which the above trees are situated. The excavation will result in inevitable root damage which may seriously affect the structural integrity of these protected trees.
- In the opinion of the tennis club, the survey completely fails to take into account the topography and the practical considerations of creating car parking spaces where proposed. As a result and purely to protect our trees, we wish to object in the strongest terms possible terms to the inclusion of the two car parking spaces in the locations as described..

The third letter states as follows with regard to the planning application:

*“We do not wish to raise an objection to this planning application but have the following observations:*

1. *We are happy that one parking space has been removed from the previous scheme adjacent to the southern end of our stand of protected trees as inevitable further damage would have been done to the trees by the excavations into the root protection areas.*
2. *We are prepared to agree to the removal of the protected tree (whose roots have been substantially removed by unauthorised excavations) at the northern end of the stand of our protected trees, subject to the consent of the Vale of Glamorgan Planning Dept.*
3. *We wish to ensure that no further damage is done to any of our protected trees and that the integrity of our mutual boundary is maintained and protected.*

4. *The developer has offered to erect a horizontal slatted timber fence on our mutual boundary instead of the chain-link fence that was originally proposed and we are happy with this proposal.”*

## REPORT

### Planning Policies and Guidance

#### **Local 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

#### **Strategic Policies:**

POLICY SP1 – Delivering the Strategy

#### **Managing Growth Policies:**

POLICY MG1 – Housing Supply in the Vale of Glamorgan

POLICY MG4 – Affordable Housing

POLICY MG20 – Nationally Protected Sites and Species

POLICY MG21 – Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species

#### **Managing Development Policies:**

POLICY MD1 - Location of New Development

POLICY MD2 - Design of New Development

POLICY MD3 - Provision for Open Space

POLICY MD4 - Community Infrastructure and Planning Obligations

POLICY MD5 - Development within Settlement Boundaries

POLICY MD6 - Housing Densities

POLICY MD7 - Environmental Protection

POLICY MD9 - Promoting Biodiversity

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

#### **Planning Policy Wales:**

National planning policy 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 9 of PPW is of relevance in terms of the advice it provides regarding new housing.

**Technical Advice Notes:**

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

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- 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 20 – Planning and the Welsh Language (2017)

**Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. 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
- Sustainable Development - A Developer's Guide
- Trees and Development

**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 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

As set out in the 'Background' section above, the application subject of this report is intended to regularise the development as a whole and to seek approval of all of the outstanding matters relating to the development, as were required by condition. Accordingly, the vast majority of matters relating to this development have previously been considered and have been agreed. There has been a change in the policy position since the previous 2015 and 2016 approvals (namely the adoption of the LDP). As such, whilst matters such as the principle of the development are considered below, these will only be considered in the context of the previous approval and any implication there is for the change in the policy position.

Accordingly, the principle matters to be considered in this report are:

- The principle of the development;
- Design and visual impact;
- Highway safety, access and parking;
- Ecology;
- Drainage;
- Trees and landscaping;
- Control of on-going construction;
- Section 106 matters.

### The Principle of the Development

The vast majority of the site (with the exception of the northernmost section) is within the settlement boundary of Dinas Powys, as defined by LDP policy MD5, within which new development will be permitted subject to compliance with certain criteria.

With regard to the northernmost part of the site, whilst outside of the defined settlement boundary, the development was considered to accord with UDP Policy HOUS2 – Additional Residential Development in the previous application. Whilst this specific policy has not been carried forward into the LDP, its principles are continued in PPW, chapter 9.3. In addition, LDP policy MD1 permits development on unallocated sites provided, *inter alia*, it reinforces the role and function of such settlements as Dinas Powys and has access to or promotes sustainable modes of transport. In view of the location of the site, within and directly adjacent to the primary settlement of Dinas Powys, the development is considered to accord with the above-mentioned criteria of policy MD1 and PPW.



In addition to the above, it was also previously noted that the site has historically been associated with the former Bryneithin residential care home and the development associated with that use.

In view of the above, whilst there has been a new Development Plan since the previous decisions, this has not changed the view that the development is considered to be acceptable in principle and in accordance with the newly adopted Local Development Plan.

Notwithstanding the above, in the previous applications consideration was given to the location of part of the site within the quarry buffer zone for St Andrews Major Quarry. The Quarry Buffer Zone has been removed and, as such, this matter needs no further consideration.

### Design and Visual Impact

The design of the development is a matter that was considered in great detail as part of the 2015 and 2016 planning applications. In view of the contemporary design and open/communal nature of the site, care was taken to properly consider the appropriateness of the development within its context. Although there has been a change of policy at the local level, the principles of good design set out in both the UDP and national planning guidance have been translated into a number of policies within the LDP that are relevant to this development, including policies MD1, MD2, MD5 and the overarching strategic policy SP1. Accordingly, the form of development as approved under the 2015 and 2016 planning permissions, and now proposed for retention, is considered to accord with the design principles of the new LDP policies.

Notwithstanding the above, whilst the dwellings constructed on site accord with the 2015 and 2016 approved scheme, the slab levels of the dwellings in the northernmost part of the site (plots 14 to 19) were never formally approved. Those required levels details have now been provided as part of this application and the dwellings have been viewed on site. In view of the topography of the site, those dwellings are elevated and, therefore, visible from outside the site, but that would have been the case in any event. The previous 2016 scheme did not propose any substantial retaining structures in order to reduce the slab levels of these plots and, as such, the units were approved in the knowledge of their elevated position. Although these units are elevated, their prominence is not unacceptable when viewed within their context. The details of levels are, therefore, considered acceptable.

Details of refuse storage were required by way of a condition attached to the 2015 and 2016 permission. These details were submitted and approved in respect of the 2015 scheme, and are now submitted as part of this planning application. The refuse storage buildings consist of a small shallow pitch lean to structure at the end of the initial section of the private drive and a basement level bin store below the detached plot 14. These buildings are considered acceptable and complementary to this scheme.

With regard to the materials that have been used in the development so far, these were a matter required by condition on both the 2015 and 2016 permission and, for the 2015 scheme, details were submitted and approved. Those same details have now been submitted in respect of the scheme as a whole. Whilst the design on each block of dwellings and the single dwelling differ, continuity in the materials used is an important factor in the success of this development. Accordingly, although the development is near completion, a condition imposing the use of the materials submitted is considered appropriate.

Finally, again the means of enclosure for the site is a matter that was dealt with by way of a condition on the 2015 and 2016 permissions. Details of the enclosures on the site have been submitted with this application. Essentially, the scheme proposes very few enclosures within the site, save for retaining walls and some privacy screens to enclose the patio areas of the dwellings located adjacent to the internal access road and adjacent to the western boundary of the site shared with the school. The northern and eastern boundary of the site is to be enclosed with a green PVC coated chain link fence. The minimal use of enclosures in the site is in keeping with the open and communal design of the development. A peripheral enclosure is important, particularly that delineating the boundary of the site with the adjoining school. Providing all fences within and around the boundary of the site are constructed with a gap at the base, in accordance with the wildlife management details (considered below), the means of enclosures proposed is considered acceptable as a design element of this development.

In view of the conclusions above, the development as a whole is considered to be acceptable in its design and visual impact and in accordance with LDP policies MD1, MD2, MD5 and SP1, PPW and TAN12.

#### Highway Safety, Access and Parking

In terms of the access to the site, the development is served by the same access that served the former nursing home. The access is some 4.8 metres at its narrowest point, but has a 12m (in length) passing bay close to the site entrance. There is also a further 'manoeuvring' strip further along the drive. The submitted plans show a double gate across the site entrance, although it is understood that these are intended to remain open at all times. In addition, a form of traffic calming is proposed at the site entrance. The roads within the site and parking spaces will remain private and will not form part of the adopted highway.

The Council's Highway Engineer has considered the access arrangements and has commented on the width of the access road. The access is ostensibly the same as approved by virtue of the 2015 application and the applicant has again indicated that the roads within the site would be maintained within private ownership and not put forward for adoption. Whilst the comments of the Highway Engineer with regard to the width of the access road are noted, if the access were widened it is likely that the viability of the trees either side of the road, including those covered by a tree preservation order, will be affected.

The visitor parking would also be affected. The passing bay allowing vehicles to pass along the road and the control of traffic speeds with the traffic calming will assist in any highway safety issues caused by the width of the initial section of the site access road. On balance, it is considered that the widening of the access to meet adoptable standards is not required to make the retention of the scheme acceptable. As such, the width of the site access does not warrant the refusal of planning permission in this instance.

As for the traffic calming, the details that have been provided with this application are those previously approved as part of a condition discharge application for the 2015 permission. Save for the specification of certain details of the traffic calming ramps, the Highway Engineer is satisfied with the submitted plans.

With regard to the parking provision, as mentioned earlier, there are 15 visitor spaces to the east of this drive, provided on gravel under the canopies of the trees along the drive. The residents' parking amounts to 35 spaces in total; that is almost 1.5 spaces per dwelling. The Council's Highway Engineer has suggested that such provision would not be acceptable if the occupation of the development was not limited to the over 55's. In such circumstances, there may well be increase pressure for on street parking outside of the site. However, the occupation of the development is to be controlled by the Council as freehold owner, and limited to the over 55's. The Council's adopted SPG on Parking Standards suggests that in such cases where parking provision is likely to be lower, it may well be appropriate to relax the normal requirement for on-site parking provision. Accordingly, the Council's Highway Engineer has no objection to the development based on the number of parking spaces provided.

Notwithstanding this, the Engineer has commented on the size of some of the parking spaces and has suggested that, as a minimum, spaces ought to be 2.6 metres in width, in accordance with the SPG. Whilst some spaces are shown to be 2.4 metres in width, of these some are side-on to the private road or pedestrian walkways, thus reducing the necessity for a full 2.6 metre wide space. It is accepted that there are a number of spaces that are not of the width suggested in the guidance. Such was the case with the previously approved schemes, both of which can be considered to be a legitimate fall-back position. In addition to this, in view of the layout of the site, the provision of parking spaces that are narrower than suggested in the parking standard is unlikely to result in greater on street parking and the problems associated with that. The parking spaces are likely to be allocated to individual units, and parking in such spaces (even if limited in their width) will almost certainly be preferable to on street parking (i.e. the adopted highway is much further way from the residential units than the residents' parking spaces). If the development were to provide parking spaces that accorded with the parking standards, there would be a reduction in overall parking provision on site. All things considered, in this case there is good reason to consider the proposed parking arrangements to be acceptable and not in direct conflict with the principles of the Council's adopted SPG on Parking Standards and associated LDP policy.

On a final matter with regard to the parking provision, concern has been raised with regard to the proximity of the parking spaces close to the north of the site and the impact their provision has had on the protected trees on the adjoining Tennis Club land. The provision of these spaces required a certain amount of excavation and such excavation commenced prior to the approval of the revised parking layout. It is alleged that these works have undermined the protected trees and may have resulted in unauthorised works having been undertaken to these trees. The investigation of this complaint has not yet been resolved. Notwithstanding this, the parking spaces close to the protected trees are in the location of previously approved development, in that the 2015 scheme approved a bin store (also excavated into the bank to the east of the site) in closer proximity to the trees than the parking spaces now proposed. In view of this, and notwithstanding the continued investigation of the alleged unauthorised works to the trees to the east, it is considered that the proposed parking provision to the north east of the site is acceptable.

Finally, with regard to pedestrian access, it is noted that a pedestrian gate is proposed to the east of the vehicular entrance gates and that this will lead to a footway that will connect to the footway on the adopted highway. The Council's Highway Engineer is satisfied with this arrangement, providing there is a minimum of 1.8 metres between the pillars.

### Ecology

The original 2015 permission was subject to a number of conditions relating to ecology and the method of site clearance. The site has been cleared with the requisite licences in place with regard to European Protected Species. Furthermore, details showing the location of proposed bat boxes were submitted and approved in compliance with condition 16 of the 2015 planning permission.

Following the submission of the 2016 application and consultation with the Council's Ecologist, it was considered that '*the clear site provides little interest for biodiversity beyond the retained vegetated boundaries*'. Being mindful of this it was recommended that a scheme of biodiversity protection and enhancement be required by condition, including a scheme of appropriate lighting to prevent lightspill into the adjacent treeline. This was required by condition 16 of the 2016 permission.

A Wildlife Protection Plan has been submitted with this application, which would have provided the details required by condition 16 of the 2016 permission. The recommendations of the Plan include the following:

- A bat friendly lighting strategy, with particular regard to low level lighting in the north of the site.
- The provision of Bird Boxes within the site
- Gaps Under Fences
- Use of Native Species-Rich Planting Scheme
- Newt Friendly Drainage
- Management of Habitats for Great Crested Newts
- Great Crested Newt Hibernacula Creation
- Hedgehog Habitat Management

These recommendations cover all matters that were required by the condition and have been prepared by suitably qualified professionals. These details are considered acceptable as a wildlife protection and management plan for the site and, together with the approved details of bat box provision, provide a form of development that accords with LDP policies SP1, MG19, MG20, MD2 and MD9 as well as the Council's approved SPG on Biodiversity and Development, TAN5, and PPW with regard to biodiversity and ecology.

### Drainage

It is noted from the previous decisions that, following consultation with the Council's Drainage Engineer, Welsh Water and Natural Resources Wales, it was agreed in principle that an appropriate scheme of drainage could be provided for the site. A number of conditions were attached to both the 2015 and 2016 permission to require the details of site drainage. A series of drainage plans and details were provided in compliance with the relevant conditions of the original 2015 scheme, although these related to the drainage of the whole of the site. These were considered by the Council's drainage engineer to be acceptable.

The Drainage Engineer has been consulted again on this application, and has not objected or made any further comments. Accordingly, and subject to the inclusion of the previously approved drainage details in the 'plans approved' condition, the development is considered acceptable and in compliance with policy MD5 of the LDP in its requirement for the provision of community infrastructure.

### Trees and Landscaping

With regard to the trees on site, details of those to be retained/removed have been considered and agreed by way of the 2015 and 2016 planning permissions. The development has, so far, been carried out in accordance with those details (notwithstanding the matters referred to below). These details have been submitted with this application. It is recommended that these details form part of the approved documents for this development.

Notwithstanding the above, it will be noted in the section of the report on access and parking that during the course of the construction of this development it was alleged that excavation works to construct some parking spaces have affected the protected trees on the adjoining Tennis Club land. This is a matter that has been raised as a significant concern by the Tennis Club.

The application has been submitted with two updated versions of a Tree Survey and Arboriculture Impact Assessment, the second of which considers the impact of the development so far on the protected trees on site. The assessment suggests that the excavation works have resulted in some root damage to certain trees, although it is not conclusive on the matter of whether the works have resulted in the ultimate loss of the trees. The investigation of this matter is still on-going is best dealt with by way of the enforcement investigation. It is noted that the last comments of the Tennis Club indicate that negotiations has been on-going with the developer and that their objection has been withdrawn subject to, *inter alia*, a separate arrangement with the developer for the removal of one of trees on their land (with the agreement of the Council) and no further damage being done to their trees. On the matter of this second caveat, the most recent Tree Survey and Arboriculture Impact Assessment makes a number of recommendations for how the works to complete the development should be undertaken so as to minimise any further impact on the protected trees and any other trees on site. Accordingly, it is considered appropriate to impose conditions on any planning permission granted to require the completion of the development in accordance with those recommendations.

With regard to landscaping, this is a matter required by the conditions of the 2015 and 2016 planning permissions. Details were submitted and approved in respect of the landscaping conditions attached to the 2015 permission, which related to the 18 unit development. Revised details have been submitted with this application for the full 24 unit scheme. Those details ostensibly replicate the approved scheme and continue the style and detail of landscaping that was previously considered acceptable. The proposed landscaping for the site as a whole is considered acceptable and in accordance with the principles of good design required by LDP policy MD2, TAN 12 and PPW.

Finally, as the development is not yet complete, it is considered appropriate to still impose a condition on the planning permission, if granted, requiring tree protection measures for the duration of the works to complete the development.

#### Impact upon amenities of neighbouring residential properties

As noted in the reports for the previous 2015 and 2016 planning application reports, the dwellings are a substantial distance from the nearest existing residential properties. Furthermore, the increase in vehicle movements along the access driveway would not be significantly more than those permitted under the previously approved and as such it is considered that there would be no significant detriment to the amenities of the occupiers of neighbouring residential properties. In this regard, the development accords with LDP policy MD1, MD5 and SPG on Amenity Standards.

## CEMP and CTMP

Details of a Construction Traffic Management Plan and a Construction Environmental Management Plan for the construction phase of the development were required by a condition attached to the 2015 and 2016 permission. Details were submitted and approved in discharge of the relevant condition of the 2015 scheme and are submitted with this application. Whilst the development is close to completion, it is still considered appropriate to control the remaining construction works. As such, a condition is recommended to require the development is completed in accordance with the submitted details.

## Planning Obligations

In addition to the assessment of this retrospective application for planning permission as set out above, it is essential to ensure that the development still complies with the Council's policy and guidance in relation to planning obligations.

The previous applications were both subject to separate section 106 agreements that principally related to affordable housing, sustainable transport, public open space and public art. Members will recall that, in view of the age restriction to be imposed by the Council on the occupiers of the site, the likelihood of the development being occupied by children of school age was such that an education contribution was not sought.

If Committee resolve to grant permission for the retention of this development, any such permission should only be granted subject to the developer entering into a deed of variation in order to bind him to the requirements of the previous section 106 agreements.

## RECOMMENDATION

Subject to the relevant person(s) first entering into a deed of variation in order to bind all relevant person(s) to the terms of the Section 106 Legal Agreement relating to the 2015/00954/FUL and 2016/00494/FUL planning permissions.

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

1. The development shall be completed in accordance with the following approved plans and documents:
  - 39314:AP27 - Site Location Plan
  - 39314:AP32 Rev B - Site Layout Plan
  - 39314:AP19 - House Types
  - 39314:AP20 - House Types
  - 39314:AP21 - House Types
  - 39314:AP24 - Rev B House Types
  - BS5837 2012 Tree Information Report 1.2015 prepared by James Pinder
  - BS 5837 Tree data plan dated 23/05/2016

- Tree Survey and Arboriculture Impact Assessment for Revised Parking dated 03/07/2017
- Tree Survey and Arboriculture Impact Assessment for Revised Parking dated 11/09/2017
- 39314:AP07 Rev. A. Plan to accompany Tree Survey and Arboriculture Impact Assessment for Revised Parking
- BS5837 Tree Data and document 'Tree Protection Fencing for rooting areas and CEZ'
- TDA.2204.01 Rev A - Landscaping Plan
- 'Texas Best Fence' and 'Si00:x Gallery' - Fencing Details
- Construction Environmental Management Plan dated May 2016
- Construction Traffic Management Plan dated 14/06/2016
- IN0020/LP-01/ - Site Logistics Plan
- Vehicle Wheel Cleaning / Washing During the Construction note
- Addendum to Site Logistics Plan - showing wheel washing area
- C15241 710 Rev T3 – Site Entrance Works
- 39314:AP25 – Details of Bat Boxes
- Wildlife Protection Plan dated April 2017
- C15241 505 C2 Drainage Construction Details Sheet 1
- C15241 506 C3 Drainage Construction Details Sheet 2
- C15241 507 C4 Drainage Construction Details Sheet 3
- C15241 508 C1 Drainage Construction Details Sheet 4
- C15241 Rep01 A SUDS Maintenance Strategy
- C15241 500 C3 Drainage Layout
- G/PC060/03 Approximate Location of Site Investigation Works
- PC006 Summary of rates of infiltration rates
- Micro Drainage Infiltration Details
- 39314:SITE/03 - Refuse Store

Reason:

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

2. All planting, seeding or turfing comprised in the details of landscaping shown on drawing number TDA.2204.01 Rev A 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 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.



3. The scheme of tree protection shall be implemented and retained in accordance with plan number BS5837 Tree Data and the document entitled 'Tree Protection Fencing for rooting areas and CEZ' for the duration of the completion of the development.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

4. All works within the vicinity of the trees identified as T4 to T7 on the plan that accompanied both documents entitled 'Tree Survey and Arboriculture Impact Assessment for Revised Parking' dated 03/07/2017 and 11/09/2017 shall be carried out in accordance with recommendation 8 d) of the Tree Survey and Arboriculture Impact Assessment for Revised Parking dated 11/09/2017 in that the works within the root protection areas of those trees shall be carried out using the "No Dig" method in accordance with BS5837:2012.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

5. All works to be undertaken within the Root Protection Area of the trees identified within the group G3 on the Plan that accompanied the documents entitled 'Tree Survey and Arboriculture Impact Assessment for Revised Parking' dated 03/07/2017 and 11/09/2017 shall be carried out in accordance with an Arboricultural Method Statement, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

6. No works shall be undertaken within the Root Protection Area of the tree identified as T2 and the north-western most trees within the group identified as G3 on the Plan that accompanied the documents entitled 'Tree Survey and Arboriculture Impact Assessment for Revised Parking' dated 03/07/2017 and 11/09/2017 until such time as a scheme of remedial arboricultural works to those trees has been completed, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to avoid damage to trees on or adjoining the site which are of amenity value to the area and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

7. Prior to the occupation of the development hereby approved, the traffic calming close to the entrance of the site shall be completed in accordance with drawing number C15241 710 Rev T3 and shall thereafter be retained in perpetuity.

Reason:

In the interest of highway safety, including that within the site, to ensure a satisfactory form of access to serve the development, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

8. Prior to the occupation of the development all areas of external hard surfacing shall be completed in accordance with the details shown on plan number 39314:AP32 Rev B, save for the areas identified as 'Passing Bay' and 'Chippings for Manoeuvring' which shall be completed prior to the occupation of the development in a bound material to match the 'Golden Gravel' material details provided on plan number 39314:AP32 Rev B.

Reason:

To ensure that satisfactory form of internal highway, vehicle parking and turning facilities are provided on site to serve the development, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), MD2 (Design of New Developments) of the Local Development Plan.

9. The development shall not be occupied until the parking spaces have been laid out within the site in accordance with drawing no 39314:AP32 Rev B. All parking spaces shall thereafter be kept available for the parking of vehicles in perpetuity.

Reason:

To ensure that satisfactory vehicle parking and turning facilities is provided on site to serve the development, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

10. All fencing comprised in the means of enclosure shown on plan number 39314:AP32 Rev B shall be constructed with a 15cm high gap at the base of the fence and shall be retained thereafter as such in perpetuity.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD9 (Promoting Biodiversity) of the Local Development Plan.

11. All bat boxes shown on plan number 39314:AP25 and all works recommended in part 2 of the 'Wildlife Protection Plan' dated April 2017 shall be completed prior to the occupation of the development.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD9 (Promoting Biodiversity) of the Local Development Plan.

12. Notwithstanding the provisions of schedule 2, Part 1, classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the development hereby approved shall not be altered in any way.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected on site other than those expressly authorised by this permission.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

14. The construction of the development hereby approved shall be completed in accordance with the Construction Environmental Management Plan dated May 2016 Construction Traffic Management Plan dated 14/06/2016.

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 SP1 (Delivering the Strategy), MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local 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 for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to Policies SP1 – Delivering the Strategy, MG1 – Housing Supply in the Vale of Glamorgan, MG4 – Affordable Housing, MG20 – Nationally Protected Sites and Species, MG21 – Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species, MD1 - Location of New Development, MD2 - Design of New Development, MD3 - Provision for Open Space, MD4 - Community Infrastructure and Planning Obligations, MD5 - Development within Settlement Boundaries, MD6 - Housing Densities, MD7 - Environmental Protection and MD9 - Promoting Biodiversity, as well as Supplementary Planning Guidance in the form of Amenity Standards, Affordable Housing, Biodiversity and Development, Model Design Guide for Wales, Parking Standards (Interactive Parking Standards Zones Map), Planning Obligations, Public Art, Sustainable Development - A Developer's Guide, and Trees and Development and national planning guidance in the form of Planning Policy Wales (Edition 9, 2016), Technical Advice Note 2 – Planning and Affordable Housing (2006), Technical Advice Note 5 – Nature Conservation and Planning (2009), 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 20 – Planning and the Welsh Language (2017), and Manual for Streets 1 & 2, the retention and completion of the development as proposed is considered acceptable in planning terms, including in respect of the details of its design, effect on highway safety, impact on protected trees, impact on visual amenities of the wider area and impact on ecology and protected species.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle 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.**

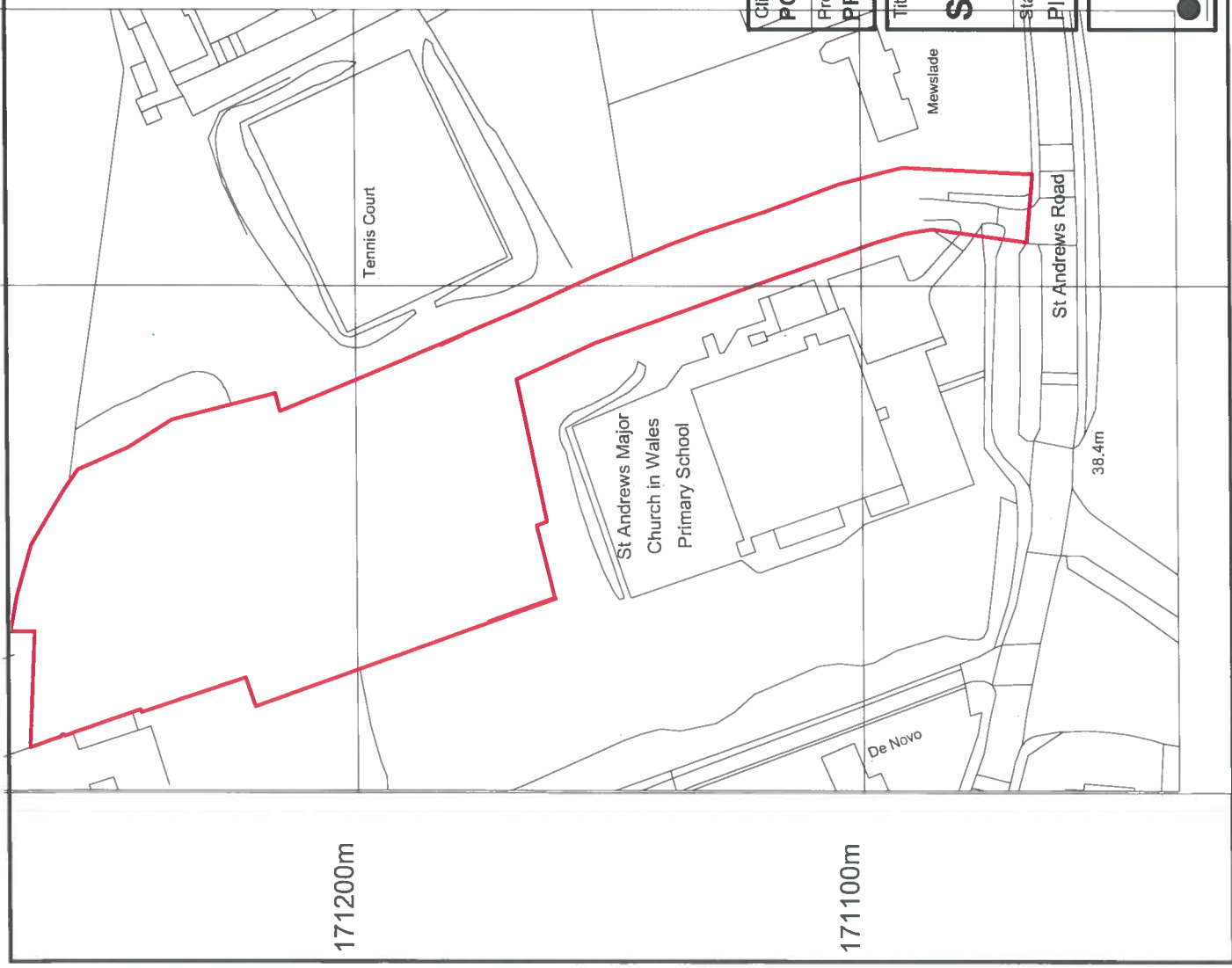
2017/00497/FUL



Client  
**PORTABELLA**  
Project  
**PROPOSED RETIREMENT VILLAGE**

Title  
**SITE LOCATION PLAN**  
Status  
Planning  
Date  
May 2017  
Scale  
1:1250 @ A4  
Drawing No.  
**39314:AP27**  
Rev

● **nigel arnold / architect**  
- The Studio,  
- 5 Penarth Head Lane,  
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- Vale of Glamorgan, CF64 1BB  
- t: 029 2070 2501  
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171200m

171100m

**2017/01229/FUL** Received on 21 November 2017

Mr. & Mrs. Williams Church Cottage, Aberthin Lane, Aberthin, Vale of Glamorgan., CF71 7LD  
C2J Architects & Town Planners Mr Robert Chichester, Unit 1A Compass Business Park, Pacific Road, Ocean Park, Cardiff. CF24 5HL

### **Church Cottage, Aberthin Lane, Aberthin**

Proposed demolition of existing dwelling and outbuildings. Construction of 2 new detached dwellings with improved site access

### **REASON FOR COMMITTEE DETERMINATION**

The application is to be determined by Planning Committee as there has been a material change in planning circumstances since an application at the site was previously approved by planning committee.

### **EXECUTIVE SUMMARY**

The application site is an existing detached dormer bungalow situated within the settlement of Aberthin as defined by the Vale of Glamorgan Local Development Plan. The site is significantly elevated above Aberthin lane and adjoining land. The southern and western boundaries of the site form the defined settlement boundary, whilst the north-eastern part of the site falls within the Aberthin Conservation Area. The property also falls within the Upper Thaw Valley Special Landscape Area.

This is a full application for 2 four bedroom dwellings and groundworks to provide a new access to serve the dwellings, following the demolition of the existing dwellinghouse. Members may recall that consent was previously granted for 2 no. dwellings on this site under consent 2017/00044/FUL (reported to committee March 2017). The current application proposes some changes to the approved scheme in design terms and also indicates that due to viability constraints the Affordable Housing contribution secured previously would render the scheme unviable.

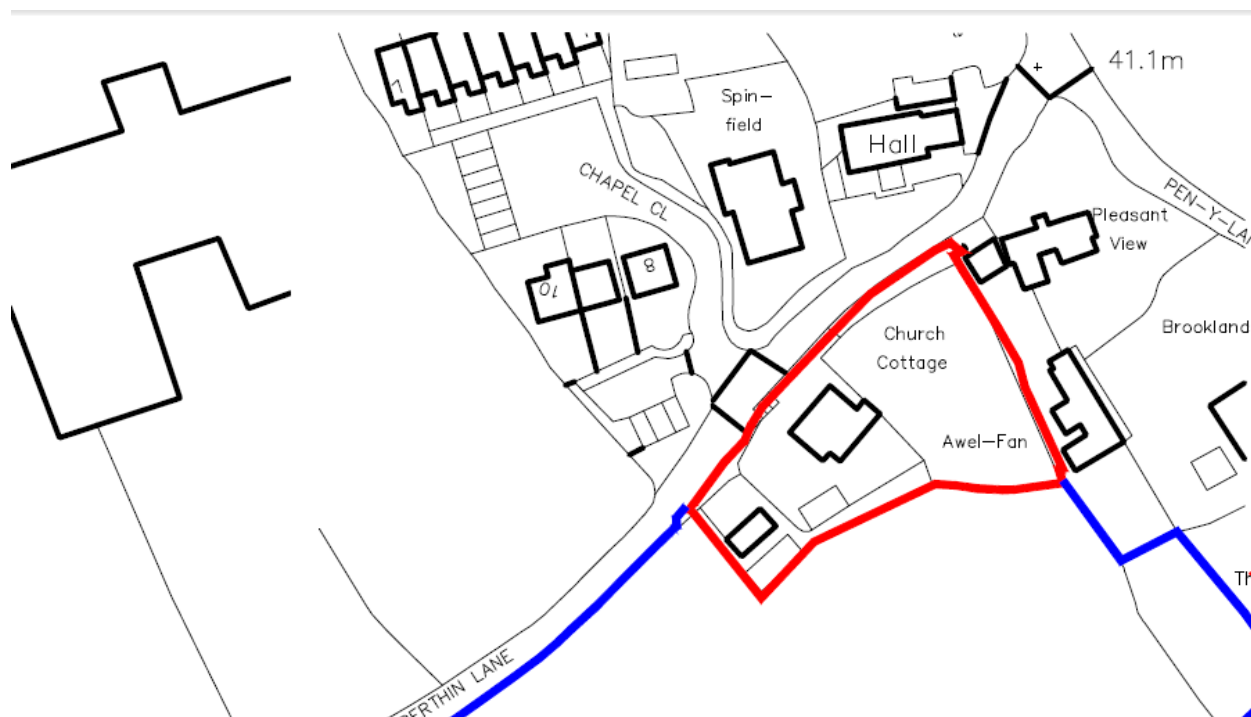
At the time of writing this report, two letters of representation had been received raising issues relating to the size and scale of the proposals (including the alterations to Plot 2) being out of keeping; concerns over level of excavation required and associated lorry movements; impact upon conservation area and need for comments from conservation officer; inaccuracies of submission claiming proposals will be shielded from view from hedgerow.

The main issues relate to the design and visual impact on the immediate street scene, Aberthin Conservation Area and Upper Thaw Special Landscape Area; neighbouring and residential amenity; highway safety; ecology and archaeology. An assessment of the submitted viability information is also provided.

## SITE AND CONTEXT

The application site is an existing detached dormer bungalow situated within the settlement of Aberthin as defined by the Vale of Glamorgan Local Development Plan 2011-2026.

The site is significantly elevated above Aberthin lane and adjoining land, such that it holds a prominent position at the edge of the village, where it adjoins countryside to the south and west. To the north and east the site adjoins other residential properties which range in style and age.



The southern and western boundaries of the site form the defined settlement boundary whilst the north-eastern part of the site falls within the Aberthin Conservation Area. The property also falls within the Upper Thaw Valley Special Landscape Area.

## DESCRIPTION OF DEVELOPMENT

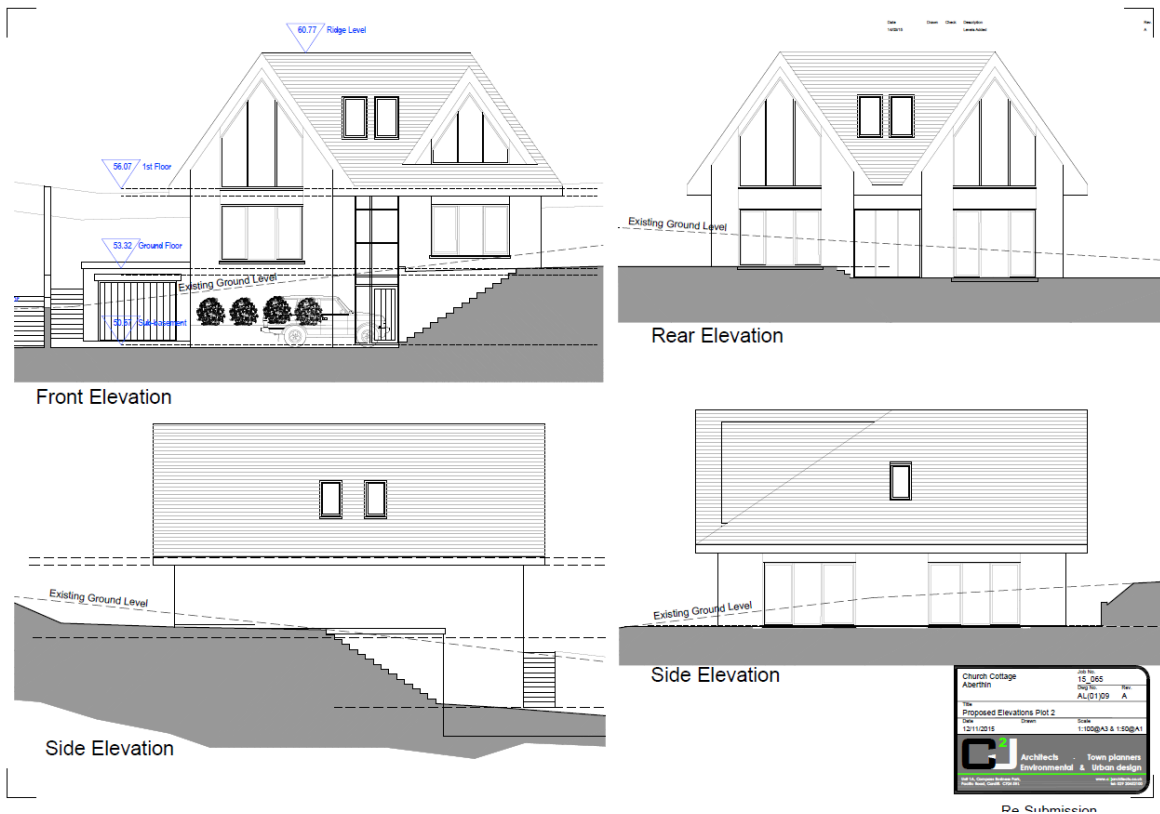
As with application 2017/00044/FUL, the application proposes the demolition of the existing dwelling and outbuildings and the erection of 2 four bedroom detached dwellings with associated access and landscaping.

The previous application was reported to committee in March 2017, with a resolution to approve subject to a S106 agreement requiring the applicant to make an off-site contribution towards affordable housing. The current submission is supported by a viability appraisal that seeks to demonstrate that payment of such a contribution would render the scheme unviable.



The ridge heights and general massing of the dwellings is largely commensurate with that approved under the previous application. Having assessed the proposals 'plot 1' is the largely the same as that approved previously.

However, the proposals do include a number of alterations to the dwelling at 'plot 2' including the addition of a ground floor canopy to the north, south and west elevations; and additional window in the front elevation to serve the lower ground floor; the addition of a pitched roof above the garage; alterations to the rear roofslope with removal of gable from consented scheme, provision of a hipped roof and dormer. Elevation plans providing a comparison are shown below:



Previously approved elevations under consent 2017/00044/FUL



Proposed elevations as currently proposed.

## PLANNING HISTORY

2013/00966/FUL, Address: Church Cottage, Aberthin Lane, Aberthin, Proposal: Demolition of Church Cottage and development of 2 No. 3 bed houses and 1 No. 4 bed house, Decision: Withdrawn

2014/00940/FUL, Address: Church Cottage, Aberthin Lane, Aberthin, Proposal: Demolition of existing bungalow and construction of 4 No semi detached single storey dwellings, Decision: Refused

2016/00408/FUL, Address: Church Cottage, Aberthin Lane, Aberthin, Proposal: Proposed demolition of existing dwelling & outbuildings. Construction of 2 new detached dwellings with improved site access, Decision: Withdrawn

2017/00044/FUL, Address: Church Cottage, Aberthin Lane, Aberthin, Proposal: Proposed demolition of existing dwelling & outbuildings. Construction of 2 new detached dwellings with improved site access, Decision: Approved

## CONSULTATIONS

**Cowbridge with Llanblethian Town Council** was consulted and raised 'no objection'.

**The Council's Highway Development section** was consulted and raised concern with regard to the position of the supporting column and that visibility splays were incorrectly shown on the submitted site layout plan.

**The Council's Highways and Engineering section** was consulted and recommend that a condition requiring a scheme of surface water drainage be submitted and approved prior to the commencement of development.

**The Council's Shared Regulatory Services (Pollution Control)** were consulted and provided comments requesting that a Construction Environment Management Plan be required and that hours of working be controlled.

**Shared Regulatory Services: Environment Team** were consulted and recommend that conditions relating to ground gas protection; contaminated land; importing of soils and importing of aggregates be attached to any permission granted.

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

**Dwr Cymru Welsh Water** were consulted and request that a condition be attached to any consent given to ensure that no surface water and/or land drainage shall connect directly or indirectly to the public sewerage network.

## REPRESENTATIONS

The neighbouring properties were consulted on 28 November 2017 and a site notice was also displayed on 29 November 2017. At the time of writing this report, 2 letters of representation had been received raising the following:

- Size and scale of the proposals (including the alterations to Plot 2) being out of keeping
- Concerns over level of excavation required and associated lorry movements
- Impact upon conservation area and need for comments from conservation officer
- Inaccuracies of submission claiming proposals will be shielded from view from hedgerow

## REPORT

### Planning Policies and Guidance

#### **Local 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 Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

### **Strategic Policies:**

POLICY SP1 – Delivering the Strategy  
POLICY SP10 – Built and Natural Environment

### **Managing Growth Policies:**

POLICY MG4 – Affordable Housing  
POLICY MG17 – Special Landscape Areas  
POLICY MG22 – Development in Minerals Safeguarding Areas

### **Managing Development Policies:**

POLICY MD1 - Location of New Development  
POLICY MD2 - Design of New Development  
POLICY MD5 - Development within Settlement Boundaries  
POLICY MD7 - Environmental Protection  
POLICY MD8 - Historic Environment

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

### **Planning Policy Wales:**

National planning policy 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 in particular part 4.2.

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

*9.3.2 Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.*

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

### **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 12 – Design (2016)

### **Supplementary Planning Guidance:**

In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). Some SPG documents refer to previous adopted UDP policies and to ensure conformity with LDP policies, a review will be carried out as soon as is practicable following adoption of the LDP. The Council considers that the content and guidance of the adopted SPGs remains relevant and has approved the continued use of these SPGs as material considerations in the determination of planning applications until they are replaced or otherwise withdrawn. The following SPG are of relevance:

- Amenity Standards
- Affordable Housing
- Conservation Areas in the Rural Vale
- Parking Standards (Interactive Parking Standards Zones Map)
- Planning Obligations
- Aberthin Conservation Area Appraisal and Management Plan

### **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
- 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

Since the determination of the previous application, it is noted that there has been a material change in terms of planning policy with the adoption of the Local Development Plan in June 2017. As such the following report will consider the proposals against the current legislative framework, whilst noting that there is an extant consent relating to the development of the site.

## Principle of Development

Policy MD5 'Development within Settlement Boundaries' of the Local Development Plan is of relevance to the determination of this application.

The site is located within the settlement boundary of Aberthin, and policy MD5 of the LDP states that new development will be acceptable within settlement boundaries subject to a series of criteria (relating to design, impact on amenity, highways issues etc).

In particular criterion 3 requires that the proposed development:

*Is of a scale, form, layout and character that is sympathetic to and respects its immediate setting and the wider surroundings and does not unacceptably impact upon the character and appearance of the locality;*

An assessment of the acceptability of the general scale, form of the proposals was considered previously under application 2017/00044/FUL with the Planning Committee resolving to approve the development. The current proposals are commensurate in terms of their general massing and height, although further assessment of the visual impact of the alterations from the previous approvals is provided later within this report.

In view of the above, it is, therefore, considered that the development of the site remains acceptable in principle, subject to complying with the series of criteria within Policy MD5 and the other policies listed above.

## Impact upon the character of the area

The existing dwelling (Church Cottage) is a simple rural dwelling sitting on a large plot surrounded by paddocks and a garden area, within the defined settlement boundary. The existing dwelling is a a dormer bungalow, sitting in an elevated position, within a mixed street scene with dormer bungalows and two storey dwellings within the immediate street scene.

The ridge heights of the dwellings proposed within this application are the same as that approved under application 2017/00044/FUL, whilst the design of plot 1 is the same as that previously consented. A condition will be attached to any permission given tying the proposals to the heights shown on the submitted plan.

The current proposals do include a number of changes to the dwelling at 'plot 2' including the addition of a ground floor canopy to the north, south and west elevations; additional window in the front elevation to serve the lower ground floor; the addition of a pitched roof above the garage; alterations to the rear roof slope with the removal of a gable from consented scheme, provision of a hipped roof and dormer.

The proposed changes are considered to be relatively minimal in their extent and would not unacceptably add to the general mass and bulk of the dwelling over and above that approved previously. Whilst the proposed alterations to the garage, provision of canopy and amended fenestration to the front of the building alter the appearance of the dwelling, it is not considered that these changes alter the visual impact of the works to a degree that is harmful.

As previously noted it is evident that this is a sensitive site and the proposals must be carefully assessed. It is considered on balance that the amended proposals would not harm the character and appearance of the Aberthin Conservation Area or Upper Thaw Special Landscape Area.

As previously considered, conditions are necessary to require a robust scheme of landscaping and enclosures (**Conditions 6 and 7**), as well as restricting permitted development rights to restrict domestic buildings and enclosures (**Condition 13**) to further mitigate any potential harm from the residential development and use of the site.

It is considered on balance that the proposed dwellings remain of a high quality design, and the proposals would not unacceptably detract from this.

#### Impact upon the amenity of neighbouring properties

As with the previous application, the current proposals would introduce additional two storey mass on a site within an existing residential setting with dwellings to the east and north. Despite the dwellings' elevated position in comparison to dwellings to the north, it is considered that given the degree of separation from these dwellings that there would not be an unacceptable degree of overbearing impact.

The Council's Amenity Standards SPG requires that a minimum distance of 21 metres be provided between opposing principal windows of dwellings. The proposals would maintain a separation in excess of 21 metres from the dwelling of Spinfield to the north and in excess of 30 metres from the rear of dwellings within Chapel Close. Noting this, it is considered that the proposed dwellings would not result in an unacceptable loss of privacy to occupiers of these dwellings to the north of the site.

The dwelling proposed on plot 1 would be set approximately 7 metres from the eastern boundary of the site, with two large feature windows at ground floor level and a single rooflight within the roofslope serving an en-suite bathroom. Noting the lack of first floor openings within the dwelling at plot 1, the blank side elevation of Pleasant View and the position of the garage within the neighbouring plot, it is considered that the proposals would not result in an unacceptable detriment to the privacy and amenity enjoyed by occupiers of the neighbouring dwelling.

The dwelling at Awel-Fan is setback significantly from Aberthin Lane. This dwelling has a number of openings within its northern and western elevations fronting towards the application site. Notwithstanding this, given the degree of separation and relative angles of view, it is considered that the proposals would not result in an unacceptable loss of privacy to occupiers of the neighbouring residential property.

Given the relatively minor nature and extent of the changes proposed, it is considered that the proposals would not result in any detriment over and above that caused by the dwellings previously approved. As such this is not considered to represent a reason to refuse planning permission in this instance.

#### Amenity provision

The Council's adopted supplementary planning guidance on Amenity Standards requires that applications for new dwellings 'should aim to provide a minimum of 1 sq.m. of amenity space per 1 sq.m. of the gross floor area of the dwelling' with 70% of this space being accommodated in the private rear garden and shall be usable and private

As before the main area of amenity space proposed to serve plot 1 would be to the rear of the property whilst the principal area serving plot 2 would be to the side. Notwithstanding the position of the amenity space to the side of the plot, this area is significantly elevated from the road and not overlooked by neighbouring dwellings, and is considered to be suitable as private amenity space. With regard to the principal area serving plot 1 it is noted that there are a number of windows serving the neighbouring property of Awelfan fronting onto this area. Notwithstanding this, it is considered that sufficient private amenity space would still be available to serve future occupiers.

#### Highways implications

The proposed dwellings would be served by a single point of access from Aberthin Lane to the north. The proposed parking area would require the excavation of a significant degree of material but would allow access and egress from the respective properties in a forward gear. Parking is proposed for 2 vehicles per dwelling within the confines of the site, which is considered to be acceptable.

Concern was initially raised by the Council's Highways Engineer with regard to the position of the proposed pillar to serve the canopy interfering with the proposed car parking spaces serving plot 2.



## Affordable Housing

Criterion 4 of policy MD1 of the LDP requires new residential development to support the delivery of affordable housing in areas of identified need. The Council are aware of the acute need for such provision within the area. The Council's policy on affordable housing is set down in Policy MG4 of the LDP relating to Affordable Housing, and requires all residential sites resulting in a net gain of one or more dwellings to provide an element of affordable housing.

Aberthin lies within an area where the requirement is for 40% affordable housing to be provided. The Acceptable Cost Guidance band for the area of Aberthin is band 5 and based upon this the proposed net gain of one additional 4 bedroom dwelling, a contribution of £57,211.

The Planning Obligations SPG deals with site viability under paragraph 6.3 which states:

*“..... 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 assessment must be submitted to the Council to provide evidence of the scheme's viability issues.”*

The Council accepts that there may be sites within sub market housing areas, which may not be viable, due to site specific constraints, high abnormal build costs, and lower gross development values. Therefore in accordance with the above guidance set out within the SPGs, the applicant has submitted viability evidence with a breakdown of build costs. This indicates that the overall development would be unviable based on the Affordable Housing Contribution sought factoring in developers profit and tax etc.

Officers carefully scrutinised the submitted information including an assessment of anticipated sales prices and the submitted build cost figures. Having done so, officers consider that the applicant has adequately demonstrated that the total developer costs of the project would exceed the likely sales value of the proposed dwellings when complete. In accordance with the above SPGs, it is accepted that the developer has demonstrated, in this instance, and based on the particulars of the development costs and comparable up to date sales values, that an Affordable Housing Contribution would render the development unviable. As such, the requirement to provide the Affordable Housing Contribution, or even any reduced level of such contribution, is considered to be unreasonable in this instance. Given that the viability constraints are largely due to the constrained nature of the site (i.e. levels, access) and the resulting build costs, this is unlikely to change in the future, therefore it is not considered necessary to restrict the time limit for implementation of the permission in this case.

## RECOMMENDATION

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

1. The development shall begin no later than five years from the date of this decision.

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)01 'Site Location Plan'; AL(00) 03 'Topographical Survey'; AL(01)01 Rev D 'Plot 1 - Proposed Floor Plans'; AL(01)02 Rev D 'Plot 2 - Proposed Floor Plans'; AL(01) 08 Rev A 'Proposed Elevations Plot 1'; AL(01)09 Rev A 'Proposed Elevations Plot 2'; and AL(90)01 Rev D 'Proposed Site Plans' received 20 November 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.

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

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy MD2 of the Local Development Plan.

4. 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 AL(90)01 Rev D received 20/11/2017 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 MD2 of the Local Development Plan.

5. The dwellings hereby approved shall be constructed in accordance with the slab levels and ridge heights as set out on AL(01) 08 Rev A 'Proposed Elevations Plot 1 and AL(01)09 Rev A 'Proposed Elevations Plot 2'received 20 November 2017.

Reason:

To ensure that visual amenities are safeguarded, and to ensure the development accords with Policy MD2 of the Local Development Plan.

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

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy MD2 of the Local Development Plan.

7. A landscaping scheme (including hedgerow planting to the northern boundary) 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 MD2 of the Local Development Plan.

8. 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 MD2 and MD5 of the Local Development Plan.

9. No development approved by this permission shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which shall first have been submitted to and approved in writing by the local planning authority. The final report on such recording shall be deposited with the Local Planning Authority prior to first beneficial use of the development hereby approved, in order that it may be forwarded to the Historic Environment Record, operated by the Glamorgan Gwent Archaeological Trust (Heathfield House, Heathfield, Swansea SA1 6EL Tel: 01792 655208).

Reason:

As the building is of significance the specified records are necessary in order that records are kept of any features of archaeological interest and to ensure compliance with Policy MD8 of the Local Development Plan.

10. 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 Policies MD2 and MD5 of the Local Development Plan.

11. Any vegetation clearance must be undertaken outside the nesting season, which is generally recognised to be from March to August inclusive, unless it can be first demonstrated that nesting birds are absent.

Reason:

In order to ensure that no protected species are adversely affected by the development and to ensure compliance with Policy MD9 of the Local Development Plan.

12. Prior to the commencement of development, details of the finished levels of the site, parking areas and garden areas in relation to existing ground levels and the adjacent highway, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that visual amenities are safeguarded, and to ensure the development accords with Policies MD2 and MD5 of the Local Development Plan.

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

Reason:

To enable the Local Planning Authority to control the scale of development in the interests of visual amenity, due to the prominent and sensitive setting of the site, in accordance with Policy MD2 of the Local Development Plan.

14. Notwithstanding the submitted plans, visibility splays of 2.0m x 25m shall be provided from the means of access to the site along the adjacent highway. There shall be no obstructions whatsoever within the visibility envelope and all boundary walls, fencing etc. shall be located at the rear of the visibility splays.

Reason:

In the interests of highway safety in accordance with policy MD2 of the Local Development Plan.

15. Before commencement of any works at the site, full engineering details of all traffic arrangements (including carriageways, footways, kerb radii, means of surfacing etc.) associated with the means of access, including the proposed build outs (and tie in points along the carriageway to the northeast and southwest) that will facilitate visibility, shall be submitted to and approved in writing by the LPA. Thereafter, the development shall not be occupied until all works have been undertaken in accordance with the approved details.

Reason:

To ensure the means of access to the site is provided and constructed in accordance with the Council's standard details for adoption, in the interests of highway safety in accordance with policy MD2 of the Local Development Plan.

16. Notwithstanding the details submitted, no development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated and confirm the delivery route (including a plan) to and from the site for plant and materials along the adjacent highway network, the provision of associated traffic management, wheel washing and road sweeping facilities. 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, in the interests of highway safety and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policies MD2, MD5 and MD8 of the Local 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 for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026.

Having regard to Policies SP1 – Delivering the Strategy, SP10 – Built and Natural Environment, MG1 – Housing Supply in the Vale of Glamorgan, MG4 – Affordable Housing, MG17 – Special Landscape Areas,, MD1 - Location of new Development, MD2 - Design of New Development, MD5 - Development within Settlement Boundaries, MD6 – Housing Densities, MD7 - Environmental Protection and MD8 – Historic Environment, the proposal is considered as an appropriate form of residential development in terms of its siting, scale, design and materials, impacts on the amenities of neighbouring occupiers and parking provision.

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

**NOTE:**

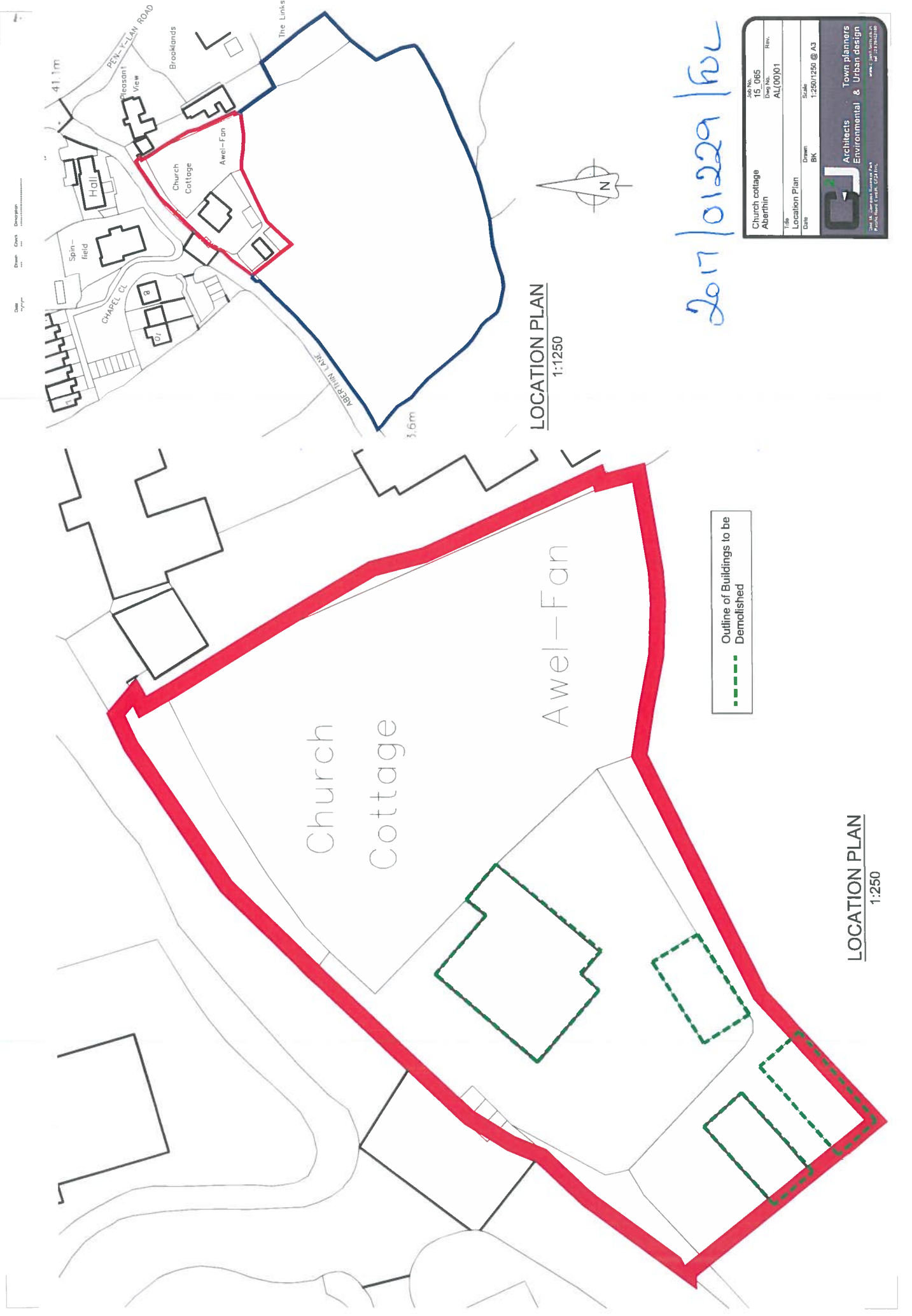
- 1. You are advised that there may be species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP  
General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
- 2. 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.**

**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.**



2017/01229/hc

LOCATION PLAN  
1:1250

LOCATION PLAN  
1:250

Outline of Buildings to be Demolished

Ref No.	15_065	Rev.
Draw No.	AL(00)01	
Title	Church cottage Aberthin	
Date	1:250/1250 @ A3	Scale
Drawn	BK	
Architects Environmental & Urban design Town planners Unit 11, Aberriwfan Business Park Pen-y-lan Road, G23 1PL, Cardiff www.aeuad.co.uk 01792 212100		